

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

INFORMAL CONSULTATION ON THE SAFEGUARDING
AND PRESERVATION OF MOVING IMAGES

(Belgrade, 21-24 November 1977)

Final ReportI. INTRODUCTION

1. The General Conference of Unesco adopted at its 18th session, resolution 3.422 by which it invited the Director-General to study, during 1977-1978 "the desirability of establishing an international instrument to protect moving images from being destroyed". In accordance with established procedure, the Secretariat is to prepare a preliminary study on the technical and legal aspects of the question for submission to the Executive Board in the spring of 1978 and, subject to approval by the Board, to the General Conference in October/November 1978, so that a decision may be taken as to whether an international instrument on the question is to be established. To assist the Secretariat in the preparation of this preliminary study, the Director-General decided, in view of the complexity of the matter, to seek the advice of those competent in the field. He therefore convened an informal consultation to which he invited a number of individual experts and representatives of organizations having a particular interest in the subject.

2. This consultation, which was organized in co-operation with the Yugoslav authorities, took place in Belgrade from 21 to 24 November 1977 and was attended by experts from eight countries and by representatives of nine inter- and non-governmental organizations. The full list of participants is to be found in Annex I to the present report.

3. The objectives of the meeting were defined in the following terms :

- a) to examine whether it was 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 ; and, more specifically, to :
 - i) examine the feasibility from a technical point of view of preserving moving images and the technical measures that should be adopted to safeguard this material ;

- ii) study the legal measures that should be taken to prevent the destruction of moving images and to ensure their preservation ; and
- iii) examine such practical and administrative problems as were relevant.

Opening session

4. At the opening session which took place in the presence of Mrs. Ilinka Micić, Vice-Minister of Culture of the Serbian Republic, words of welcome were addressed to the participants by Mr. Djordje Radisić, Secretary General of the Community for Serbian Culture, Mr. Branko Lukovac, Secretary General of the Yugoslav National Commission for Unesco and by the representative of the Director General of Unesco.

Organization of the meeting

5. The meeting elected Mr. Vladimir Pogacic, Director of the Yugoslav Kinoteka and President of the International Federation of Film Archives (FIAF), as its Chairman.

6. No comments were formulated on the proposed programme for the meeting and it was therefore decided to examine the items in the order in which they appeared therein. For easy reference, this report will follow the same order.

7. A drafting committee was established for the purpose of preparing a text setting out the conclusions of the meeting and was composed of Mr. Sam Aryeetey, Managing Director of Ghana Film Industries Corporation, Mr. Sam Kula, Director of the National Film Archives of Canada and Dr. Georges Straschnov (France), former Legal Director of the European Broadcasting Union. Dr. Straschnov was elected Chairman of the drafting committee.

General considerations

8. Before studying the working documents on the technical and legal aspects of preserving moving images, participants were invited to examine the overall problems relating to the preservation of moving images and to consider whether the preparation of an international instrument was justified.

9. In the opinion of several participants, the particular situation prevailing in developing countries should not be overlooked. These countries, where few producer organizations exist, have often to rely on foreign groups to record aspects of their cultural heritage, with the result that these recordings are for the most part held abroad and are rarely made available to the countries directly concerned. In addition, few archives exist for moving images and it was therefore considered essential that international assistance be provided to developing countries for establishing archives, on a national or regional basis.

10. In order to protect the interests of developing countries, it was suggested that their national copyright legislation should provide that no filming or sound recording may be carried out by foreign groups without specific authorization from a given Ministry and that a copy of the final document should be handed over to the developing country concerned and be preserved in the archives of that country.

11. The difficulty of deciding exactly what to preserve from the volume of material produced was emphasized by one participant early in the debate (this question was taken up again at several points during the meeting - see paragraphs 38 to 41) who considered that it was physically impossible for archives to preserve everything indefinitely. Some form of selection of documents for preservation (the term "documents" refers both to feature films and to documentaries) had to take place and in fact selection was already carried out in various ways by archives in different countries. In this connection, since selection was normally governed by national interest, material relating to other countries almost invariably was given a low priority; this was particularly disconcerting in the case of records constituting part of the heritage of developing countries.

