

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2010 Nr. 60

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.

C. VERTALING

Zie *Trb.* 1998, 248.

D. PARLEMENT

Bij brieven van 19 mei 2004 (Kamerstukken II 2003/2004, 29633 (R1760), nr. 1) is het Verdrag in overeenstemming met artikel 2, eerste en tweede lid, en artikel 5, eerste en tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen overgelegd aan de Eerste en de Tweede Kamer der Staten-Generaal, de Staten van de Nederlandse Antillen en de Staten van Aruba.

De toelichtende nota die de brieven vergezelde, is ondertekend door de Minister van Justitie J. P. H. DONNER en de Minister van Buitenlandse Zaken B. R. BOT.

De goedkeuring door de Staten-Generaal is verleend op 5 juli 2004.

E. PARTIJGEGEVENS

Zie *Trb.* 1997, 319.

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Albanië		17-05-01	T	20-05-02		
Argentinië	18-09-97	19-11-99	R	20-05-02		
Armenië		06-12-04	T	06-03-05		
Australië		26-04-07	T	26-07-07		
Azerbeidzjan		11-01-06	T	11-04-06		
Bahrein		15-09-05	T	15-12-05		
Belarus	08-12-97	15-07-98	R	20-05-02		
België	19-02-97	30-05-06	R	30-08-06		
Benin		16-01-06	T	16-04-06		
Bolivia	20-12-96					
Bosnië en Herzegovina		25-08-09	T	25-11-09		
Botswana		27-10-04	T	27-01-05		
Bulgarije		29-03-01	T	20-05-02		
Burkina Faso	20-12-96	19-07-99	R	20-05-02		
Canada	22-12-97					
Chili	20-12-96	11-04-01	R	20-05-02		
China		09-03-07	T	09-06-07		
Colombia	22-10-97	29-11-00	R	20-05-02		
Costa Rica	02-12-97	23-05-00	R	20-05-02		
Cyprus		02-09-05	T	02-12-05		
Denemarken	28-10-97	14-12-09	R	14-03-10		
Dominicaanse Republiek, de		10-10-05	T	10-01-06		
Duitsland	20-12-96	14-12-09	R	14-03-10		
Ecuador	31-12-97	21-06-00	R	20-05-02		
El Salvador		20-10-98	T	20-05-02		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Estland	29-12-97	14-12-09	R	14-03-10		
EU (Europese Unie)	20-12-96	14-12-09	R	14-03-10		
Filipijnen, de		04-07-02	T	04-10-02		
Finland	09-05-97	14-12-09	R	14-03-10		
Frankrijk	09-10-97	14-12-09	R	14-03-10		
Gabon		06-12-01	T	20-05-02		
Georgië		04-07-01	T	20-05-02		
Ghana	23-05-97					
Griekenland	13-01-97	14-12-09	R	14-03-10		
Guatemala		08-10-02	T	08-01-03		
Guinee		25-02-02	T	25-05-02		
Honduras		20-02-02	T	20-05-02		
Hongarije	20-12-96	27-11-98	R	20-05-02		
Ierland	19-12-97	14-12-09	R	14-03-10		
Indonesië	20-12-96	15-11-04	R	15-02-05		
Israël	25-03-97					
Italië	20-12-96	14-12-09	R	14-03-10		
Jamaica		12-03-02	T	12-06-02		
Japan		09-07-02	T	09-10-02		
Jordanië		24-02-04	T	24-05-04		
Kazachstan	28-05-97	12-08-04	R	12-11-04		
Kenia	20-12-96					
Kroatië	15-12-97	03-07-00	R	20-05-02		
Kyrgyzstan		15-05-02	T	15-08-02		
Letland		22-03-00	T	20-05-02		
Liechtenstein		30-01-07	T	30-04-07		
Litouwen		26-01-01	T	20-05-02		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Luxemburg	18-02-97	14-12-09	R	14-03-10		
Macedonië, Voormalige Joegoslavische Republiek		20-12-04	T	20-03-05		
Mali		22-10-01	T	20-05-02		
Malta		14-12-09	T	14-03-10		
Mexico	18-12-97	17-11-99	R	20-05-02		
Moldavië	09-09-97	13-03-98	R	20-05-02		
Monaco	14-01-97					
Mongolië	20-12-96	25-07-02	R	25-10-02		
Montenegro		04-12-06	VG	03-06-06		
Namibië	20-12-96					
Nederlanden, het Koninkrijk der – Nederland – Ned. Antillen – Aruba	02-12-97	14-12-09 – –	R	14-03-10 – –		
Nicaragua		06-12-02	T	06-03-03		
Nigeria	24-03-97					
Oekraïne		29-11-01	T	20-05-02		
Oman		20-06-05	T	20-09-05		
Oostenrijk	30-12-97	14-12-09	R	14-03-10		
Panama	31-12-97	17-03-99	R	20-05-02		
Paraguay		29-11-00	T	20-05-02		
Peru		18-04-02	T	18-07-02		
Polen		21-07-03	T	21-10-03		
Portugal	31-12-97	14-12-09	R	14-03-10		
Qatar		28-07-05	T	28-10-05		
Roemenië	31-12-97	01-02-01	R	20-05-02		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Russische Federatie		05-11-08	T	05-02-09		
Saint Lucia		24-11-99	T	20-05-02		
Senegal	17-12-97	18-02-02	R	20-05-02		
Servië		13-03-03	T	13-06-03		
Singapore		17-01-05	T	17-04-05		
Slovenië	12-12-97	19-11-99	R	20-05-02		
Slowakije	29-12-97	14-01-00	R	20-05-02		
Spanje	20-12-96	14-12-09	R	14-03-10		
Togo	20-12-96	21-02-03	R	21-05-03		
Trinidad en Tobago		28-08-08	T	28-11-08		
Tsjechië		10-10-01	T	20-05-02		
Turkije		28-08-08	T	28-11-08		
Uruguay	07-01-97	28-05-08	R	28-08-08		
Venezuela	20-12-96					
Verenigd Koninkrijk, het	13-02-97	14-12-09	R	14-03-10		
Verenigde Arabische Emiraten, de		09-03-05	T	09-06-05		
Verenigde Staten van Amerika, de	12-04-97	14-09-99	R	20-05-02		
Zuid-Afrika	12-12-97					
Zuid-Korea		18-12-08	T	18-03-09		
Zweden	31-10-97	14-12-09	R	14-03-10		
Zwitserland	29-12-97	31-03-08	R	01-07-08		
* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrchtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend						

