105TH CONGRESS, 1st Session | SENATE | TREATY DOC. 105–17

# WIPO COPYRIGHT TREATY (WCT) (1996) AND WIPO PERFORMANCES AND PHONOGRAMS TREATY (WPPT) (1996)

## MESSAGE

FROM

## THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

WORLD INTELLECTUAL PROPERTY ORGANIZATION COPYRIGHT TREATY AND THE WORLD INTELLECTUAL PROPERTY ORGANIZATION PERFORMANCES AND PHONOGRAMS TREATY, DONE AT GENEVA ON DECEMBER 20, 1996, AND SIGNED BY THE UNITED STATES ON APRIL 12, 1997

JULY 28, 1997.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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## LETTER OF TRANSMITTAL

THE WHITE HOUSE, *July 28, 1997.*

*To the Senate of the United States:*

I transmit herewith for Senate advice and consent to ratification the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty, done at Geneva on December 20, 1996, and signed by the United States on April 12, 1997. Also transmitted is the report of the Department of State with respect to the Treaties.

These Treaties are in the best interests of the United States. They ensure that international copyright rules will keep pace with technological change, thus affording important protection against piracy for U.S. rightsholders in the areas of music, film, computer software, and information products. The terms of the Treaties are thus consistent with the United States policy of encouraging other countries to provide adequate and effective intellectual property protection.

Legislation is required to implement certain provisions of the Treaties. Legislation is also required to ensure that parties to the Treaties are granted, under U.S. copyright law, the rights to which they are entitled under the Treaties. That legislation is being prepared and is expected to be submitted shortly.

I recommend, therefore, that the Senate give early and favorable consideration to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, and give its advice and consent to ratification, subject to a declaration under Article 15(3) of the WIPO Performances and Phonograms Treaty described in the accompanying State Department report.

WILLIAM J. CLINTON.

## LETTER OF SUBMITTAL

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DEPARTMENT OF STATE,
*Washington, July 22, 1997.*

The PRESIDENT,
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with a view to their transmission to the Senate for advice and consent to ratification, the World Intellectual Property Organization ("WIPO") Copyright Treaty and the WIPO Performances and Phonograms Treaty, both done at Geneva on December 20, 1996 (hereinafter, "the Treaties"). These Treaties were adopted under the auspices of the World Intellectual Property Organization to strengthen international standards for the protection of copyright.

Each of the Treaties contains provisions that are the same as provisions in the other Treaty, as well as provisions specific to its own subject matter.

*Provisions common to the treaties*

The Treaties respond to the challenges of protecting works in the realm of digital technology. In that regard both Treaties oblige parties to ensure that rightsholders have the exclusive right to control on-demand transmissions of works to members of the public (Article 8, Copyright Treaty; Article 14, Performances and Phonograms Treaty). Both Treaties oblige parties to provide adequate legal protection against the circumvention of technologically based security measures, and to apply appropriate and effective remedies against protection-defeating devices or services (Article 11, Copyright Treaty; Article 18, Performances and Phonograms Treaty). Both require the provision of effective remedies against the knowing removal or alteration of electronic rights-management information without authority, and against the related acts of distribution, importation for distribution and communication to the public with knowledge that such information has been removed or altered (Article 12, Copyright Treaty; Article 19, Performances and Phonograms Treaty).

Both Treaties oblige parties to adopt the measures necessary to ensure the application of the Treaties and to ensure that enforcement procedures are available under the parties' laws so as to permit effective action against any act of infringement of rights covered by the Treaties, including provision of expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements (Article 14, Copyright Treaty; Article 23, Performances and Phonograms Treaty).

In addition to these substantive obligations, each Treaty provides that not only WIPO member States, but also the European Com-

munity, as well as similar intergovernmental organizations, may become party to the Treaty. Admission of intergovernmental organizations other than the European Community will be subject to a decision by an Assembly created to administer each Treaty. To be eligible, such an organization must declare that it is competent in respect of, and have its own legislation binding on all its member States on, matters covered by the Treaty (Article 17, Copyright Treaty; Article 26, Performances and Phonograms Treaty).

Each party that is a State has a vote in the Assembly; intergovernmental organizations do not have an independent vote. However, an intergovernmental organization is permitted to participate in a vote on behalf of its member States that are party to the Treaty. There is no allowance for "split voting"; either an organization votes on behalf of all member State parties, or each member State party votes individually (Article 15(3), Copyright Treaty; Article 24(3), Performances and Phonograms Treaty).

In order to ensure that a party to one of the Treaties has recourse in the event of a dispute or non-compliance with treaty obligations by a party that is an intergovernmental organization or a member state of such an organization, each Treaty provides that each contracting party bears all the obligations under the treaty (Article 18, Copyright Treaty; Article 27, Performances and Phonograms Treaty).