Examination of the technical aspects of preserving moving images

12. In presenting his document on the technical aspects of preserving moving images, Mr. Volkmann underlined two important questions: firstly, the high cost involved in preserving material under good conditions and secondly, the fact that the recommendations formulated in his paper could be applied in all countries, whatever their climatic conditions. A fruitful discussion ensued, with some participants requesting further details on specific technical aspects, and others referring to the need for motivated research and for interim solutions for developing countries. Many speakers expressed their appreciation of Mr. Volkmann's paper which provided a very valuable statement on present technical knowledge concerning the preservation of films and videos and could form the basis of the technical part of the study to be submitted to the Executive Board of Unesco.

13. Questions raised on specific technical aspects concerned the treatment of nitrate film, the special properties of di-acetate material and the storing of colour film. With respect to the treatment of film on nitrate base, it was confirmed that the image should be transferred on to a tri-acetate base, although the original material should not be destroyed as long as it remained in good condition and was properly stored; the hope was expressed that advances in technology would permit the long-term preservation of the original material. Closely related to the question of transferring nitrate film on to tri-acetate was, in the opinion of several speakers, the identification and cataloguing of material held: until such time as all nitrate film has been carefully identified, analysed and catalogued, it should not be destroyed. The danger of transporting nitrate film, particularly in public transport (which is

contrary to the law in several countries) was underlined ; if nitrate film has to be transported, it was suggested that thermo-containers ("ice-boxes") should be used. One participant considered that di-acetate film should be considered in a separate category from tri-acetate film in view of the special shrinkage problem that arose ; the technical expert did not consider, however that special standards were necessary for this type of material. In reply to a question on the experience acquired in cold storage of colour film, the technical expert referred to the experiments carried out in the USSR which had led to the conclusion that the best temperature for the storage of colour film was -5°C .

14. Special technical problems that arose in tropical countries were referred to by several speakers : the problem of dust could, according to the technical expert, be controlled by the use of special filters combined with air-conditioning. Some archives had experienced difficulty in eliminating all humidity ; in reply, the technical expert considered that a level of no humidity could be attained with the help of existing techniques for air and humidity control.

15. In response to a request for precise information on the durability of the different support media, the technical expert referred to the difficulty of distinguishing between the base and the layer, underlining the fact that the layer which contained the image had first and foremost to survive. He considered that, if maintained under optimum conditions, tri-acetate film could be preserved for fifty to 100 years ; that colour film presented problems but could certainly be preserved until new support media were fully developed ; that video-tapes would probably last for about a century, although the preservation of the sound gave rise to problems - video-tapes, in his opinion, were however not the solution for archives, because of the danger of accident and of erosion ; on the other hand, video-discs, made of glass and copper, could very likely be preserved on a very long-term basis.

16. This led to a discussion of the possibilities offered by the advances in technology and of the need to promote research in the public domain with a view to inciting manufacturers to examine specifically the long-term preservation of moving images at a reasonable cost ; it was considered that Unesco could play a useful role in co-ordinating efforts in this direction. The use of video-discs, for instance, of which 25 different models had been under research, would diminish the cost of preserving material, but the cost of transferring material on to this new support would be very high.

17. The transfer of technology to the developing countries gave rise to several comments. It was considered that available expertise should be put at the disposal of developing countries under the auspices of Unesco. One specific suggestion concerned the development of a number of "archetypes" of audio-visual archives which would correspond to different local conditions, a suggestion that was warmly welcomed by a participant from a developing country. Reference was also made

to the manuals to be published by the International Federation of Film Archives on magnetic tape, on colour film and on the setting up of archives that would provide useful information for developing countries.

18. There was general agreement among those present that the recommendations formulated in Mr. Volkmann's paper constituted the ideal conditions for storing material - conditions, however, that were fully met by few archives. There was, however, disagreement on the advisability of proposing interim solutions for those not yet able, for reasons of cost, to meet those ideal conditions and, in particular, for newly established archives in developing countries. Whereas some possible interim solutions were suggested, such as the use of some form of encapsulation for storing material, the construction of double walls, and the development of "archetypes" as referred to above, the technical expert and other participants felt that such temporary measures should not be seriously considered, since the material could not be properly safeguarded under such conditions. These experts felt rather that, as long as proper storage facilities were not available, developing countries should consider the possibility of storing their material in well-equipped archives abroad, a proposal that did not meet with the agreement of all the participants.

