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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

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**STANDINGCOMMITTEEO NCOPYRIGHT  
ANDRELATEDRIGHTS**

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PROTECTIONOFOTHERIG HTSOFBROADCASTING ORGANIZATIONS

*ProposalbytheEasternRepublicofUruguay*

DRAFTWIPO TREATY ON THE PROTECTION OF BROADCASTING  
ORGANIZATIONS

CHAPTER I  
GENERAL PROVISIONS

Article 1

Relation to Other Conventions and Treaties

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 referred to as "the Rome Convention").
2. Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright or neighboring rights in program material incorporated in broadcasts. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.
3. This Treaty shall have no connection with, nor shall it prejudice any rights and obligations under, any other treaties.

Article 2

Definitions

For the purposes of this Treaty, "broadcasting" means the transmission by wireless means, for public reception, of sounds or of images and sounds or of their representations thereof; transmission of encrypted signals is "broadcasting" where the means for decrypting are supplied to the public; such transmission by satellite shall also be "broadcasting"; the transmission of encrypted signals shall be "broadcasting" where the means for decrypting are supplied to the public by the broadcasting organization or with its consent.

The provisions of this Treaty shall apply to transmissions by wire, including by cable, and to any other similar form of transmission of sounds or of images and sounds, or of the representations thereof, whether encrypted or not.

Article 3

Beneficiaries of Protection

1. Contracting Parties shall accord the protection provided under this Treaty to broadcasting organizations, which meet either of the following conditions:
  - (a) the headquarters of the broadcasting organization is situated in another Contracting Party, or
  - (b) the broadcasts are retransmitted from a transmitter situated in another Contracting Party. In the case of satellite broadcasts, the relevant places shall be that at which, under the control and responsibility of the broadcasting organization, the program-carrying signals

intended for reception by the public are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

2. By means of a notification deposited with the Director General of the World Intellectual Property Organization, any Contracting Party may declare that it will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting Party and the broadcasts are retransmitted from a transmitter situated in the same Contracting Party. Such notification may be deposited at the time of ratification, acceptance or accession, or at any time thereafter; in the last case, it shall become effective six months after it has been deposited.

#### Article 4 National Treatment

Each Contracting Party shall accord to broadcasting organizations of other Contracting Parties, as set out in Article 2, national treatment with regard to the exclusive rights specifically granted in this Treaty.

#### Article 5 Right of Fixation

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the fixation of their broadcasts.

#### Article 6 Right of Reproduction

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the direct or indirect reproduction, in any manner or form, of fixations of their broadcasts.

#### Article 7 Right of Retransmission

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the retransmission, by wire or wireless means, whether simultaneous or based on fixations, of their broadcasts.

#### Article 8 Right of Making Available of Fixed Broadcasts

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the making available to the public, by wire or wireless means, of fixations of their broadcasts, in such a way that members of the public may access them from a place and at a time individually chosen by them.

Article 9  
Right of Communication to the Public

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the communication to the public of their broadcasts, if such communication is made in places accessible to the public against payment of an entrance fee.

[This is the wording of the draft submitted by the European Community. The broadcasting organizations are advocating a broader formulation, which were regarded as affording more suitable protection for present uses.]

Article 10  
Right of Distribution

1. Broadcasting organisations shall enjoy the exclusive right to authorize or prohibit the making available to the public of the original and copies of fixations of their broadcasts, through sale or the 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 fixation with the authorization of the broadcasting organization.

Article 11  
Right of Decrypting

Broadcasting organizations shall have the exclusive right to authorize or prohibit the decrypting of their broadcasts.

Article 12  
Protection in Relation to Signals Prior to Broadcasting

Broadcasting organizations shall enjoy adequate legal protection against any acts referred to in Article 4 to 9 of this Treaty in relation to their signals prior to broadcasting.

Article 13  
Limitations and Exceptions

1. Contracting Parties may, in their national legislation, provide for the same kind of limitations or exceptions with regard to the protection of broadcasting organizations as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.
2. Contracting Parties shall confine any limitations or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the broadcast and do not unreasonably prejudice the legitimate interests of the broadcasting organization. or

Article 14  
Term of Protection

The term of protection to be granted to broadcasting organizations 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 broadcast took place for the first time.

Article 15  
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 broadcasting organizations in connection with the exercise of their right under this Treaty and that restrict acts, in respect of their broadcasts, which are not authorized by the broadcasting organizations concerned or permitted by law.

Article 16  
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;

(ii) to distribute, import for distribution, retransmit, communicate or make available to the public, without authority, broadcasts or fixations of broadcasts 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 broadcasting organization, the broadcast, the owner of any right in the broadcast, or information about the terms and conditions of use of the broadcast, and any numbers or codes that represent such information, when any of these items of information accompany the transmission, the communication or making available of a broadcast or a fixation of a broadcast to the public.

Article 17  
Formalities

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

Article 18  
Reservations

No reservation to this Treaty shall be permitted.

Article 19  
Application in Time

Contracting Parties shall apply the provisions of Article 18 of the Berne Convention, *mutatis mutandis*, to the rights of broadcasting organizations provided for in this Treaty.

Article 20  
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 laws 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 II  
ADMINISTRATIVE AND FINAL CLAUSES

As in the proposal by the European Community.

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