Uitbreidingen

China

Uitgebreid tot	In werking	Buiten werking
Hongkong SAR	01-10-2008	

Verklaringen, voorbehouden en bezwaren

Australië, 26 april 2007

Pursuant to Article 3(3), Australia will not apply the criterion of publication [concerning the protection of producers of phonograms]; and pursuant to Article 15(3), Australia will not apply the provisions of Article 15(1) in respect of:

- a) the use of phonograms for (i) radio broadcasting, and (ii) radio communication to the public within the meaning of the first sentence of Article 2(g), and
- b) the communication to the public of phonograms by way of making the sounds of the phonograms audible to the public by means of the operation of equipment to receive a broadcast or other transmission of the phonograms.

België, 30 mei 2006

In accordance with Article 3(3) of the WIPO Performances and Phonograms Treaty (WPPT), the Kingdom of Belgium declares that it avails itself of the faculty provided in Article 5(3) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention 1961) in the sense that it will not apply the criterion of publication as a point of attachment.

Chili, 1 mei 2003

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.

China, 9 maart 2007

The People's Republic of China does not consider itself bound by Paragraph 1 of Article 15 of the Treaty.

China, 23 september 2008

The Hong Kong Special Administrative Region of the People's Republic of China does not consider itself bound by Article 15(1) of the Treaty with regard to the right of the performers.

With respect to the right of the producers of phonograms stipulated in Article 15(1) of the Treaty, relevant laws of the Hong Kong Special Administrative Region of the People's Republic of China shall apply.

Costa Rica, 14 augustus 2009

In accordance with Article 15, paragraph 3 of the Treaty, the Republic of Costa Rica shall only apply the provisions of Article 15, paragraph 1 of the Treaty in respect of broadcasting or communication to the public for commercial purposes, in accordance with what is established in Costa Rica legislation, and shall not apply the said provisions to traditional free non-interactive over-the-air broadcasting.

