

No. 5383

**UNITED STATES OF AMERICA
and
AUSTRIA**

**Exchange of notes constituting an agreement relating to
copyright. Washington, 15 June 1960**

Official text: English.

Registered by the United States of America on 7 October 1960.

**ÉTATS-UNIS D'AMÉRIQUE
et
AUTRICHE**

**Échange de notes constituant un accord relatif à la propriété
littéraire et artistique. Washington, 15 juin 1960**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 7 octobre 1960.

No. 5383. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND AUSTRIA RELATING TO COPYRIGHT. WASHINGTON, 15 JUNE 1960

I

The Austrian Ambassador to the Secretary of State

AUSTRIAN EMBASSY
WASHINGTON, D. C.

June 15, 1960

Sir :

I have the honor to inform you that the attention of the Austrian Federal Government has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947 (61 Stat. 652), which provides for extending, on a reciprocal basis, the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, Austrian authors, copyright owners, and proprietors have lacked, during several years of the time since March 13, 1938, the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

It is the desire of the Austrian Federal Government that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of citizens of Austria whose works are eligible to copyright in the United States.

With a view to assuring the Government of the United States of America reciprocal protection for authors, copyright owners and proprietors who are

¹ Came into force on 15 June 1960 by the exchange of the said notes,

citizens of the United States, the Austrian Federal Government has requested me to invite your attention to the Austrian law on copyright, Federal Law Gazette No. 111/1936, as amended, and the Ordinance of the Minister of Justice of December 9, 1907, Imperial Law Gazette No. 265/1907 (continued in force by virtue of section 101 of the law, Federal Law Gazette No. 111/1936), concerning copyright protection in relation to the United States of America, whereby citizens of the United States have been and are entitled to obtain copyright protection for their works in Austria on substantially the same basis as citizens of Austria without the need of complying with any formalities, provided such works secured protection in the United States. This very liberal legislation was kept in force during the war and continues to remain in force. United States authors have accordingly suffered no prejudice in their rights in Austria because of the war.

The Austrian Federal Government would, therefore, greatly appreciate it if the President of the United States would proclaim, in accordance with the aforesaid title 17 of the United States Code, that by reason of the disruption or suspension of facilities during several years of the time after March 13, 1938, citizens of Austria who are authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled be appropriately extended.

Accept, Sir, the assurances of my highest consideration.

Wilfried PLATZER

The Honorable the Secretary of State

II

The Secretary of State to the Austrian Ambassador

DEPARTMENT OF STATE
WASHINGTON

June 15, 1960

Excellency :

I have the honor to acknowledge the receipt of your note of today's date in which you refer to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947, which authorizes the President to extend by proclamation the time for compliance with the conditions and formalities prescribed by the copyright laws of the United States of America with respect to works first produced or

published outside the United States of America and subject to copyright under the laws of the United States of America when the authors, copyright owners, or proprietors of such works are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential to such compliance.

You state that by reason of conditions arising out of World War II authors, copyright owners, and proprietors who are citizens of Austria lacked during several years of the time after March 13, 1938, the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of Austria that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of citizens of Austria whose works are eligible to copyright in the United States of America.

With a view to assuring the Government of the United States of America reciprocal protection for authors, copyright owners, and proprietors who are citizens of the United States of America, you invite attention to the very favorable legislation in Austria which was kept in force during the war and you add that, as a consequence, American authors have suffered no prejudice to their rights in Austria because of the war. You add that the Austrian copyright laws and ordinance to which you refer continue to remain in force.

I have the honor to inform you that, with a view to giving effect to the extension proposed in the note under acknowledgement, the President has issued today a proclamation,¹ a copy of which is annexed hereto, declaring and proclaiming, pursuant to the provisions of paragraph (b), section 9 of the aforesaid title 17 on the basis of the assurances set forth in your note that as regards (1) works of citizens of Austria which were first produced or published outside the United States of America on or after March 13, 1938 and prior to July 27, 1956, and subject to copyright under the laws of the United States of America, and (2) works of citizens of Austria subject to renewal of copyright under the laws of the United States of America on or after March 13, 1938 and prior to July 27, 1956, there has existed during several years of the aforementioned period such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the

¹ See p. 274 of this volume.

United States of America as to bring such works within the terms of the aforesaid title 17, and that accordingly the time within which compliance with such conditions and formalities may take place is extended with respect to such works for one year after the date of the proclamation. The proclamation provides that it shall be understood that the term of copyright in any case is not and cannot be altered or affected by the President's action and that the extension is subject to the proviso of the said title 17 that no liability shall attach thereunder for lawful uses made or acts done prior to the effective date of that proclamation in connection with the works to which it relates, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully entered into prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

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

For the Secretary of State :

Edwin M. MARTIN

Enclosure :

Copy of proclamation.

His Excellency Dr. Wilfried Platzer
Ambassador of Austria

[No. 3353]

COPYRIGHT EXTENSION : AUSTRIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the President is authorized, in accordance with the conditions prescribed in section 9 of title 17 of the United States Code, which includes the provisions of the act of Congress, approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS satisfactory official assurances have been received that since December 14, 1907, citizens of the United States have been entitled to obtain copyright protection for

their works in Austria on substantially the same basis as citizens of Austria without the need of complying with any formalities, provided such works secured protection in the United States; and

WHEREAS, by virtue of a proclamation by the President of the United States of America, dated April 9, 1910, 36 Stat. 2685, citizens of Austria are, and since July 1, 1909, have been, entitled to the benefits of the aforementioned act of March 4, 1909, other than the benefits of section 1 (e) of that act; and

WHEREAS, by virtue of a proclamation by the President of the United States of America, dated March 11, 1925, 44 Stat. 2571, the citizens of Austria are, and since August 1, 1920, have been, entitled to the benefits of section 1 (e) of the aforementioned act of March 4, 1909 :

NOW, THEREFORE, I, Dwight D. Eisenhower, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid title 17, do declare and proclaim :

That with respect to (1) works of citizens of Austria which were first produced or published outside the United States of America on or after March 13, 1938 and prior to July 27, 1956, and subject to copyright under the laws of the United States of America, and (2) works of citizens of Austria subject to renewal of copyright under the laws of the United States of America on or after March 13, 1938 and prior to July 27, 1956, there has existed during several years of the aforementioned period such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid title 17, and that, accordingly, the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid title 17, no liability shall attach under that title for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or with respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully entered into prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

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

DONE at the City of Washington this fifteenth day of June in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fourth.

[SEAL] Dwight D. EISENHOWER

By the President :
Douglas DILLON
Acting Secretary of State