Examination of the legal aspects of preserving moving images

19. The document on the legal aspects of preserving moving images was introduced by its author, Dr. G. Straschnov, who referred briefly to the main issues before the meeting. A lengthy discussion followed on the different points raised by the proposal to introduce the legal deposit of moving images and, in particular, on the purposes for which material deposited would be used.

20. The meeting agreed on the principle of legal deposit which was considered to constitute an important step forward. The representatives of producer and distributor organizations expressed their readiness to co-operate and to take the necessary measures so that material was properly preserved. All the details, however, concerning the object of deposit, the cost, the place and the timing of deposit and, above all, the use of deposited material, would have to be carefully reviewed, which the participants proceeded to do.

21. There was little discussion on the responsibility for the deposit of material which, it was agreed, would lie with the producer (i.e. the "maker" in the terms of international copyright legislation) who was normally the owner of the document.

22. In determining the object of legal deposit, questions relating to the type of production, the type of film and the type of copy to be deposited were among those raised. It was agreed that feature films and all forms of documentaries would be subject to legal deposit. Exception would be made for moving images produced privately by individuals for their own use ; films made by private societies, such as explorer societies, could fall into this category. Legal deposit would be restricted to productions made by nationals of the country concerned or to those co-produced with a foreign film-maker ; there was some discussion on majority and minority participation in co-production, but it was not considered necessary to make any such distinction. As to the type of copy to be deposited, participants felt that the producers should be encouraged to deposit the original negative material of films ; in this case, the representative of producer organizations stressed the need to foresee access by the producer for the purpose of further printing. Since it was not considered advisable to foresee that producers should in every country be obliged to deposit the original negative material of films, it was decided that the type of copy, negative or positive in the case of films, should be determined by national legislation, but it should be provided that the copy deposited should be of good quality.

23. Participants were divided on the body that should pay for the copy to be deposited. Several speakers were of the opinion that the cost should be met by the producer who could include this expense in his production budget which was, in many cases, subventioned by the State. Others considered that, in view of the high cost of making a copy (approximately \$ 2.000 for a positive copy, whereas the negative copy was estimated at between \$ 10.000 and \$ 15.000), the State should meet the costs involved. These participants argued that for private producers, the cost of the copy was extremely high in proportion to the production costs ; the example of producers of avant-garde films was also cited : in this case, often only 10 % to 15 % of the cost of making the film was reimbursed by proceeds from the box-office and it would be very difficult for these producers to meet the additional cost of providing a copy for deposit. It was therefore considered inadvisable to foresee that, in every case, the producer should finance the cost for deposit and it was therefore agreed that it would be left for the national legislation to decide at whose cost, whether of the producer or of the State, the copy deposited would be made.

24. The question of the time allowed for the deposit of the copy gave rise to little discussion. The proposal made in the working document, namely that a copy of a film should be deposited on completion of the standard copy and of a television recording immediately after the recording had been transmitted, was accepted by the meeting. The representative of distributor organizations stated that, had it been agreed that the producer would have to meet the cost involved in depositing a copy, he would have proposed that the producer should be allowed to deposit within a period of two years one of the copies made for exploitation purposes.

25. Several different opinions were expressed on the institution that should receive moving images deposited. Some participants considered that several institutions should be allowed to hold the material ; for instance, television organizations needed to have immediate access to their own archival material, which was not always possible if it was held in a separate institution, such as a film-archive ; furthermore, in countries with an important volume of archival material, it was very difficult for one institution to cope alone - in these cases, however, the concept remained of one national collection even though it was held in several archives. Other speakers felt strongly that one central organization should be held responsible in each country for material deposited under legal deposit, so that proper control could be exercised ; in this way, the situation that existed in certain countries where a multiplicity of institutions, both official and unofficial, held material, would not arise with respect to material subject to legal deposit. There did not appear to be any inherent contradiction in the views voiced and, in order to take account of the concerns expressed, it was agreed : that moving images should be deposited with one central agency officially designated in each country for that purpose ; that, furthermore, that agency would designate the institutions that would actually hold and preserve the material, (although some participants felt that these institutions should rather be designated by national legislation) on the understanding that such institutions would be properly equipped to fulfil this task ; and that these institutions would together form the "official archives" for moving image material.