Date of effect: 14 November 2009.

Denemarken, 14 december 2009

In accordance with Article 3(3) of the WIPO Performances and Phonograms Treaty (WPPT), the Kingdom of Denmark declares that it avails itself of the faculty provided in Article 5(3) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention (1961)) in the sense that Denmark will not apply the criterion of publication in Article 5(1)(c) of the Rome Convention.

Duitsland, 14 december 2009

In accordance with Article 3(3) of the WIPO Performances and Phonograms Treaty (WPPT), the Federal Republic of Germany declares that it avails itself of the faculty provided in Article 5(3) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention (1961)) in the sense that it will not apply the criterion of fixation laid down in Article 5(1)(b) thereof.

Finland, 14 december 2009

Pursuant to Article 3(3) of the Treaty the Republic of Finland avails itself of the possibilities provided in Article 17 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) and refers to the notification made at the time of ratification by Finland of the Rome Convention, stating that it will apply, for the purposes of Article 5 of the said Convention, the criterion of fixation alone and, for the purposes of Article 16, paragraph 1(a)(iv), the criterion of fixation instead of the criterion of nationality.

Frankrijk, 14 december 2009

The Government of the French Republic declares, in accordance with Article 3(3) of the WIPO Performances and Phonograms Treaty (WPPT), that it avails itself of the faculty provided in Article 5(3) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention of October 26, 1961), and that instead of the criterion of first publication it will apply the criterion of first fixation.

Japan, 9 juli 2002

– Pursuant to Article 3, paragraph 3 of the Treaty, the Government of Japan will not apply the criterion of publication concerning the protection of producers of phonograms.

– Pursuant to Article 15, paragraph 3 of the Treaty, as regards phonograms the producer of which is a national of another Contracting Party which has made a declaration under Article 15, paragraph 3 of the Treaty, the Government of Japan will apply the provision 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.

Japan, 21 januari 2008

Pursuant to Article 15, paragraph 3 of the Treaty, the Government of Japan will apply the provisions of Article 15, paragraph 1 of the Treaty in respect of the direct or indirect use of the phonograms published for commercial purposes for broadcasting, cablecasting (wire diffusion) or “automatic public transmission of unfixated information”. For purposes of this declaration, “automatic public transmission of unfixated information” shall mean transmission by means of inputting information into an automatic public transmission server (as defined in Article 2, paragraph 1, subparagraph 9 quinquies (i) of the copyright law of Japan) already connected with a telecommunication line that is provided for use by the public, which is carried out automatically in response to a request from the public and which is intended for direct receipt by the public.

Pursuant to Article 15, paragraph 3 of the Treaty, the Government of Japan will apply the provisions of Article 15, paragraph 1 of the Treaty in respect of the direct or indirect use of 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 for “automatic public transmission of unfixated information”.

Macedonië, Voormalige Joegoslavische Republiek, 20 december 2004
 The Republic of Macedonia shall not apply the provision on the criterion of publication in respect of the national treatment on protection of phonogram producers in accordance with Article 3 paragraph 3 from the WIPO Performances and Phonograms Treaty, in relation to the expressed reservation of the Republic of Macedonia on Article 5 paragraph 3 from the International Convention for the Protection of Performers, Phonogram Producers and Broadcasting Organizations (Rome Convention).
 The Republic of Macedonia shall not apply the provision on single equitable remuneration for the performers and for the phonogram producers for direct or indirect use of phonograms published for commercial purposes for broadcasting or for any other communication to the public, in accordance with Article 15 paragraph 3 from WIPO Performances and Phonograms Treaty, in relation to the expressed reservation of the Republic of Macedonia on Article 16 paragraph (1)(a)(i) from the International Convention for the Protection of Performers, Phonogram Producers and Broadcasting Organizations (the Rome Convention).

