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UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

INFORMAL CONSULTATION
ON THE PRESERVATION OF
MOVING IMAGES

(Belgrade, 21-24 November 1977)

Discussion Guide

Prepared by
the Unesco Secretariat

(CC-77/WS/47)

I. BACKGROUND AND OBJECTIVES

1. In several countries, the preservation of moving images (films and videos) has given rise to a number of technical, legal and administrative problems. Of particular concern has been the loss of valuable recordings, due to their deterioration in unsatisfactory storage conditions, to accident (fires, floods, etc.) or to their deliberate destruction under contractual arrangements.

2. This situation has led several of Unesco's Member States to propose that some action should be taken by Unesco to protect these precious documents which form part of the cultural heritage of mankind. The General Conference consequently requested the Director General to study "the desirability of establishing an instrument to protect moving images from being destroyed" (the full text of the General Conference resolution is to be found in Annex I).

3. In studying the desirability of establishing an international instrument, the Secretariat has to follow an established procedure which is briefly described below :

any new proposal for regulating a question on an international basis (by means of a Recommendation to Member States or a Convention) is to be submitted to the General Conference together with a preliminary study of the technical and legal aspects of the problem under consideration. In the present case, a proposal concerning the desirability of establishing an international instrument on the preservation of moving images will be submitted, together with a preliminary report on the technical and legal aspects involved, to the Unesco Executive Board in the spring of 1978 and, subject to approval by the Board, to the General Conference in October/November 1978.

If the General Conference decides on that occasion that an international instrument should be prepared on the preservation of moving images, it will not be until the following session in the autumn of 1980, at the earliest, that an international instrument could be adopted on this question.

4. The purposes of the present meeting are :

- a) to examine whether it is desirable to adopt some form of international instrument on the preservation of moving images and, if so, what should be the form (Recommendation or Convention) and scope of such an instrument ; and
- b) to review the technical and legal aspects involved and to assist the Secretariat in preparing the above-mentioned preliminary study ; in more specific terms, to :

- i) Examine the feasibility from a technical point of view of preserving moving images (i.e. is it possible to preserve material on a long-term basis? What are the comparative preservation qualities of the different forms of moving images? Under what technical conditions should moving images be preserved?);
- ii) study the legal measures that should be taken to prevent the destruction of moving images and to ensure their preservation (i.e. why are moving images sometimes intentionally destroyed? What legislative measures are at present adopted by countries relating to the preservation of moving images? What measures could be recommended on an international scale for preserving such material?); and
- iii) examine such practical and administrative problems as are relevant (for instance, the infrastructure necessary for preserving moving images; questions of storage space, selection of material and cost factors, etc.).

II. DISCUSSION GUIDE

5. To facilitate discussion, the present document attempts to set out in one paper the many related questions raised in the background and working documents prepared for the meeting and listed below:

- Technical aspects of the preservation of moving images, paper submitted by Mr. H. Volkmann, Chairman, International Preservation Commission of the International Federation of Film Archives (FIAF);
- The legal aspects of preserving moving images, paper prepared by Mr. Georges Straschnov; and
- Note on four country studies (Canada, France, German Democratic Republic and United Kingdom).

A. STATEMENT OF THE PROBLEM

6. The preliminary report to the Executive Board should describe the problems at present prevailing with respect to the preservation of moving images and should indicate the reasons that would justify the adoption of an international instrument on the question. Several ideas that could be reflected in this statement emerge from the different documents prepared. They are, briefly, as follows:

- the growing importance of the audio-visual media which, with advances in technology, have vast potentialities for transmitting knowledge and for storing information;

- the unique historical value of moving images which can record aspects of our times that cannot be recorded in any other way ; the recognition that moving images are a medium of artistic creation and form part of a nation's "cultural heritage" and are, as such, worthy of preserving for the benefit of future generations ;
- the fact that many countries do not recognize the need to preserve audio-visual material and therefore have not taken the necessary legal and administrative measures to ensure its preservation, with the result that much precious material has been lost and will continue to be lost, unless effective action is taken ;
- the fact that many precious recordings have been lost, either through deterioration or by accident (fires, floods, etc.) or because they are purposely destroyed (for instance, under contractual arrangements between the producers and the authors) ;
- the situation prevailing in certain countries where audio-visual archives exist but are often not provided with the means to acquire material or with the resources necessary to ensure the preservation under satisfactory conditions of material acquired.