26. In order to ensure that no material is destroyed under contractual arrangements, the meeting considered that some provision should be included in any international legal instrument prepared on the question to the effect that any contractual stipulation foreseeing destruction should be null and void. In this connection, the representative of producer organizations stated that it was very rare for contracts concluded between authors and producers to foresee destruction, although this did occur if the author intended to prepare a "re-make", (for instance, by re-using the same scenario).

27. The use by archives of material deposited was for the majority of participants one of the most important, if not the most important question before the meeting. The representatives of producer and distributor organizations considered, however, that this question was not within the terms of reference of the meeting and they referred, in this connection, to the resolution adopted by the General Conference which mentions "only the salvaging and conservation of moving images and neither their reproduction nor their communication. There was, however, no refusal on their part to discuss the subject and a lengthy debate ensued.

28. Constant reference was made to the relevant provisions of the existing international conventions on copyright, namely the Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works. There was no intention on the part of any participant to seek to violate the rights of authors and producers as provided for, but experts from archives would have wished to add to international copyright legislation a provision that would foresee a special status for archives which would allow them wider use of material held, without the need to obtain consent from the copyright owner. These experts argued that moving images constituted part of the cultural property of mankind and any new instrument established on their preservation should be based on this new concept. The representatives of producer, distributor and author organizations, on the other hand, felt strongly that the rights of the copyright owner as stipulated in these international conventions should be fully respected and that no new rights should be created.

29. The legal expert recalled the pertinent provisions in the Berne Convention with respect to the reproduction and communication of works. Article 9 states, on the subject of the reproduction of literary and artistic works protected by the Convention: "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author". Some latitude is therefore left to national legislation on the question of reproduction but any such reproduction must not be detrimental to the rights of authors. Article 11 of the same Convention stipulates with respect to communication that "Authors ... shall enjoy the exclusive right of authorizing: ... (ii) any communication to the public of the performance of their works". In this respect, national legislations are free to interpret "communication to the public" and to determine the extent of private use that may be made of works. It was inconceivable that the States constituting the Union (i.e. which are Parties to the Berne Convention) would agree, in any revised text of the Convention that might be prepared, to modify in any way these two articles. Any new international legal instrument that has implications on copyright must therefore of necessity conform thereto.

30. On the question of reproducing material deposited, experts from archives stated their position in the following terms: they required two copies of each item deposited, one for preservation purposes and the other for consultation/viewing; as and when the viewing copy deteriorated in quality, it was necessary to make a further viewing copy from the preservation copy. They therefore wished a provision to be included in any international instrument that would allow "official archives" to make, at their own expense, a viewing copy, on the understanding that further viewing copies could be made as necessary, so that one viewing copy of good quality was available at all times. This proposal was not considered as being detrimental to the interests of the authors and the legal expert

felt that it would probably be acceptable, on condition that it was expressly stated that not more than one viewing copy would be available at the same time. Experts from archives also felt that it was essential that they be allowed to make at their own expense master material (an "intermediate element") as required in order to safeguard the original material.

31. With respect to the communication of material deposited, the experts from archives, while affirming that they did not seek to prejudice the rights of authors and producers, wished to be able to make available, on their own premises, for the purposes of cultural dissemination, films that were not being shown on the commercial network. The representatives of producer and distributor organizations, on the other hand, expressed the view that any "public" projection should not be carried out without the consent of the author, since some films have an unlimited career. This led to a discussion of the concept of "public" projection and "private use". In the opinion of the producers and distributors, it was not sufficient to refer, in this connection, to a non-commercial projection, i.e. where no entrance fee was levied, but the number of people allowed to see the projection at the same time should also be taken into account. The legal expert proceeded to give some examples of the way in which "private use" was interpreted by national legislation: under French law this was interpreted as referring exclusively to members of the family circle, whereas, under other legislations, it was extended to cover private clubs.