Each Treaty enters into force three months after thirty instruments of ratification or accession by states have been deposited with the Director General of WIPO. This number makes it impossible for the European Community and its Member States to be in a position to control the Assembly (Article 20, Copyright Treaty; Article 29, Performances and Phonograms Treaty).

*WIPO Copyright Treaty*

The WIPO Copyright Treaty provides in Article 1 that it is a special agreement within the meaning of Article 20 of the Berne Convention for the Protection of Literary and Artistic Works, revised at Paris, July 24, 1971, as amended (the "Berne Convention"), to which the United States is a party (Article 1). Article 20 of the Berne Convention provides that the states party to the Berne Convention reserve the right to enter into special agreements among themselves insofar as the special agreements grant to authors more extensive rights than those granted under the Berne Convention.

The Copyright Treaty (Article 1(4)) requires that parties comply with the substantive obligations (Articles 1–21 and the Appendix) of the Berne Convention. Like the Berne Convention, the Copyright Treaty provides (Article 3) that parties may not impose formalities on the nationals of other parties as a condition for claiming protection under the Treaty.

In Articles 4 and 5, the Copyright Treaty clarifies, along the lines of Article 10 of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights done at Marrakesh, April 15, 1994, ("TRIPS Agreement"), that computer programs are protected as literary works under the Berne Convention, and that original compilations of data (databases) that incorporate copyrightable authorship are also protected.

The Copyright Treaty (Article 6) explicitly recognizes a right of distribution for all categories of works (which, under the Berne Convention and the TRIPS Agreement is granted explicitly only for cinematographic works).

As does the TRIPS Agreement, the Copyright Treaty (Article 7) provides for an exclusive post-first-sale right of rental for computer programs, cinematographic works and works embodied in phonograms; parties need not implement the rental right in respect of computer programs where the program itself is not the object of rental, and in the case of cinematographic works where rental does not lead to widespread copying impairing the right of reproduction.

The Copyright Treaty (Article 8) extends to all categories of works the right of communication to the public (which under the Berne Convention and the TRIPS Agreement is required only to a varying extent for different categories of works), and clarifies that this right covers making works available to the public by wire or wireless means, through an interactive, on-demand transmission.

The Copyright Treaty (Article 9) extends the term of protection of photographic works to 50 years after the death of the author, as is already the case for all other categories of literary works. It does so by stating that parties shall not apply to provisions of Article 7(4) of the Berne Convention, which allows parties to limit the term of protection for such works to a minimum term of twenty-five years from the making of the work.

The Copyright Treaty (Article 10) extends the application of the three-step test for exceptions established for the right of reproduction in Article 9(2) of the Berne Convention to all other rights (as in Article 13 of the TRIPS Agreement): limitations or exceptions to all rights may be made in certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the interests of the author.

The Copyright Treaty (Article 22) does not allow any reservations to the obligations it sets forth.

*WIPO Performances and Phonograms Treaty*

Several important provisions of the WIPO Performances and Phonograms Treaty offer responses to the challenges of digital technology for performances and phonograms in digital form in the Internet and similar electronic networks. The relevant definitions (phonogram, fixation, producer of a phonogram, publication, broadcasting, communication to the public) are broad enough to cover the requirements of digital technology (Article 2). "Moral rights" are provided under Article 5 for performers in respect of their live aural performances or performances fixed in phonograms (although these rights cover many kinds of modifications, they may be particularly relevant in the case of digital manipulations of performances fixed in phonograms). In Articles 10 and 14, this Treaty provides an exclusive right for both performers and producers of phonograms to authorize making available their fixed performances and phonograms, respectively, by wire or wireless means, in an interactive, on-demand manner.

the Performances and Phonograms Treaty (Article 4) obliges parties to grant national treatment in respect of the rights provided in the Treaty to nationals of other parties, except to the extent that

another party makes use of reservations permitted under Article 15(3) of the Treaty. It also requires that protection not be subject to any formalities.

Other important provisions of the Treaty are described below. Also noted are differences and similarities with the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done at Rome, October 26, 1961 ("Rome Convention"), to which the United States is not a party, and the TRIPS Agreement. The Performances and Phonograms Treaty has no direct relationship to the Rome Convention. It includes some of the provisions of the Convention by reference (the provisions on criteria of eligibility for protection and on the possibility to apply reciprocity in respect of the right to remuneration for broadcasting and communication to the public), but there is no obligation to apply the other provisions of the Rome Convention. There is no legal relationship between the Treaty and the TRIPS Agreement.