Participants may wish to comment on the above preliminary suggestions.

B. CONSIDERATION OF THE TECHNICAL ASPECTS OF PRESERVING MOVING IMAGES

7. In examining the paper on the technical aspects of preserving moving images, prepared by Mr. Volkmann, participants are requested to focus on the following points :

a) Preservation properties of the different forms of moving images

8. The first point concerns the technical feasibility of preserving moving images on a long-term basis : is it possible from the present state of knowledge to assert that moving images can be preserved on a long-term basis ? What are the comparative preservation properties of the different forms (i.e. bases) of audio-visual material ? in time ? in quality ? This raises several questions :

- Is there general acceptance that : nitrate film should not be retained but should, in the long-run, be transferred on to acetate film ? and that colour film is almost impossible to preserve for any length of time ? In what form is it recommended that colour film should be preserved - in three colour separations, in black and white ?

- What are the opinions of participants on the retention of image on video-tapes ? It appears that the international circulation of programmes originally recorded on video-tape is predominantly carried out by film and that many archives receiving material on video-tapes transfer the image on to film.
- What are the prospects for the future, i.e. the new processes being developed ?

b) Recommendations on storage conditions

9. Next to be considered are the technical conditions under which material should be stored :

- what are the best conditions for storing material for preservation purposes ? ;
- if ideal conditions cannot be attained, what should be the priority objectives - constant relative humidity, constant temperature, ventilation ?
- is there sufficient consensus among experts on the requirements for storing material to establish international standards ?

c) Economic factors

10. Closely related to the above two points are economic factors and any recommendations made should take account of the cost involved and resources required (resources in expertise, equipment, space, etc.).

C. CONSIDERATION OF THE LEGAL ASPECTS OF PRESERVING MOVING IMAGES

11. It is proposed that the working paper on the legal aspects prepared by Mr. Straschnov be examined in the light of the following questions :

a) What legal measures can be taken by States to ensure that moving images are not destroyed but preserved under good conditions ?

12. The working paper refers to the specific situation whereby contracts concluded between the authors and the producer foresee the destruction by the producer, after a certain period of time, of the original work and all copies thereof, in particular to avoid all competition with any "remake".

13. What is the opinion of participants on the suggestion made in the working paper that States should institute the legal deposit of moving images? This will lead to consideration of the following factors :

- who would be responsible for the deposit of material ? the producer ?
- what should be covered by legal deposit ? Only nationally produced films and those co-produced with a foreign producer ? all audio-visual recordings with the exception of publicity sequences ?
- when should material be deposited ? as soon as the standard copy is ready, or in the case of a television recording, as soon as it is mounted ? or later ?
- how many copies should be deposited ?
- at whose cost ? at the producer's ?
- if a negative is deposited, can the archive be authorized to make at its own expense, one positive print and, if necessary, a second copy, so that one usable copy is always available ?
- should archives set up for the purpose of receiving material be allowed to reject material ?
- should penal sanctions be foreseen in the case of non-deposit ?

14. In addition to the introduction of legal deposit, are there other legal measures that can be taken by States to prevent the destruction of material ? It seems unlikely that producers will hand over their original material to archives since this represents great commercial value. Would it be possible to recommend that producers should be obliged to ensure the preservation under good conditions of original material they hold and that, before destroying original material, they should give the archive an opportunity to acquire it ?

b) Questions of use of material by archives

15. Clearly the preservation of moving images under good conditions cannot be an end in itself. These records are of great value, not only for those engaged in research, but also for the general public. Preserved recordings must therefore be accessible to researchers and, under certain conditions, to the general public. However, given copyright laws in force in most countries, the use authorized to archives of material deposited is very limited, unless the consent of the copyright owner is obtained for a more extensive use.

16. The question is : to what extent can the public be allowed access without impairing the rights of the producers, authors and performers. Should access be limited to students and researchers on the premises of the archive ? Or would it not be possible to show material to limited audiences on approved premises (archives, film-theatres, etc.) against a low entrance

fee (i.e. sufficient to cover operating costs) either once the first period of commercial exploitation is completed or alternatively after a given number of years - 3 years ? 5 years ? what would be a reasonable time-limit ?