32. On the proposal not to charge an admission fee, one participant referred to a small charge levied by his institution which was in fact merely to cover the cost of light refreshments. Experts from other archives also explained the reasons for charging a very modest entrance fee; in one case, films had been shown free of charge, but the film-archive had become a place of shelter from the rain and many undesirable people had entered and disturbed the audience. Although the reasons for charging an entrance fee were understandable, it was considered that there would be strong opposition on the part of producers and authors, and it was therefore decided that the principle of no entrance fee should be maintained.

33. As to the capacity of the projection room, participants did not feel able to limit numerically this capacity, since this should be considered in proportion to the population of a given locality. The meeting agreed to the term "limited number of viewers" and decided to leave it to the national legislation to define exactly this term.

34. The representatives of producer and distributor organizations considered that material deposited could be communicated for teaching or research purposes to bona fide students on the premises of the archives, provided always that this did not conflict with the commercial exploitation of the work. The archives permitted to do so would be exclusively those officially designated to receive material under legal deposit.

35. The final text on the communication of material deposited, as adopted by the meeting, taking into consideration the interests of the different groups concerned and the rights of authors and producers, reads as follows : "Any archive referred to under (c) above [i.e. any "official" archive] may, subject to national copyright legislation project the copy for teaching or research purposes within its premises to a limited number of viewers admitted free of charge provided that the projection does not conflict with the commercial exploitation of the deposited document or with its showing on television".

36. With respect to other uses of the material deposited, for instance, exchange with other archives, loans to film clubs, etc., it was generally agreed that these would be subject to separate negotiation with the copyright owner. On the question of communication of films to the public, the representatives of producer and distributor organizations (FIAPF and FIAD) stated their position in the following terms : "On condition that prior authorization is requested and obtained from the copyright owner for each projection session, the possibility of communicating works deposited to the public could be envisaged, but only in favour of the single official body for film archives designated by the State for legal deposit, provided that the projection takes place before a limited audience admitted free of charge (without any direct or indirect entrance fee being levied and without any participation in the costs) in a room situated on the premises of the archive and provided that the film is no longer under distribution in the country concerned".

37. In reply to a question concerning the length of copyright protection, the legal expert stated that this protection normally ceased fifty years after the film had been made available to the public or fifty years after the film had been made. He went on to explain that if the copyright owner could not be found and the archive could prove that it had made a reasonable effort to find the author, use of the material could hardly be considered an infringement of copyright ; payment would, of course, have to be made if the author were later found.

38. The apparent lack of logic between the introduction of a legal deposit system and the elimination of material by a selection process caused concern among some participants. They argued that it was wasteful to provide that an additional copy of audio-visual material should be made, at great expense either to the State or to the producer and to foresee the possibility of eliminating that copy ; furthermore, any selection criteria would invariably be subjective in nature and might lead to the elimination of material that in later generations would be of great value ; there was, for instance, the case of changing governments and bureaucracies with the possibility of corresponding changes in selection criteria ; these participants therefore felt that no selection whatsoever should be made.

39. On the other hand, other participants felt strongly that it was absolutely impossible to disregard the practical considerations of cost and space. They therefore considered that where the total volume of moving images material exceeded the resources available for its preservation, a decision had to be taken as to what should be preserved ; so far as was possible decisions to eliminate material should be taken at least two decades after its creation so as to allow for the perspective of time ; selection should be based upon the broadest possible consensus of informed opinion and should seek to reflect as widely as possible the history and culture of a nation. Furthermore, material eliminated could be returned to the producer rather than destroyed.

40. Several speakers foresaw the necessity of distinguishing between cinematographic films and television recordings ; the highest national production of cine films did not exceed 445 in 1976 and more than one participant felt that it should be possible to retain that amount ; television recordings, on the other hand were far more numerous, with the number of hours of recordings made every day. Others pointed out, however, that it was not possible to make a distinction between television and cine films since more and more films were being made for both purposes.