Article 6 of the Performances and Phonograms Treaty (Article 6) provides for the exclusive rights of performers to authorize the broadcasting and communication to the public of their unfixed performances, except where the performance is already a broadcast program, and the fixation of their unfixed performances (this generally corresponds to the standards in the Rome Convention and the TRIPS Agreement). This Treaty (Articles 7 and 11) also includes an exclusive right of reproduction for performers in respect of their fixed performances and for producers of phonograms (in harmony with the Rome Convention and the TRIPS Agreement).

The Performances and Phonograms Treaty (Articles 8 and 12) provides recognition of a right of distribution (on which there is no provision in the Rome Convention or the TRIPS Agreement) for both performers and producers of phonograms.

The Performances and Phonograms Treaty (Articles 9 and 13) includes an exclusive post-first-sale right of rental for both performers and producers of phonograms; such a right is not granted in the Rome Convention, but is granted in the TRIPS Agreement explicitly for producers of phonograms and left to national legislation as far as performers are concerned. The Performances and Phonograms Treaty, furthermore, allows those countries where a system of equitable remuneration was applied on April 15, 1994, to maintain such a system, rather than provide an exclusive right (such a "grandfathering" clause is also included in the TRIPS Agreement).

The Performances and Phonograms Treaty (Article 15(1)) includes the right to a single equitable remuneration for performers and producers of phonograms for the broadcasting and communication to the public of phonograms published for commercial purposes or reproductions of such phonograms. Such a right is provided in the Rome Convention, but not in the TRIPS Agreement. Article 15(2) allows parties to establish in national legislation that the remuneration shall be claimed from the user by the performer or the producer of a phonogram, or both. Article 15(3) permits any party to declare, in a notification to the Director General of WIPO, that it will apply the provisions of Article 15(1) only in respect of certain

uses or will otherwise limit their application or that it will not apply these provisions at all.

I recommend that, in accordance with Article 15(3), the United States include the following declaration in its instrument of ratification:

> Pursuant to Article 15(3), the United States declares that it will apply the provisions of Article 15(1) only in respect of certain acts of broadcasting and communication to the public by digital means for which a direct or indirect fee is charged for reception, and for other retransmissions and digital phonorecord deliveries, as provided under United States law.

Article 16 of the Performances and Phonograms Treaty provides that limitations or exceptions to rights may be made in certain special cases that do not conflict with a normal exploitation of the performance or phonogram and do not unreasonably prejudice the interests of the performer or the producer of the phonogram. The same test is established in Article 9(2) of the Berne Convention, and is applied to the rights of performers and producers of phonograms under Article 13 of the TRIPS Agreement.

The Performances and Phonograms Treaty (Article 17) provides for a fifty-year term of protection for the rights of both performers and producers of phonograms (as in the TRIPS Agreement; the Rome Convention provides for only a twenty-year term).

Except for the remuneration right for broadcasting in Article 15(3), no reservations are allowed under the Performances and Phonograms Treaty (Article 21).

As provided in Article 22, this Treaty applies to performances that took place and phonograms that were fixed before the date of entry into force of the Treaty, provided that the term of protection has not expired, except that a party may limit the application of Article 5 concerning the moral rights of performers to performances after the entry into force of the Treaty.

Statements agreed to at the Diplomatic Conference are found as footnotes in the texts of the Treaties. These statements represent the negotiators' understanding of the language of the Treaties and can aid in the interpretation of certain articles. In particular, the agreed statements explain that computer storage of works and phonograms is covered by the Treaties, and that the provisions governing limitations and exceptions provide sufficient flexibility for countries to provide for and extend appropriate limitations on rights when adapting their laws to the digital environment.

Legislation is required to implement certain provisions of the Treaties. Legislation is also required to ensure that parties to the Treaties are granted, under U.S. copyright law, the rights of which they are entitled under the Treaties. That legislation is being prepared and is expected to be submitted shortly.

Prompt ratification of the Treaties will advance United States policy in favor of strong intellectual property protection and is consistent with United States foreign policy in encouraging other countries to provide adequate and effective protection for intellectual property.

I recommend, therefore, that the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty be transmitted to the Senate as soon as possible for its advice and consent to ratification, subject to a declaration under Article 15(3) of the WIPO Performances and Phonograms Treaty, limiting the obligation of the United States to provide remuneration rights for the broadcast of sound recordings.

Respectfully submitted,

STROBE TALBOTT.

