

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2003 Nr. 162

A. TITEL

*Verdrag van de Wereldorganisatie voor de intellectuele eigendom
inzake uitvoeringen en fonogrammen (WPPT) (1996);
Genève, 20 december 1996*

B. TEKST

De Engelse en de Franse tekst van het Verdrag zijn geplaatst in *Trb.* 1997, 319.

Behalve de aldaar genoemde is het Verdrag ingevolge artikel 28 nog ondertekend voor de volgende staten:

| | |
|-----------------------|------------------|
| Belarus | 8 december 1997 |
| Canada | 22 december 1997 |
| Colombia | 22 oktober 1997 |
| Costa Rica | 2 december 1997 |
| Denemarken | 28 oktober 1997 |
| Ecuador | 31 december 1997 |
| Estland | 29 december 1997 |
| Ierland | 19 december 1997 |
| Kroatië | 15 december 1997 |
| Mexico | 18 december 1997 |
| Oostenrijk | 30 december 1997 |
| Panama | 31 december 1997 |
| Portugal | 31 december 1997 |
| Roemenië | 31 december 1997 |
| Senegal | 17 december 1997 |
| Slovenië | 12 december 1997 |
| Slowakije | 29 december 1997 |
| Zuid-Afrika | 12 december 1997 |
| Zweden | 31 oktober 1997 |
| Zwitserland | 29 december 1997 |

C. VERTALING

Zie *Trb.* 1998, 248.

D. PARLEMENT

Zie *Trb.* 1997, 319.

E. BEKRACHTIGING

Zie *Trb.* 1998, 248.

Behalve de aldaar genoemde hebben nog de volgende staten een akte van bekraftiging, aanvaarding of goedkeuring van het Verdrag bij de Directeur-Generaal van de Wereldorganisatie voor de intellectuele eigen-dom nedergelegd:

| | |
|---|-------------------|
| Argentinië | 19 november 1999 |
| Burkina Faso | 19 juli 1999 |
| Chili ¹⁾ | 11 april 2001 |
| Colombia | 29 november 2000 |
| Costa Rica. | 23 mei 2000 |
| Ecuador | 21 juni 2000 |
| Hongarije | 27 november 1998 |
| Kroatië. | 3 juli 2000 |
| Mexico. | 17 november 1999 |
| Mongolië | 25 juli 2002 |
| Panama | 17 maart 1999 |
| Roemenië | 1 februari 2001 |
| Senegal | 18 februari 2002 |
| Slovenië | 19 november 1999 |
| Slowakije | 14 januari 2000 |
| Togo | 21 februari 2003 |
| de Verenigde Staten van Amerika ²⁾ | 14 september 1999 |

Het *Koninkrijk der Nederlanden* is niet partij bij dit Verdrag.

¹⁾ Onder het volgende voorbehoud:

“Pursuant to Article 15, paragraph 3 of the Treaty, the Republic of Chile will apply the provisions of Article 15, paragraph 1 of the Treaty only in respect of direct uses of phonograms published for commercial purposes for broadcasting or for any communication to the public.

Pursuant to Article 15, paragraph 3 of the Treaty, as regards phonograms the producer or performer of which is a national of another Contracting Party which has made a declaration under Article 15, paragraph 3 of the Treaty, the Republic of Chile will apply, notwithstanding the provisions of the preceding declaration, the provisions of Article 15, paragraph 1 of the Treaty to the extent that Party grants the protection provided for by the provisions of Article 15, paragraph 1 of the Treaty.”.

²⁾ Onder het volgende voorbehoud:

“Pursuant to Article 15(3) of the WIPO Performances and Phonograms Treaty, the United States will apply the provisions of Article 15(1) of the WIPO Performances and Phonograms Treaty 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 the United States law.”.

F. TOETREDING

De volgende staten hebben een akte van toetreding tot het Verdrag bij de Directeur-Generaal van de Wereldorganisatie voor de intellectuele eigendom nedergelegd:

| | |
|--------------------------------|------------------|
| Albanië | 17 mei 2001 |
| Bulgarije. | 29 maart 2001 |
| El Salvador | 20 oktober 1998 |
| de Filippijnen | 4 juli 2002 |
| Gabon | 6 december 2001 |
| Georgië | 4 juli 2001 |
| Guatemala | 8 oktober 2002 |
| Guinee | 25 februari 2002 |
| Honduras | 20 februari 2002 |
| Jamaica | 12 maart 2002 |
| Japan ¹⁾ | 9 juli 2002 |
| Kyrgyzstan | 15 mei 2002 |
| Letland. | 22 maart 2000 |
| Litouwen | 26 januari 2001 |
| Mali | 22 oktober 2001 |
| Nicaragua | 6 december 2002 |
| Oekraïne. | 29 november 2001 |
| Paraguay. | 29 november 2000 |
| Peru | 18 april 2002 |
| Polen. | 21 juli 2003 |
| Servië en Montenegro | 13 maart 2003 |
| Sint Lucia | 24 november 1999 |
| Tsjechië | 10 oktober 2001 |

¹⁾ Onder de volgende verklaring en het volgende voorbehoud:

“Pursuant to Article 3(3), Japan will not apply the criterion of publication concerning the protection of producers of phonograms.

Pursuant to Article 15(3), Japan will apply the provisions of Article 15(1) to the extent that Party grants the protection provided for by Article 15(1); and Japan will apply the provisions of Article 15(1) in respect of direct uses for broadcasting or for wire diffusion, but Japan will not apply the provisions of Article 15(1) to the 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 a time individually chosen by them.”.

G. INWERKINGTREDING

Zie *Trb.* 1997, 319.

De bepalingen van het Verdrag zijn ingevolge artikel 29 op 20 mei 2002 in werking getreden.

J. GEGEVENS

Zie *Trb.* 1997, 319 en *Trb.* 1998, 248.

Verwijzingen

Titel : Verdrag tot oprichting van de Wereldorganisatie voor de Intellectuele Eigendom (OMPI/WIPO); Stockholm, 14 juli 1967

Laatste *Trb.* : *Trb.* 2002, 147

Titel : Verdrag tot oprichting van de Europese Gemeenschap;

Rome, 25 maart 1957

Laatste *Trb.* : *Trb.* 2003, 150 (geconsolideerde versie)

Voor wijzigingen van bovengenoemd Verdrag van 25 maart 1957, zie rubriek J van *Trb.* 2003, 152.

Verklaringen

Tijdens de Diplomatische Conferentie inzake zekere auteursrecht- en andere daaraan verwante problemen, welke is gehouden te Genève van 2 tot en met 20 december 1996, zijn door de Verdragsluitende Partijen nog de volgende verklaringen¹⁾ overeengekomen:

Agreed statement concerning Article 1

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.

¹⁾ Het voor eensluidend gewaarmerkt afschrift van de verklaringen is nog niet ontvangen. In de hierna volgende tekst kunnen derhalve onjuistheden voorkomen, die in een volgend Tractatenblad zullen worden gecorrigeerd.

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.

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.

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.

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”).

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.

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.

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.

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.

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.

Uitgegeven de *veertiende* oktober 2003.

De Minister van Buitenlandse Zaken,

J. G. DE HOOP SCHEFFER