17. What are the reactions of participants to the Yugoslav proposal (full text in Annex II) relating to the right of every Member State "to acquire knowledge and to take possession of moving images, and in particular those relating to its past, whoever may be the author, and whatever may be the time at which or the reason for which they were made, and in conditions that exclude profitable aspects when such transactions are carried out for study purposes or in order to complete archives" ? Participants are referred, in this connection, to the comments in the paper on the legal aspects of preserving moving images.

D. CONSIDERATION OF RELATED ADMINISTRATIVE AND PRACTICAL QUESTIONS

18. Closely related to the technical and legal aspects of preserving moving images are questions connected with the institutional framework to be established by States to ensure that moving images deposited are preserved under good technical conditions. There appears to be general consensus that the preservation of audio-visual recordings should not be in the hands of isolated private concerns but that official non profit-making institutions should be created for this purpose if they do not already exist. At the moment, many different systems prevail, some of which are described in the country studies. Participants are requested to voice their opinions on issues such as :

- the advisability of establishing one or more institutions to act as depository for moving images ; if more than one central institution is to be established, what would be the respective functions of each ?
- should the institution (s) established be completely independant agencies ? or be part of official archives ? of national film institutes ? or linked to other public institutions ?

19. It is obviously necessary that the institutions created for the purpose of preserving moving images should be endowed with adequate resources o fulfil their functions. However, many institutions complain that their resources in terms of budget, staff and equipment are far from sufficient. These problems have been described in the national studies, but participants may wish to add their comments.

20. The question of selection of material to be preserved is raised in several instances ; in the working paper on the legal aspects reference is made to the film-makers' position, which appears to be that all cinematographic films should be retained, and also to the inherent risk in selecting material because of

the subjective nature of selection criteria, although it is recognized that the practical problem of space cannot be overlooked ; on the other hand, the national studies refer to the selection processes at present adopted. What are the opinions of participants on the following :

- if an international instrument is to be adopted, should it refer to the preservation of all audio-visual recordings ? or all, with the exception of publicity sequences ? Alternatively, should reference be made to "moving images of value" ? (which is the term used in the resolution adopted by the General Conference of Unesco) ;
- if an international instrument refers to "moving images of value", would it be possible to determine general or specific criteria for the selection of material to be preserved ? or should it be left entirely to each State to determine what is of value ?

21. It might be appropriate, if an international instrument is prepared, that it recommend supplementary measures that should be taken by Member States in connexion with the preservation of moving images.

Such measures could, for instance, include :

- the need for adequate training programmes for archivists ;
- the need to promote public awareness of the problems involved in preserving moving images ;
- the advantages of drawing up catalogues of material produced and of recordings held by the archives.

Participants may wish to make additional suggestions on the measures that could be taken at the national level.

E. CONCLUSION

22. In conclusion, do participants consider that it is opportune to establish an international instrument on the preservation of moving images ? What are the recommendations of the meeting as to the most appropriate form that any such standard-setting action should take ? What is the position of participants with respect to the preparation of an international convention on the question ? For the information of participants :

- a Recommendation applies to all Unesco Member States but does not have a binding force ; it invites Member States to take whatever legislative or other steps may be required - in conformity with constitutional practice of each State and the nature of the question under consideration - to apply the principles and norms formulated therein within their respective territories ; and
- a Convention applies only to those States which have ratified or acceded to it ; those States thereby undertake to apply the provisions set out therein.

RESOLUTION 3.422 ADOPTED BY THE GENERAL CONFERENCE
AT ITS EIGHTEENTH SESSION

The General Conference,

Considering that moving images constitute one of the most characteristic features of present-day cultural creation and contemporary communication, as recognized by the General Conference at its sixteenth session (paragraph 4056 of doc. 16C/5 approved, concerning resolution 4.21),

Considering that the technological revolution will give rise to new possibilities of transmitting moving images and that the potentialities of this medium to impart cultural, aesthetical, scientific, social and historical knowledge will grow in importance in future,

Noting that despite the efforts made for many years past by private individuals, groups, film libraries and museums to salvage and conserve moving images, these efforts have not prevented the loss of valuable documents which belonged to the cultural heritage of mankind,

Considering that the salvaging and systematic conservation of moving images constitute a highly desirable objective, but that preliminary studies are first required to investigate the most suitable methods for removing the obstacles hitherto standing in the way,

Recognizing that the recent growth of television creates a new situation in this respect,