# WIPO Copyright Treaty (WCT) (1996)

**with**

**the agreed statements of**
**the Diplomatic Conference that adopted**
**the Treaty**

# WIPO Copyright Treaty (WCT) (1996)*

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* *This Treaty was adopted by the WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions in Geneva, on December 20, 1996.*

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## Preamble

*The Contracting Parties,*

*Desiring* to develop and maintain the protection of the rights of authors in their literary and artistic works in a manner as effective and uniform as possible,

*Recognizing* the need to introduce new international rules and clarify the interpretation of certain existing rules in order to provide adequate solutions to the questions raised by new economic, social, cultural and technological developments,

*Recognizing* the profound impact of the development and convergence of information and communication technologies on the creation and use of literary and artistic works,

*Emphasizing* the outstanding significance of copyright protection as an incentive for literary and artistic creation,

*Recognizing* the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention,

*Have agreed as follows:*

## Article 1

### Relation to the Berne Convention

(1) This Treaty is a special agreement within the meaning of Article 20 of the Berne Convention for the Protection of Literary and Artistic Works, as regards Contracting Parties that are countries of the Union established by that Convention. This Treaty shall not have any connection with treaties other than the Berne Convention, nor shall it prejudice any rights and obligations under any other treaties.

(2) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the Berne Convention for the Protection of Literary and Artistic Works.

(3) Hereinafter, "Berne Convention" shall refer to the Paris Act of July 24, 1971, of the Berne Convention for the Protection of Literary and Artistic Works.

(4) Contracting Parties shall comply with Articles 1 to 21 and the Appendix of the Berne Convention.[1]

## Article 2

### Scope of Copyright Protection

Copyright protection extends to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.

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[1] *Agreed statement concerning Article 1(4): The reproduction right, as set out in Article 9 of the Berne Convention, and the exceptions permitted thereunder, fully apply in the digital environment, in particular to the use of works in digital form. It is understood that the storage of a protected work in digital form in an electronic medium constitutes a reproduction within the meaning of Article 9 of the Berne Convention.*

## Article 3

## Application of Articles 2 to 6 of the Berne Convention

Contracting Parties shall apply *mutatis mutandis* the provisions of Articles 2 to 6 of the Berne Convention in respect of the protection provided for in this Treaty.[2]

## Article 4

## Computer Programs

Computer programs are protected as literary works within the meaning of Article 2 of the Berne Convention. Such protection applies to computer programs, whatever may be the mode or form of their expression.[3]

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[2] *Agreed statement concerning Article 3: It is understood that, in applying Article 3 of this Treaty, the expression "country of the Union" in Articles 2 to 6 of the Berne Convention will be read as if it were a reference to a Contracting Party to this Treaty, in the application of those Berne Articles in respect of protection provided for in this Treaty. It is also understood that the expression "country outside the Union" in those Articles in the Berne Convention will, in the same circumstances, be read as if it were a reference to a country that is not a Contracting Party to this Treaty, and that "this Convention" in Articles 2(8), 2bis(2), 3, 4 and 5 of the Berne Convention will be read as if it were a reference to the Berne Convention and this Treaty. Finally, it is understood that a reference in Articles 3 to 6 of the Berne Convention to a "national of one of the countries of the Union" will, when these Articles are applied to this Treaty, mean, in regard to an intergovernmental organization that is a Contracting Party to this Treaty, a national of one of the countries that is member of that organization.*

[3] *Agreed statement concerning Article 4: The scope of protection for computer programs under Article 4 of this Treaty, read with Article 2, is consistent with Article 2 of the Berne Convention and on a par with the relevant provisions of the TRIPS Agreement.*

## Article 5

## Compilations of Data (Databases)

Compilations of data or other material, in any form, which by reason of the selection or arrangement of their contents constitute intellectual creations, are protected as such. This protection does not extend to the data or the material itself and is without prejudice to any copyright subsisting in the data or material contained in the compilation.[4]

## Article 6

## Right of Distribution

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their works through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the work with the authorization of the author.[5]

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[4] *Agreed statement concerning Article 5: The scope of protection for compilations of data (databases) under Article 5 of this Treaty, read with Article 2, is consistent with Article 2 of the Berne Convention and on a par with the relevant provisions of the TRIPS Agreement.*

[5] *Agreed statement concerning Articles 6 and 7: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

## Article 7

## Right of Rental

(1) Authors of

(i) computer programs;

(ii) cinematographic works; and

(iii) works embodied in phonograms, as determined in the national law of Contracting Parties,

shall enjoy the exclusive right of authorizing commercial rental to the public of the originals or copies of their works.

(2) Paragraph (1) shall not apply

(i) in the case of computer programs, where the program itself is not the essential object of the rental; and

(ii) in the case of cinematographic works, unless such commercial rental has led to widespread copying of such works materially impairing the exclusive right of reproduction.