Russische Federatie, 5 november 2008
 – that in accordance with Article 15(3) of the WPPT, the Russian Federation shall not apply the provisions of Article 15(1) of the WPPT in relation to phonograms, the producer of which is not a citizen or legal person of another Contracting Party; shall limit the protection granted, in accordance with Article 15(1) of the WPPT, in relation to phonograms, the producer of which is a citizen or legal person of another Contracting Party, within the scope and on the conditions provided for by this Contracting Party for phonograms first recorded by a citizen or legal person of the Russian Federation; and
 – that in accordance with Article 3(3) of the WPPT, the Russian Federation notifies that when it acceded to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) of October 26, 1961, the Russian Federation in accordance with Article 5(3) of the Rome Convention, declared that it shall not apply the fixation criterion provided for in Article 5(1)(b) of the Rome Convention.

Singapore, 17 januari 2005
 Pursuant to Article 15(3), Singapore will limit the provisions of Article 15(1) in the following ways:
 – Producers of phonograms have the exclusive right to make available to the public a sound recording by means of, or as part of, a digital audio transmission.
 – Performers can bring an action of unauthorized communication of a live performance to the public and for unauthorized making available of a recording of a performance to the public (on a network or otherwise) in such a way that the recording may be accessed by any person from a place and at a time chosen by him. In this context, “communication”

includes broadcasting, inclusion in a cable programme service and the making available of the live performance in such a way that the performance may be accessed by any person from a place and at a time chosen by him.

Zuid-Korea, 18 december 2008

- In accordance with Article 3(3) of the Treaty, the Government of the Republic of Korea will not apply the criterion of publication concerning the protection of producers of phonograms.
- In accordance with Article 15(3) of the Treaty, the Government of the Republic of Korea will apply the provisions of Article 15(1) of the Treaty in respect of the use of phonograms published for commercial purposes for broadcasting or transmission by wire. Transmission by wire does not include transmission over the Internet.
- In accordance with Article 15(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(3) thereof, the Government of the Republic of Korea will apply the provisions of Article 15(1) thereof to the extent to which, and to the term for which, the other Contracting Party grants protection to phonograms the producer or performer of which is a national of the Republic of Korea under the provisions of Article 15(1) thereof.

Zweden, 14 december 2009

The Kingdom of Sweden declares, in accordance with Article 3(3) of the WIPO Performances and Phonograms Treaty with reference to Article 5(3) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, that Sweden will not apply the criterion of publication, with the exception of the reproduction right for phonogram producers.

Zwitserland, 31 maart 2008

In accordance with Article 3, paragraph 3 of the Treaty, Switzerland hereby declares that it will make use of the option provided in Article 5, paragraph 3 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), 1961, to reject the criterion of fixation, applying therefore the criterion of publication.

G. INWERKINGTREDING

Zie *Trb.* 2003, 162.

Het Verdrag zal ingevolge artikel 30, onder ii, voor het Koninkrijk der Nederlanden op 14 maart 2010 in werking treden.

Wat betreft het Koninkrijk der Nederlanden, zal het Verdrag alleen voor Nederland gelden.

J. VERWIJZINGEN

Voor verwijzingen en andere verdragsgegevens zie *Trb.* 1997, 319, *Trb.* 1998, 248 en *Trb.* 2003, 162.

Titel : Verdrag tot oprichting van de Wereldorganisatie voor de Intellectuele Eigendom (OMPI/WIPO), zoals gewijzigd op 28 september 1979;
Stockholm 14 juli 1967

Laatste *Trb.* : *Trb.* 2006, 156

Titel : Berner Conventie voor de bescherming van werken van letterkunde en kunst van 9 september 1886, aangevuld te Parijs op 4 mei 1896, herzien te Berlijn op 13 november 1908, aangevuld te Bern op 20 maart 1914, herzien te Rome op 2 juni 1928, te Brussel op 26 juni 1948, te Stockholm op 14 juli 1967 en te Parijs op 24 juli 1971;
Parijs, 24 juli 1971

Laatste *Trb.* : *Trb.* 2006, 158

Titel : Verdrag betreffende de werking van de Europese Unie¹⁾;
Rome, 25 maart 1957

Laatste *Trb.* : *Trb.* 2010, 40

Uitgegeven de *drieëntwintigste* februari 2010.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN

¹⁾ De titel van het Verdrag luidde vóór 1 december 2009: Verdrag tot oprichting van de Europese Gemeenschap.