41. The hope was expressed that, with advances in technology which would very probably make available storage systems that would be less costly and require less space, much more, if not all audiovisual material made could be retained. The majority of participants considered that the preservation of all material should be a long-term objective and they opposed the principle of selection. It was therefore agreed to recommend that, in principle, no selection should be made, but that national legislations would be permitted to make exceptions to this rule until such time as new technology produced more economical systems which would permit the storage of material at very reduced cost and with far less space requirements. It should be added that there was not a general consensus on this question and it was felt that some further reflexion was necessary on this particular aspect.

Consideration of the Yugoslav proposal on the right of access to material

42. In introducing the proposal submitted by the Yugoslav authorities to the 19th session of the General Conference of Unesco concerning the right of every Member State "to acquire knowledge and to take possession of moving images, and in particular those relating to its past", the Chairman put forward the position of those countries which had lost audio-visual material through accident or because of wars and also of those countries which had seen aspects of their history and culture recorded by foreign groups ; in both cases, those countries wished to have access to material relating to their own history or culture that was held in institutions abroad. Other participants spoke in favour of facilitating access to archives to such material held in other countries,

both documentaries and feature films, since this material was of great relevance and of great interest to the countries concerned, forming part of their national heritage.

43. The problem of the cost of making a copy of the material was raised. In some cases, this could be extremely high, particularly if the film had shrunk and frame-by-frame copying had to be undertaken. It would be difficult for the archives holding the material to pay for the cost of every copy made. In reply, the Chairman stated that the proposal was for the archive requesting a copy to make the necessary payment. Participants were however reminded of the special situation in developing countries which did not always have the means to pay high costs for copies and a proposal was put forward concerning the creation of an intergovernmental fund to facilitate access for developing countries. The final recommendation referred to payment by the requesting archive of the copy at laboratory cost.

44. Closely related to the question of access was the problem of identifying material. This had posed certain difficulties for some archives ; the example was cited of material on the Balkans held in foreign archives and of the difficulty of precisely locating the places recorded. It was therefore strongly urged that catalogues should be established of material held archives so that the work of those seeking the whereabouts of material would be greatly facilitated. In this connection, an appeal was made for better standardization of cataloguing systems used throughout the world.

45. In conclusion, there was general acceptance of the proposal submitted by the Yugoslav authorities and agreement that Member States should be invited to facilitate such access, on the understanding that all the rights of copyright owners would be fully respected.

Other matters

46. Participants considered that any international instrument established on the preservation of moving images should include recommendations to States on certain related issues, such as :

- the need to promote public awareness of the problems involved in safeguarding moving images ;
- the necessity of disseminating information on known methods for safeguarding moving images ;
- the need for adequate training programmes for specialists in preserving moving images ; such training programmes should be as broadly based as possible so that the specialists trained can adapt themselves to new technology ; and
- the need to safeguard also apparatus which may have become obsolete but which was necessary for the reproduction and projection of audio-visual documents that are preserved.

47. The meeting was informed by the Chairman of the proposed training courses, to be organized under the auspices of Unesco in the German Democratic Republic for young archivists from developing countries. The proposal to organize also under the auspices of Unesco a documentation centre on moving images was also referred to.

48. The representative from the International Council of Archives expressed the hope that the Council would be invited to collaborate with the Organization in activities relating to the preservation of moving images, in order to strengthen the link between archivists and film-archivists.

International instrument

49. There was general agreement among the participants that it was indeed desirable to prepare an international instrument on the safeguarding and preservation of moving images. As to the form such an instrument should take, the majority considered that it was premature to prepare a Convention at this stage and that a Recommendation would be more appropriate. One participant was of the opinion, however, that the question of legal deposit should be dealt with in a Convention.

Conclusions of the meeting

50. At the last session, the Chairman of the Drafting Committee presented the text prepared by his Committee which set out the conclusions reached during the meeting on the desirability of preparing an international instrument on the safeguarding and preservation of moving images and on the technical, legal and administrative issues involved.

51. The first part relating to the desirability of preparing an international instrument on the question was approved by the meeting, with one small modification.