(3) Notwithstanding the provisions of paragraph (1), a Contracting Party that, on April 15, 1994, had and continues to have in force a system of equitable remuneration of authors for the rental of copies of their works embodied in phonograms may maintain that system provided that the commercial rental of works embodied in phonograms is not giving rise to the material impairment of the exclusive right of reproduction of authors.[6,7]

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[6] *Agreed statement concerning Articles 6 and 7: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

[7] *Agreed statement concerning Article 7: It is understood that the obligation under Article 7(1) does not require a Contracting Party to provide an exclusive right of commercial rental to authors who, under that Contracting Party's law, are not granted rights in respect of phonograms. It is understood that this obligation is consistent with Article 14(4) of the TRIPS Agreement.*

## Article 8

## Right of Communication to the Public

Without prejudice to the provisions of Articles 11(1)(ii), 11*bis*(1)(i) and (ii), 11*ter*(1)(ii), 14(1)(ii) and 14*bis*(1) of the Berne Convention, authors of literary and artistic works shall enjoy the exclusive right of authorizing any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.[8]

## Article 9

## Duration of the Protection of Photographic Works

In respect of photographic works, the Contracting Parties shall not apply the provisions of Article 7(4) of the Berne Convention.

## Article 10

## Limitations and Exceptions

(1) Contracting Parties may, in their national legislation, provide for limitations of or exceptions to the rights granted to authors of literary and artistic works under this Treaty in certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

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[8] *Agreed statement concerning Article 8: It is understood that the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Treaty or the Berne Convention. It is further understood that nothing in Article 8 precludes a Contracting Party from applying Article 11bis(2).*

[Article 10, continued]

(2) Contracting Parties shall, when applying the Berne Convention, confine any limitations of or exceptions to rights provided for therein to certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.[9]

## Article 11

## Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.

[9] *Agreed statement concerning Article 10: It is understood that the provisions of Article 10 permit Contracting Parties to carry forward and appropriately extend into the digital environment limitations and exceptions in their national laws which have been considered acceptable under the Berne Convention. Similarly, these provisions should be understood to permit Contracting Parties to devise new exceptions and limitations that are appropriate in the digital network environment.*

*It is also understood that Article 10(2) neither reduces nor extends the scope of applicability of the limitations and exceptions permitted by the Berne Convention.*

## Article 12

### Obligations concerning Rights Management Information

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this Treaty or the Berne Convention:

(i) to remove or alter any electronic rights management information without authority;

(ii) to distribute, import for distribution, broadcast or communicate to the public, without authority, works or copies of works knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, "rights management information" means information which identifies the work, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public.[10]

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[10] *Agreed statement concerning Article 12: It is understood that the reference to "infringement of any right covered by this Treaty or the Berne Convention" includes both exclusive rights and rights of remuneration.*

*It is further understood that Contracting Parties will not rely on this Article to devise or implement rights management systems that would have the effect of imposing formalities which are not permitted under the Berne Convention or this Treaty, prohibiting the free movement of goods or impeding the enjoyment of rights under this Treaty.*

## Article 13

## Application in Time

Contracting Parties shall apply the provisions of Article 18 of the Berne Convention to all protection provided for in this Treaty.

## Article 14

## Provisions on Enforcement of Rights

(1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.

(2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

## Article 15

## Assembly

(1)(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask the World Intellectual Property Organization (hereinafter referred to as "WIPO") to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as

[Article 15(1)(c), continued]

developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

(2)(a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 17(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

(3)(a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and *vice versa*.

(4) The Assembly shall meet in ordinary session once every two years upon convocation by the Director General of WIPO.

(5) The Assembly shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

## Article 16

### International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

## Article 17

### Eligibility for Becoming Party to the Treaty

(1) Any Member State of WIPO may become party to this Treaty.

(2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

(3) The European Community, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

## Article 18

### Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

## Article 19

### Signature of the Treaty

This Treaty shall be open for signature until December 31, 1997, by any Member State of WIPO and by the European Community.

## Article 20

### Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 instruments of ratification or accession by States have been deposited with the Director General of WIPO.

## Article 21

### Effective Date of Becoming Party to the Treaty

This Treaty shall bind:

(i) the 30 States referred to in Article 20, from the date on which this Treaty has entered into force;

(ii) each other State, from the expiration of three months from the date on which the State has deposited its instrument with the Director General of WIPO;

(iii) the European Community, from the expiration of three months after the deposit of its instrument of ratification or accession if such instrument has been deposited after the entry into force of this Treaty according to Article 20, or, three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;

(iv) any other intergovernmental organization that is admitted to become party to this Treaty, from the expiration of three months after he deposit of its instrument of accession.

## Article 22

## No Reservations to the Treaty

No reservation to this Treaty shall be admitted.

## Article 23

## Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

## Article 24

## Languages of the Treaty

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Community, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

## Article 25

## Depositary

The Director General of WIPO is the depositary of this Treaty.

