

Official Journal

of the European Communities

ISSN 0378-6978

L 89

Volume 43

11 April 2000

English edition

Legislation

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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 743/2000
of 10 April 2000
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 11 April 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 April 2000.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 10 April 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value	
0702 00 00	052	118,5	
	204	125,9	
	624	190,1	
	999	144,8	
0707 00 05	052	113,0	
	068	107,2	
	628	146,6	
	999	122,3	
0709 90 70	052	76,8	
	204	34,6	
	999	55,7	
0805 10 10, 0805 10 30, 0805 10 50	052	54,1	
	204	38,6	
	212	56,4	
	220	33,7	
	624	50,1	
	999	46,6	
0805 30 10	052	35,3	
	999	35,3	
0808 10 20, 0808 10 50, 0808 10 90	388	97,2	
	400	88,7	
	404	88,9	
	508	82,1	
	512	88,9	
	528	86,9	
	720	79,4	
	804	102,8	
	999	89,4	
	0808 20 50	388	70,5
		400	65,5
512		70,1	
528		75,4	
720		107,7	
999		77,8	

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 744/2000
of 10 April 2000
rectifying Regulation (EEC) No 32/82 laying down the conditions for granting special export
refunds for beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular Article 33(12) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 32/82 ⁽²⁾, as last amended by Regulation (EC) No 2326/97 ⁽³⁾, lays down the conditions for granting special export refunds for beef and veal.
- (2) As a result of a drafting error, when Regulation (EEC) No 32/82 was last amended, by Regulation (EC) No 2326/97, the final sentence of the second subparagraph of Article 2(2) was deleted. That sentence should therefore be reintroduced into the text with effect from 3 December 1997, the date on which Regulation (EC) No 2326/97 entered into force.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The following sentence is added to the second subparagraph of Article 2(2) of Regulation (EEC) No 32/82:

‘However, the competent authorities may authorise the wrapping of the products on condition that the identification mark or seal on each product, referred to in Article 3(2), still remains visible.’

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 3 December 1997.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 April 2000.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 4, 8.1.1982, p. 11.

⁽³⁾ OJ L 323, 26.11.1997, p. 1.

COMMISSION REGULATION (EC) No 745/2000
of 10 April 2000

derogating from Regulation (EC) No 2316/1999 laying down detailed rules for the application of
Council Regulation (EC) No 1251/1999 with regard to set-aside

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as amended by Regulation (EC) No 2704/1999 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2316/1999 ⁽³⁾ lays down detailed rules for the application of Council Regulation (EC) No 1251/1999 with regard to set-aside. Article 19(2) lays down that areas set aside must so remain for a period commencing on 15 January at the latest and ending on 31 August at the earliest. Article 19(3) lays down that, in principle, areas set aside may not be used for agricultural production or for any lucrative purpose.
- (2) During December 1999, regions in several Member States were hit by violent storms that caused serious damage to woodland, resulting in a glut of timber which is threatening the market. The use of land set aside under the arable crop scheme could alleviate the situation by permitting the temporary storage of the timber concerned until it is required by industry. Measures should, however, be adopted to ensure that the land is made available on a non-lucrative basis.

(3) A derogation should therefore be made from Regulation (EC) No 2316/1999.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2000/2001 and 2001/2002 marketing years and notwithstanding Article 19(2) and (3) of Regulation (EC) No 2316/1999, land declared as set aside may be used to store trees blown down by storms in December 1999 in regions declared as disaster areas by the Member States.

Article 2

The Member States concerned shall take all necessary measures to ensure that the set-aside land used for storage is made available on a non-lucrative basis.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 15 January 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 April 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 327, 21.12.1999, p. 12.

⁽³⁾ OJ L 280, 30.10.1999, p. 43.

COMMISSION REGULATION (EC) No 746/2000
of 10 April 2000
on the issue of import licences for high-quality fresh, chilled or frozen beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ⁽¹⁾, as last amended by Regulation (EC) No 134/1999 ⁽²⁾,

Whereas:

- (1) Regulation (EC) No 936/97 provides in Articles 4 and 5 the conditions for applications and for the issue of import licences for meat referred to in Article 2(f).
- (2) Article 2(f) of Regulation (EC) No 936/97 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms for the period 1 July 1999 to 30 June 2000 at 11 500 t.

- (3) It should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

1. All applications for import licences from 1 to 5 April 2000 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 2(f) of Regulation (EC) No 936/97 shall be granted in full.
2. Applications for licences may be submitted, in accordance with Article 5 of Regulation (EC) No 936/97, during the first five days of May 2000 for 9 567,157 t.

Article 2

This Regulation shall enter into force on 11 April 2000.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 April 2000.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 137, 28.5.1997, p. 10.

⁽²⁾ OJ L 17, 22.1.1999, p. 22.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 16 March 2000

on the approval, on behalf of the European Community, of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (*)

(2000/278/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof, in conjunction with the first sentence of Article 300(2) and the second subparagraph of Article 300(3),

Having regard to the proposal from the Commission (1),

Having regard to the assent of the European Parliament (2),

Whereas:

- (1) The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) adopted in Geneva on 20 December 1996 under the auspices of the World Intellectual Property Organisation will help to ensure a balanced level of protection for works and other subject matter, while allowing the public access to material available via networks.
- (2) The competence of the Community to conclude or accede to international agreements or treaties does not derive only from explicit conferral by the Treaty but may also derive from other provisions of the Treaty and from acts adopted pursuant to those provisions by Community institutions.
- (3) The subject matter of the WCT and the WPPT falls to a large extent within the scope of existing Community directives in this field.
- (4) It follows that the approval of the WCT and the WPPT is a matter for both the Community and its Member States.