Taking due account of a preliminary study undertaken by the Secretariat with a view to establishing the conditions under which moving images are actually conserved,

1. Invites the Director-General :

(a) to draw up a programme for the purpose of salvaging and conserving moving images, which might include in particular the following :

(i) the conduct of studies, in co-operation with the non-governmental organizations concerned and, as necessary, with the competent intergovernmental organizations, on the problem of the destruction of moving images ;

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(ii) a study of the desirability of establishing an instrument to protect moving images from being destroyed ;

(b) to include this programme in the work plan for 1977-78 (doc. 19C/5 and the Medium-term Outline Plan for 1977-1982 (doc. 19C/4) ;

2. Recommends that Member States proceed forthwith to take, or as necessary reinforce, legal and technical measures to salvage and conserve moving images of value.

DRAFT RESOLUTION SUBMITTED BY YUGOSLAVIA AT THE
NINETEENTH SESSION OF THE GENERAL CONFERENCE OF UNESCO

Project 4.121.1 - Implementation and preparation of international
instruments

At its sixteenth session, the General Conference took note of a draft resolution (16 C/DR.121) concerning the work plan for Section 4.21 of the Programme and Budget, which includes a statement to the effect that in our day moving images constitute "one of the most characteristic features of present-day cultural creation and contemporary communication", while, at its eighteenth session it adopted resolution 3.422 relating to the salvaging and systematic conservation of moving images.

It is now generally recognized throughout the world that moving images are documents giving information about the past and the present which are of great value from the historical and cultural points of view, and as such they are vital to research into the historical, social and cultural heritage of peoples, groups and countries. In many countries, however, moving images showing political, cultural ethnographical and other conditions are not made until the countries concerned have achieved independence and been freed from colonialism. On the other hand, since the advent of films in 1895, a number of moving images showing conditions in the past have been made - but by people who had the technical means and other resources or by those in power in the countries and territories in question. But the moving images of this kind which many peoples once possessed, giving information about their past, have been destroyed or have disappeared during wars or as a result of natural catastrophes.

Since several copies of moving images, as both media and documents, are produced, and they can be reproduced in quantity without difficulty and without great expense, we suggest that the Organization take the necessary steps to ensure recognition of the right of each Member State to acquire knowledge and to take possession of moving images relating to its past, whoever may be the author, and whatever may be the time at which or the reason for which they were made. In so doing, those concerned should adopt the principle that there should be no question of profit-making when such transactions are carried out for study purposes or in order to complete archives.

We propose that a new paragraph 4080a should be added after paragraph 4080, worded as follows:

"A study will be undertaken on the problem of ensuring that every Member State enjoys the right to acquire knowledge and to take possession of moving images, and in particular those relating to its past, whoever may be the author, and whatever may be the time at which or the reason for which they were made, and in conditions that exclude profitable aspects when such transactions are carried out for study purposes or in order to complete archives. The Director-General will submit to the General Conference at its twentieth session his report on the legal and technical aspects of this matter, including proposals for action to be taken subsequently by the Organization in this field".

Note by the Director-General

1. The Director-General recognizes the importance of salvaging and preserving moving images which constitute an integral part of the cultural heritage of each nation. In implementation of resolution 3.422 adopted by the General Conference at its eighteenth session, a meeting of experts was convened in September 1975 to examine the various problems relating to the preservation of moving images. This meeting recommended that priority should be given to the establishment of an international instrument on the protection and preservation of moving images. Consequently, and taking into account the provisions of Article 3 of the Rules of Procedure concerning Recommendations to Member States and International Conventions, paragraph 4080 of draft 19 C/5 foresees the preparation of a preliminary study of the technical and legal aspects of the safeguarding and systematic conservation of moving images which, subject to approval by the Executive Board, would be submitted to the General Conference at its twentieth session for a decision as to whether an international instrument should be adopted on this question.
2. The Director-General considers that the question of the "right of each Member State to acquire knowledge and to take possession of moving images, and in particular those relating to its past, whoever may be the author, and whatever may be the time at which or the reason for which they were made, and in conditions that exclude profitable aspects when such transactions are carried out for study purposes or in order to complete archives" could be studied within the framework of the above-mentioned preliminary study of the technical and legal aspects of the safeguarding and systematic conservation of moving images.
3. This draft resolution has no budgetary implications.