52. The paragraphs relating to the technical aspects of preserving moving images were, in part, re-formulated by the meeting and adopted by the majority. The technical expert did not, however, agree to the statements on (i) the technical feasibility of safeguarding moving images, since he considered that certain types and, in particular, magnetic records, could be preserved for longer than "several decades" and (ii) on interim storage facilities for developing countries.

53. With respect to the part on the legal and administrative aspects, the representative of the International Federation of Film Archives made a formal proposal to the effect that official archives should be permitted to project, under the same conditions, material deposited for cultural as well as for teaching and research purposes. The legal expert considered, however, that this would not be acceptable; he referred to the Protocol drawn up to the Berne Convention which sought to extend certain facilities to developing countries for the purposes of teaching, research and

culture ; the term "culture" had been considered to lend itself to too wide an interpretation and, consequently, the Protocol had not been ratified or accepted by a sufficient number of States to permit it to enter into force. He did not therefore consider it opportune to add a reference to "cultural" purposes to the present text. Another participant expressed reservations on the provision relating to sanctions in the case of the non-deposit of material ; he would have preferred the emphasis to be on the obligation of governments to preserve moving images and considered that governments should rather encourage the deposit of material through incentives. A reference to the obligation of States in this respect was added and, after adding a paragraph on the possibility for official archives to make an "intermediate element" for the purpose of safeguarding the original material, the meeting proceeded to adopt the part relating to the legal and administrative aspects.

54. The full text of the conclusions adopted by the meeting appear in Annex II to the present report.

55. The representatives of producer and distributor organizations, who were unable to attend the last session of the meeting, were afterwards given the opportunity to examine the text adopted by the meeting. They informed the Secretariat, inter alia, that they found too optimistic the statements on the feasibility of preserving moving images offered by technology at present in use and that to be developed ; furthermore, they did not agree with the proposal to leave to the Central Agency the right to designate the premises where deposited material should be stored, but felt that this should be a matter for national legislation ; in addition, they did not accept the proposal which permitted official archives to make an "intermediate element". They also reiterated their disagreement with any selection of material deposited.

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ON THE SAFEGUARDING AND PRESERVATION OF
MOVING IMAGES

(Belgrade, 21-24 November 1977)

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FINAL REPORT

CONCLUSIONS OF THE DISCUSSION

Desirability of preparing an international instrument on the
safeguarding and preservation of moving images

1. The participants were of the opinion that it is desirable to prepare an international instrument on the safeguarding of records constituted of moving images in order to bring to the attention of governments the urgent need to take adequate technical, legal and administrative measures to protect these documents from destruction. In particular, it was considered that such an instrument was necessary in view of the situation prevailing in many countries with respect to the safeguarding of moving images.
2. In fact, moving image materials now play an exceedingly important rôle throughout the world, not only in storing a vast volume of information but also in disseminating widely cultural, historical and scientific knowledge. With present rapid advances in technology, it is recognized that the audio-visual media have even greater potentialities for use in recording, for future generations, aspects of contemporary life. Of unique historical value are those moving images that record aspects of our times which cannot be recorded in any other way; this is particularly important in the case of countries with prevalently oral traditions where moving image materials, together with sound recordings, constitute the only adequate means of safeguarding and disseminating their culture. It is of vital importance that moving images which form an essential part of the cultural heritage of mankind be safeguarded for the benefit of future generations.
3. However, it is to be deplored that many countries have not yet realized the necessity of safeguarding their audio-visual heritage which is an expression of their history and culture. Some States have therefore not taken the technical, legal and administrative measures that are indispensable for the protection of moving images. The result has been that many precious records have been lost, either through deterioration or by accident (fires, floods, etc.) or because they have been destroyed (for instance, under contractual arrangements, or for re-use of the support medium). In fact, due to their innal- characteristics, the types of moving images most widely used today are subject to a process of deterioration and if they are not maintained under adequate conditions this process will be greatly accelerated.
4. In other countries, official archives have been established to preserve moving images but they are rarely provided with the legal means to acquire audio-visual documents or with the resources necessary to ensure that they are safeguarded under satisfactory conditions.