- (5) The WCT and the WPPT should therefore be approved on behalf of the Community with regard to matters within its competence.
- (6) The Community has already signed the WCT and the WPPT, subject to final conclusion.
- (7) The deposit of the instruments of conclusion of the Community should take place as far as possible simultaneously with the deposit of the instruments of ratification of the Member States,

HAS DECIDED AS FOLLOWS:

Article 1

1. The WIPO Copyright Treaty (WCT) is hereby approved on behalf of the Community with regard to matters within its competence.
2. The WIPO Performances and Phonograms Treaty (WPPT) is hereby approved on behalf of the Community with regard to matters within its competence.
3. The texts of the Treaties are attached to this Decision.

Article 2

The President of the Council is hereby authorised to deposit the instruments of conclusion with the Director-General of the World Intellectual Property Organisation as from the date by which the Member States will have to bring into force the measures adopted by the European Parliament and the Council necessary to adapt the existing Community legislation to the obligations deriving from the WCT and the WPPT.

(*) Two statements relating to this Decision are set out in OJ C 103, 11.4.2000, page 1.

(1) OJ C 165, 30.5.1998, p. 8.

(2) Assent of 16 February 2000 (not yet published in the Official Journal).

Article 3

1. The Commission is hereby authorised to represent the Community at the meetings of the Assemblies referred to in the WCT and WPPT.

2. On all matters within the sphere of competence of the Community, the Commission shall negotiate in the Assemblies of the WCT and the WPPT on behalf of the Community in accordance with the applicable rules of the EC Treaty, in particular Article 300 thereof.

3. The position which the Community may adopt within the Assemblies shall be prepared by the relevant Council working party.

Done at Brussels, 16 March 2000.

For the Council

The President

F. SEIXAS da COSTA

WIPO COPYRIGHT TREATY

(WCT)

Geneva (1996)**Table of contents**

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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,

RECOGNISING 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,

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

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

RECOGNISING 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.

Article 2

Scope of copyright protection

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

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.

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.

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.

Article 6

Right of distribution

1. Authors of literary and artistic works shall enjoy the exclusive right of authorising 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 authorisation of the author.

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 authorising 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.

Article 8

Right of communication to the public

Without prejudice to the provisions of Articles 11(1)(ii), 11bis(1)(i) and (ii), 11ter(1)(ii), 14(1)(ii) and 14bis(1) of the Berne Convention, authors of literary and artistic works shall enjoy the exclusive right of authorising 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.

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.
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.

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 authorised by the authors concerned or permitted by law.

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.

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 Organisation (hereinafter referred to as '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 his 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 organisations 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 organisation 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 organisation 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 organisation 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 authorised, in accordance with its internal procedures, to become Party to this Treaty.

3. The European Community, having made the Declaration referred to 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 organisation that is admitted to become party to this Treaty, from the expiration of three months after the 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 inter-governmental organisation 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.

Agreed statements

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.

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 organisation that is a Contracting Party to this Treaty, a national of one of the countries that is member of that organisation.

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.

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.

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.

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.

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).

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.

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.

WIPO PERFORMANCES AND PHONOGRAMS TREATY

(WPPT)

Geneva (1996)**Table of contents**

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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,

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

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

RECOGNISING 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 Organisations 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 provisions of this Treaty may be interpreted as prejudicing such protection.
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, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;
- (b) 'phonogram' means the fixation of the sounds of a performance or of other sounds, or of representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;
- (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 right-holder, and provided that copies are offered to the public in reasonable quantity;
- (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 organisation or with its consent;
- (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.

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 Directory-General of the World Intellectual Property Organisation (WIPO).

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 this 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 this performances that would be prejudicial to his reputation.

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 authorised 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 authorising, 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 authorising the direct or indirect reproduction of their performance fixed in phonograms, in any manner or form.

Article 8

Right of distribution

1. Performers shall enjoy the exclusive right of authorising 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 performance with the authorisation of the performer.

Article 9

Right of rental

1. Performers shall enjoy the exclusive of authorising 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, authorisation 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.

*Article 10***Right of making available of fixed performances**

Performers shall enjoy the exclusive right of authorising 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 at a time individually chosen by them.

CHAPTER III

RIGHTS OF PRODUCERS OF PHONOGRAMS*Article 11***Right of reproduction**

Producers of phonograms shall enjoy the exclusive right of authorising the direct or indirect reproduction of their phonograms, in any manner or form.

*Article 12***Right of distribution**

1. Producers of phonograms shall enjoy the exclusive right of authorising 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 authorising of the producer of the phonogram.

*Article 13***Right of rental**

1. Producers of phonograms shall enjoy the exclusive right of authorising the commercial rental to the public of the original and copies of their phonograms, even after distribution of them by, or pursuant to, authorisation 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.

*Article 14***Right of making available of phonograms**

Producers of phonograms shall enjoy the exclusive right of authorising 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.

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 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.
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.

*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.
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.

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.

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 of 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 authorised by the performers or the producers of phonogram 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;
- (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performance, 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 communi-

cation on making of a fixed performance or a phonogram to the public.

Article 20

Formalities

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

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 expeditions 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 organisations 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 organisation 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 organisation 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 organisation 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 authorised, 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 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 organisation 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 inter-governmental organisation 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.

Agreed statements

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 authorisation 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 authorisation of the author does not cease to exist because the authorisation 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.

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.

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.

Concerning Article 3(2)

For the application of Article 3(2), it is understood that fixation means the finalisation of the master tape ('bande-mère').

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 organisation that is a Contracting Party to this Treaty, a national of one of the countries that is a member of that organisation.

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.

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 so future resolution.

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.

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.

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 Performance and Phonograms Treaty.
