

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**DIPLOMATIC CONFERENCE
ON
CERTAIN COPYRIGHT AND NEIGHBORING RIGHTS QUESTIONS**

Geneva, December 2 to 20, 1996

AMENDMENT TO ARTICLES 2, 7, 11, 14, 18 AND 19 OF TREATY N° 2

proposed by the Delegations of Algeria, Angola, Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Gambia, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Morocco, Namibia, Niger, Nigeria, Senegal, South Africa, Sudan, Togo, Tunisia, United Republic of Tanzania, Zambia and Zimbabwe

The following amendments are proposed:

1 Replace the current draft paragraph (2)(d) of Article 2 with the following text:

“producer of a phonogram” means the person who, or the legal entity which, is responsible for making the arrangements for the first fixation of the sounds of a performance or other sounds, or the representation of sounds.

2 Replace the current draft paragraph (2) of Article 7 with the following text:

Reproduction does not as such constitute a reproduction within the meaning of this Treaty where -

(i) such reproduction is temporary and made for the sole purpose of making a fixed performance perceptible; or

(ii) such reproduction is temporary and part of a technical process incidental to the transmission or utilization of the fixed performance concerned; or

(iii) such reproduction is incidental to the use of the fixed performance as authorized by the right holder concerned or permitted by law.

3 Renumber the current draft Article 11 as paragraph (1) of Article 11 and insert the following text as paragraph (2):

For the purposes of paragraph (1), the phrase “making available” means the initial act of making the performance available to the public and does not include merely providing facilities or the means for enabling or performing such act.

4 Delete the phrase “for commercial purposes” from the current draft paragraph (1) of Article 12.

5 Replace the current draft paragraph 2 of Article 14 with the following text:

Reproduction does not as such constitute a reproduction within the meaning of this Treaty where -

(i) such reproduction is temporary and made for the sole purpose of making a phonogram audible; or

(ii) such reproduction is temporary and part of a technical process incidental to the transmission or utilization of the phonogram concerned; or

(iii) such reproduction is incidental to the use of the phonogram as authorized by the right holder concerned or permitted by law.

6 Renumber the current draft Article 18 as paragraph (1) of Article 18 and insert the following text as paragraph (2):

For the purposes of paragraph (1), the phrase “making available” means the initial act of making the phonogram available to the public and does not include merely providing facilities or the means for enabling or performing such act.

7 Delete the phrase “for commercial purposes” from the current draft paragraph (1) of Article 19.

8 Replace the current draft Article 22 with the following text:

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

9 Replace the current draft paragraph (1) of Article 23 with the following text:

(1) Contracting Parties shall provide appropriate and effective legal remedies against any person who knowingly performs any of the following acts knowing that by doing so such person is enabling, facilitating or concealing an infringement of any of the rights under this Treaty:

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

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

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