# WIPO Performances and Phonograms Treaty (WPPT) (1996)

**with**

**the agreed statements of the Diplomatic Conference that adopted the Treaty**

# WIPO Performances and Phonograms Treaty (WPPT) (1996)*

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* *This Treaty was adopted by the WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions in Geneva, on December 20, 1996.*

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## Preamble

*The Contracting Parties,*

*Desiring* to develop and maintain the protection of the rights of performers and producers of phonograms in a manner as effective and uniform as possible,

*Recognizing* the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

*Recognizing* the profound impact of the development and convergence of information and communication technologies on the production and use of performances and phonograms,

*Recognizing* the need to maintain a balance between the rights of performers and producers of phonograms and the larger public interest, particularly education, research and access to information,

*Have agreed* as follows:

# CHAPTER I
# GENERAL PROVISIONS

## Article 1

## Relation to Other Conventions

(1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome, October 26, 1961 (hereinafter the "Rome Convention").

(2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.[1]

(3) This Treaty shall not have any connection with, nor shall it prejudice any rights and obligations under, any other treaties.

## Article 2

## Definitions

For the purposes of this Treaty:

(a) "performers" are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;

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[1] *Agreed statement concerning Article 1(2): It is understood that Article 1(2) clarifies the relationship between rights in phonograms under this Treaty and copyright in works embodied in the phonograms. In cases where authorization is needed from both the author of a work embodied in the phonogram and a performer or producer owning rights in the phonogram, the need for the authorization of the author does not cease to exist because the authorization of the performer or producer is also required, and vice versa.*

*It is further understood that nothing in Article 1(2) precludes a Contracting Party from providing exclusive rights to a performer or producer of phonograms beyond those required to be provided under this Treaty.*

[Article 2, continued]

(b) "phonogram" means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;[2]

(c) "fixation" means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;

(d) "producer of a phonogram" means the person, or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds;

(e) "publication" of a fixed performance or a phonogram means the offering of copies of the fixed performance or the phonogram to the public, with the consent of the rightholder, and provided that copies are offered to the public in reasonable quantity;[3]

(f) "broadcasting" means the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is "broadcasting" where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

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[2] *Agreed statement concerning Article 2(b): It is understood that the definition of phonogram provided in Article 2(b) does not suggest that rights in the phonogram are in any way affected through their incorporation into a cinematographic or other audiovisual work.*

[3] *Agreed statement concerning Articles 2(e), 8, 9, 12, and 13: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

[Article 2, continued]

(g) "communication to the public" of a performance or a phonogram means the transmission to the public by any medium, otherwise than by broadcasting, of sounds of a performance or the sounds or the representations of sounds fixed in a phonogram. For the purposes of Article 15, "communication to the public" includes making the sounds or representations of sounds fixed in a phonogram audible to the public.

## Article 3

### Beneficiaries of Protection under this Treaty

(1) Contracting Parties shall accord the protection provided under this Treaty to the performers and producers of phonograms who are nationals of other Contracting Parties.

(2) The nationals of other Contracting Parties shall be understood to be those performers or producers of phonograms who would meet the criteria for eligibility for protection provided under the Rome Convention, were all the Contracting Parties to this Treaty Contracting States of that Convention. In respect of these criteria of eligibility, Contracting Parties shall apply the relevant definitions in Article 2 of this Treaty.[4]

(3) Any Contracting Party availing itself of the possibilities provided in Article 5(3) of the Rome Convention or, for the purposes of Article 5 of the same Convention, Article 17 thereof shall make a notification as foreseen in those provisions to the Director General of the World Intellectual Property Organization (WIPO).[5]

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[4] *Agreed statement concerning Article 3(2): For the application of Article 3(2), it is understood that fixation means the finalization of the master tape ("bande-mère").*

[5] *Agreed statement concerning Article 3: It is understood that the reference in Articles 5(a) and 16(a)(iv) of the Rome Convention to "national of another Contracting State" will, when applied to this Treaty, mean, in regard to an intergovernmental organization that is a Contracting Party to this Treaty, a national of one of the countries that is a member of that organization.*

### Article 4

### National Treatment

(1) Each Contracting Party shall accord to nationals of other Contracting Parties, as defined in Article 3(2), the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty, and to the right to equitable remuneration provided for in Article 15 of this Treaty.

(2) The obligation provided for in paragraph (1) does not apply to the extent that another Contracting Party makes use of the reservations permitted by Article 15(3) of this Treaty.

## CHAPTER II
## RIGHTS OF PERFORMERS

### Article 5

### Moral Rights of Performers

(1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

[Article 5, continued]

(2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed.

## Article 6

### Economic Rights of Performers in their Unfixed Performances

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

(i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and

(ii) the fixation of their unfixed performances.