Technical Aspects

5. The meeting reached the following conclusions with respect to the technical aspects of safeguarding moving images :

- a) It is now technically feasible to safeguard moving images in their various forms for several decades.
- b) New technology, when adapted for the safeguarding of moving images, should make possible their preservation on a long-term basis, that is, for many centuries, and should, in the future enable the documents which have been preserved to be transferred to new storage systems. States should endeavour to promote research programmes so that the development of this technology is specifically directed towards its application for the safeguarding and restoration of moving images.
- c) It is recognized that certain developing countries because of their particular climatic conditions might have severe difficulties in establishing adequate storage facilities before the introduction of the new systems. These countries may therefore require assistance in designing and establishing adequate interim storage facilities.

6. The safeguarding of moving images, which is the moral obligation of every nation, demands that adequate technical measures be adopted and that a legal and administrative framework for the systematic acquisition of moving image documents be established for this purpose.

Legal and Administrative Aspects

7. The meeting agreed that the method of providing the framework for the systematic acquisition of moving image documents should be the introduction of a system of legal deposit based on the following principles :

- a) Any sequence of moving images, whatever its purpose, physical characteristics, or its maker, subject to (e) below, should be deposited by the latter, in one copy, the nature of which should be determined by national legislation, with a Central Agency officially designated for this purpose. The depositor should have controlled access to this material if further printing is required. Any stipulation to the contrary which prevents such deposit should be null and void.
- b) The national legislation should determine at whose cost the copy deposited would be made.
- c) The Central Agency referred to under (a) above should designate the appropriately equipped premises where the deposited sequences should be stored. These premises should together form the "official archives" for moving image documents of the country concerned and, so far as is reasonably possible, they should be provided with adequate resources to ensure proper safeguarding of all audio-visual documents deposited.
- d) In principle no sequence should be denied deposit and no selection should be made. However, for considerations solely of cost and space, national legislations may - until such time as emerging technology permits a more economical

conservation of terms of cost and space of moving image documents - provide for exceptions to this general principle.

- e) The sequences referred to under (a) above are those made by a maker having his residence or headquarters in the country requiring legal deposit (national maker), irrespective of any co-production arrangement made with a foreign maker.
- f) In the case of cinematographic films the deposit should be made immediately after completion of the standard copy and in the case of television recordings immediately after the recording has been transmitted.
- g) Any archive referred to under (c) above may, subject to national copyright legislation :
 - i) make, at its own expense, an intermediate element for the purpose of safeguarding the original material;
 - ii) make, at its own expense, one single viewing copy and have the possibility of repeating this process if necessary, so that not more than one viewing copy of good quality is available at all times; and
 - iii) project the copy for teaching or research purposes within its premises to a limited number of viewers admitted free of charge provided that the projection does not conflict with the commercial exploitation of the deposited document or with its showing on television;
- h) The copy deposited and the copies made therefrom should not be used for any other purposes without the consent of the owner(s) of the copyright in the document.
- j) Nothing in the preceding paragraphs should be construed as derogating from the national copyright legislation in force and the legal deposit should not constitute a condition of copyright protection.
- k) Non-compliance with the requirement of legal deposit referred to in (a) above should be subject to sanctions to be determined by the legislation of the country where the deposit is required.
- l) Purely private sequences of moving images made by an individual for its own use should be exempt from the deposit obligation.
- m) The archives mentioned under (c) above should establish a catalogue of all moving image documents they hold, using uniform international standards to be defined, so that information understandable on a world-wide scale may be easily disseminated.

...to be made available to the public - ...

n) Detailed provisions regulating the deposit referred to in the preceding paragraphs should be a matter for national legislation.

8. The participants unanimously agreed that Member States should be invited to facilitate acquisition by the official archives of a State of a copy of moving image documents held by institutions abroad and which relate to the history or culture of that State. The documents so supplied should be made available against reimbursement of the actual cost of making the copy and should be subject to any copyright which may exist in the document thus reproduced.

International Instrument

9. The meeting recommended that the proposed international instrument on the safeguarding and the systematic preservation of moving images should take the form of a recommendation addressed to Unesco Member States.

... (1) ... (2) ... (3) ... (4) ... (5) ... (6) ... (7) ... (8) ... (9) ... (10) ...