

No. 3277

**UNITED STATES OF AMERICA
and
INDIA**

**Exchange of notes constituting an agreement relating to
copyright relations. Washington, 21 October 1954**

Official text: English.

Registered by the United States of America on 17 April 1956.

**ÉTATS-UNIS D'AMÉRIQUE
et
INDE**

**Échange de notes constituant un accord relatif à leurs
relations en matière de propriété littéraire et artistique.
Washington, 21 octobre 1954**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 17 avril 1956.

No. 3277. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND INDIA RELATING TO COPYRIGHT RELATIONS. WASHINGTON, 21 OCTOBER 1954

I

The Indian Ambassador to the Secretary of State

EMBASSY OF INDIA
WASHINGTON, D. C.

F. 35/54

October 21st, 1954

Excellency,

In accordance with instructions from my Government, I have the honor to refer to the recent conversations held in New Delhi between representatives of our two Governments with respect to the copyright relations between India and the United States after August 15, 1947, the date of the transfer of power pursuant to the Indian Independence Act, 1947. It is my understanding, that, upon receipt of affirmative assurances that after August 15, 1947, as before that date, Indian Law has granted to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, your Government is prepared to have issued a Presidential Proclamation under Section 9 (b) of Title 17, United States Code, being the Copyright Law, to continue to grant the protection of that law to citizens of India after August 15, 1947, thereby providing for and affirming the continued existence of copyright relations between our two countries as established prior to the change in the legal status of India.

The legal obligation of India to extend the protection of its Copyright Law to citizens of the United States was not altered by the transfer of power on August 15, 1947. Section 18(3) of the Indian Independence Act, 1947, provided for the continuation, except as otherwise expressly provided, of all laws which existed immediately before the transfer of power. Similarly, the legal obligations of India with respect to copyright were not altered by the creation of the Republic of India on January 26, 1950. Article 372(1) of the Constitution of India

¹ Came into force on 21 October 1954 by the exchange of the said notes.

provided for continuation of all laws in force immediately before India became a Republic. In view of this, my Government has instructed me to state its assurances that after August 15, 1947, as before that date, citizens of the United States have been and continue to be entitled to the benefits of copyright in India on substantially the same basis as citizens of India, including rights similar to those provided by section 1 (e) of the aforesaid Title 17.

Accept, Excellency, the renewed assurances of my highest consideration.

G. L. MEHTA
Ambassador of India

The Honourable the Secretary of State
Department of State
Washington, D. C.

II

The Acting Secretary of State to the Indian Ambassador

DEPARTMENT OF STATE
WASHINGTON

Oct. 21, 1954

Excellency :

I have the honor to acknowledge the receipt of your note of today's date, in which you refer to the recent conversations held in New Delhi between representatives of our two Governments with respect to the copyright relations between India and the United States after August 15, 1947.

You state in your note that the legal obligation of India to extend the protection of its Copyright Law to citizens of the United States was not altered by the transfer of power on August 15, 1947, since Section 18(3) of the Indian Independence Act, 1947, provided for the continuation, except as otherwise expressly provided, of all laws which existed immediately before the transfer of power. You state that similarly the legal obligations of India with respect to copyright were not altered by the creation of the Republic of India on January 26, 1950, since Article 372(1) of the Constitution of India provided for continuation of all laws in force immediately before India became a Republic. You state that in view of this, your Government has instructed you to state its assurances that after August 15, 1947, as before that date, citizens of the United States have been and continue to be entitled to the benefits of copyright in India on substantially the same basis

as citizens of India, including rights similar to those provided by Section 1 (e) of Title 17 of the United States Code.

I have the honor to inform you that with a view to affirming the continuance of copyright relations between our two countries, as established prior to the change in the legal status of India, the President of the United States of America has issued today a Proclamation, a copy of which is enclosed herewith, declaring and proclaiming, pursuant to the provisions of Section 9 (b) of the said Title 17 on the basis of the assurances set forth in your note, that after August 15, 1947, as before that date, the conditions specified in Sections 9 (b) and 1 (e) of the said Title 17 have existed and have been fulfilled with respect to citizens of India, and that citizens of India, after August 15, 1947, as before that date, have been entitled to all the benefits of the said Title 17.

Accept, Excellency, the renewed assurances of my highest consideration.

Herbert HOOVER, Jr.
Acting Secretary

Enclosure :
Proclamation.

His Excellency Gaganvihari Lallubhai Mehta
Ambassador of India

COPYRIGHT—INDIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 9 of title 17 of the United States Code, entitled "Copyrights", as codified and enacted by the act of Congress approved July 30, 1947, 61 Stat. 652, provides in part that the copyright secured by such title shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation only :

"(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work ; or

"(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens

of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection, substantially equal to the protection secured to such foreign author under this title or by treaty ; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.” ; and

WHEREAS section 1 of the said title 17 provides in part as follows :

“Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right :

...

“(e) To perform the copyrighted work publicly for profit if it be a musical composition ; ... *Provided*, That the provisions of this title, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after July 1, 1909, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights.” ; and

WHEREAS section 9 of the said title 17 further provides :

“The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this title may require ...” ; and

WHEREAS satisfactory official assurances have been received that after August 15, 1947, as before that date, the laws of India have granted to citizens of the United States the benefit of copyright on substantially the same basis as to citizens of India, including rights similar to those provided by section 1 (e) of the said title 17 :

Now, THEREFORE, I, Dwight D. Eisenhower, President of the United States of America, do declare and proclaim :

That after August 15, 1947, as before that date, the conditions specified in sections 9 (b) and 1 (e) of the said title 17 of the United States Code have, as between the United States and India, existed and been fulfilled, and that citizens of India, after August 15, 1947, as before that date, have been and are entitled to all the benefits of the said title 17, except those conferred by the provisions embodied in the second paragraph of section 9 (b) thereof regarding the extension of time for fulfilling copyright conditions and formalities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at Washington this 21st day of October in the year of our Lord nineteen hundred and fifty-four, and of the Independence of the United States of America the one hundred and seventy-ninth.

[SEAL]

Dwight D. EISENHOWER

By the President :

Herbert HOOVER, Jr.

Acting Secretary of State