## Article 7

## Right of Reproduction

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in phonograms, in any manner or form.[6]

## Article 8

## Right of Distribution

(1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in phonograms through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer.[7]

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[6] *Agreed statement concerning Articles 7, 11 and 16: The reproduction right, as set out in Articles 7 and 11, and the exceptions permitted thereunder through Article 16, fully apply in the digital environment, in particular to the use of performances and phonograms in digital form. It is understood that the storage of a protected performance or phonogram in digital form in an electronic medium constitutes a reproduction within the meaning of these Articles.*

[7] *Agreed statement concerning Articles 2(e), 8, 9, 12, and 13: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

## Article 9

## Right of Rental

(1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in phonograms as determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.

(2) Notwithstanding the provisions of paragraph (1), a Contracting Party that, on April 15, 1994, had and continues to have in force a system of equitable remuneration of performers for the rental of copies of their performances fixed in phonograms, may maintain that system provided that the commercial rental of phonograms is not giving rise to the material impairment of the exclusive right of reproduction of performers.[8]

## Article 10

## Right of Making Available of Fixed Performances

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

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[8] *Agreed statement concerning Articles 2(e), 8, 9, 12, and 13: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

## CHAPTER III
## RIGHTS OF PRODUCERS OF PHONOGRAMS

### Article 11

### Right of Reproduction

Producers of phonograms shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their phonograms in any manner or form.[9]

### Article 12

### Right of Distribution

(1) Producers of phonograms shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their phonograms through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the phonogram with the authorization of the producer of the phonogram.[10]

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[9] *Agreed statement concerning Articles 7, 11 and 16: The reproduction right, as set out in Articles 7 and 11, and the exceptions permitted thereunder through Article 16, fully apply in the digital environment, in particular to the use of performances and phonograms in digital form. It is understood that the storage of a protected performance or phonogram in digital form in an electronic medium constitutes a reproduction within the meaning of these Articles.*

[10] *Agreed statement concerning Articles 2(e), 8, 9, 12, and 13: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

## Article 13

## Right of Rental

(1) Producers of phonograms shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their phonograms, even after distribution of them by, or pursuant to, authorization by the producer.

(2) Notwithstanding the provisions of paragraph (1), a Contracting Party that, on April 15, 1994, had and continues to have in force a system of equitable remuneration of producers of phonograms for the rental of copies of their phonograms, may maintain that system provided that the commercial rental of phonograms is not giving rise to the material impairment of the exclusive right of reproduction of producers of phonograms.[11]

## Article 14

## Right of Making Available of Phonograms

Producers of phonograms shall enjoy the exclusive right of authorizing the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

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11 *Agreed statement concerning Articles 2(e), 8, 9, 12, and 13: As used in these Articles, the expressions "copies" and "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.*

## CHAPTER IV
## COMMON PROVISIONS

### Article 15

### Right to Remuneration for Broadcasting and Communication to the Public

(1) Performers and producers of phonograms shall enjoy the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public.

(2) Contracting Parties may establish in their national legislation that the single equitable remuneration shall be claimed from the user by the performer or by the producer of a phonogram or by both. Contracting Parties may enact national legislation that, in the absence of an agreement between the performer and the producer of a phonogram, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.

(3) Any Contracting Party may, in a notification deposited with the Director General of WIPO, declare that it will apply the provisions of paragraph (1) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply these provisions at all.

[Article 15, continued]

(4) For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they had been published for commercial purposes.[12,13]

## Article 16

## Limitations and Exceptions

(1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers and producers of phonograms as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.

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[12] *Agreed statement concerning Article 15: It is understood that Article 15 does not represent a complete resolution of the level of rights of broadcasting and communication to the public that should be enjoyed by performers and phonogram producers in the digital age. Delegations were unable to achieve consensus on differing proposals for aspects of exclusivity to be provided in certain circumstances or for rights to be provided without the possibility of reservations, and have therefore left the issue to future resolution.*

[13] *Agreed statement concerning Article 15: It is understood that Article 15 does not prevent the granting of the right conferred by this Article to performers of folklore and producers of phonograms recording folklore where such phonograms have not been published for commercial gain.*

[Article 16, continued]

(2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance or phonogram and do not unreasonably prejudice the legitimate interests of the performer or of the producer of the phonogram.[14,15]

## Article 17

## Term of Protection

(1) The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed in a phonogram.

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[14] *Agreed statement concernig Articles 7, 11 and 16: The reproduction right, as set out in Articles 7 and 11, and the exceptions permitted thereunder through Article 16, fully apply in the digital environment, in particular to the use of performances and phonograms in digital form. It is understood that the storage of a protected performance or phonogram in digital form in an electronic medium constitutes a reproduction within the meaning of these Articles.*

[15] *Agreed statement concerning Article 16: The agreed statement concerning Article 10 (on Limitations and Exceptions) of the WIPO Copyright Treaty is applicable mutatis mutandis also to Article 16 (on Limitations and Exceptions) of the WIPO Performances and Phonograms Treaty. [The text of the agreed statement concerning Article 10 of the WCT reads as follows: "It is understood that the provisions of Article 10 permit Contracting Parties to carry forward and appropriately extend into the digital environment limitations and exceptions in their national laws which have been considered acceptable under the Berne Convention. Similarly, these provisions should be understood to permit Contracting Parties to devise new exceptions and limitations that are appropriate in the digital network environment.*

*"It is also understood that Article 10(2) neither reduces nor extends the scope of applicability of the limitations and exceptions permitted by the Berne Convention."]*

[Article 17, continued]

(2) The term of protection to be granted to producers of phonograms under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the phonogram was published, or failing such publication within 50 years from fixation of the phonogram, 50 years from the end of the year in which the fixation was made.

**Article 18**

**Obligations concerning Technological Measures**

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers or producers of phonograms in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances or phonograms, which are not authorized by the performers or the producers of phonograms concerned or permitted by law.

**Article 19**

**Obligations concerning Rights Management Information**

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this Treaty:

(i) to remove or alter any electronic rights management information without authority;

[Article 19(1), continued]

(ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances, copies of fixed performances or phonograms knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, "rights management information" means information which identifies the performer, the performance of the performer, the producer of the phonogram, the phonogram, the owner of any right in the performance or phonogram, or information about the terms and conditions of use of the performance or phonogram, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a fixed performance or a phonogram or appears in connection with the communication or making available of a fixed performance or a phonogram to the public.[16]

## Article 20

## Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

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[16] *Agreed statement concerning Article 19: The agreed statement concerning Article 12 (on Obligations concerning Rights Management Information) of the WIPO Copyright Treaty is applicable mutatis mutandis also to Article 19 (on Obligations concerning Rights Management Information) of the WIPO Performances and Phonograms Treaty. [The text of the agreed statement concerning Article 12 of the WCT reads as follows: "It is understood that the reference to 'infringement of any right covered by this Treaty or the Berne Convention' includes both exclusive rights and rights of remuneration.*

*"It is further understood that Contracting Parties will not rely on this Article to devise or implement rights management systems that would have the effect of imposing formalities which are not permitted under the Berne Convention or this Treaty, prohibiting the free movement of goods or impeding the enjoyment of rights under this Treaty."]*

## Article 21

## Reservations

Subject to the provisions of Article 15(3), no reservations to this Treaty shall be permitted.

## Article 22

## Application in Time

(1) Contracting Parties shall apply the provisions of Article 18 of the Berne Convention, *mutatis mutandis*, to the rights of performers and producers of phonograms provided for in this Treaty.

(2) Notwithstanding paragraph (1), a Contracting Party may limit the application of Article 5 of this Treaty to performances which occurred after the entry into force of this Treaty for that Party.

## Article 23

## Provisions on Enforcement of Rights

(1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.

(2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

## CHAPTER V
## ADMINISTRATIVE AND FINAL CLAUSES

### Article 24

### Assembly

(1)(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

(2)(a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 26(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

(3)(a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

[Article 24(3), continued]

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

(4) The Assembly shall meet in ordinary session once every two years upon convocation by the Director General of WIPO.

(5) The Assembly shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

**Article 25**

**International Bureau**

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

**Article 26**

**Eligibility for Becoming Party to the Treaty**

(1) Any Member State of WIPO may become party to this Treaty.

(2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

[Article 26, continued]

(3) The European Community, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

**Article 27**

**Rights and Obligations under the Treaty**

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

**Article 28**

**Signature of the Treaty**

This Treaty shall be open for signature until December 31, 1997, by any Member State of WIPO and by the European Community.

**Article 29**

**Entry into Force of the Treaty**

This Treaty shall enter into force three months after 30 instruments of ratification or accession by States have been deposited with the Director General of WIPO.

## Article 30

### Effective Date of Becoming Party to the Treaty

This Treaty shall bind

(i) the 30 States referred to in Article 29, from the date on which this Treaty has entered into force;

(ii) each other State from the expiration of three months from the date on which the State has deposited its instrument with the Director General of WIPO;

(iii) the European Community, from the expiration of three months after the deposit of its instrument of ratification or accession if such instrument has been deposited after the entry into force of this Treaty according to Article 29, or, three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;

(iv) any other intergovernmental organization that is admitted to become party to this Treaty, from the expiration of three months after the deposit of its instrument of accession.

## Article 31

### Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

## Article 32

## Languages of the Treaty

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Community, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

## Article 33

## Depositary

The Director General of WIPO is the depositary of this Treaty.

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