



KEPUTUSAN PRESIDEN REPUBLIK INDONESIA
NOMOR 19 TAHUN 1997
TENTANG
PENGESAHAN WIPO COPYRIGHTS TREATY

PRESIDEN REPUBLIK INDONESIA,

- Menimbang : a. bahwa sebagai hasil persidangan Negara-negara Anggota World Intellectual Property Organization di Jenewa, Swiss pada tanggal 20 Desember 1996, telah diterima WIPO Copyrights Treaty;
- b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara Lain, dipandang perlu untuk mengesahkan Treaty tersebut dengan Keputusan Presiden;

Mengingat : Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar 1945;

MEMUTUSKAN:

Menetapkan : KEPUTUSAN PRESIDEN TENTANG PENGESAHAN WIPO COPYRIGHTS TREATY.

Pasal 1

Mengesahkan WIPO Copyrights Treaty sebagai hasil persidangan dan diterima oleh Negara-negara Anggota World Intellectual Property Organization di Jenewa, Swiss pada tanggal 20 Desember 1996, yang salinan naskah aslinya dalam bahasa Inggris sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Keputusan Presiden ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 7 Mei 1997
PRESIDEN REPUBLIK INDONESIA

ttd.

SOEHARTO

Diundangkan di Jakarta
pada tanggal 7 Mei 1997
MENTERI NEGARA SEKRETARIS NEGARA
REPUBLIK INDONESIA,

ttd.

MOERDIONO

WIPO Copyright Treaty (WCT)(1996)

with

the agreed statements of
the Diplomatic Conference that adopted
ther Treaty

and

the provisions of the Berne Convention (1971)
referred to in the Treaty

WIPO Copyright Treaty (WCT) (1996)X

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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,

Recognizing 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,

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

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

Recognizing 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. FN1

Article 2 Scope of Copyright Protection

Copyright protection extends to ideas, procedures, methods of operation or mathematical concepts as such.

Article 3 Application of Articles 2 to expressions and not 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. FN2

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. FN3

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. FN4

Article 6 Right of Distribution

- (1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing 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 authorization of the author. FN5

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 authorizing 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. FN6 FN7

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 authorizing 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.

[Article 10, continued]

- (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. FN8

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 authorized 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. FN9

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 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 Organization (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 this 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 organizations 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 organization may participate in the vote, in place of its Member State, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization 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 organization 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 authorized, 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, 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 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 organization 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 intergovernmental organization 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.

Provisions of the Berne Convention
for the Protection of Literary
and Artistic Works (1971)
referred to in the WCT FN10

The countries of the Union, being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works,

Recognizing the importance of the work of the Revision Conference, while maintaining without change Articles 1 to 20 and 22 to 26 of that Act.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

Article 1 [Establishment of a Union] FN11 FN12

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in the rights of authors in their literary and artistic works.

Article 2

[Protected Works: 1: "Literary and artistic works"; 2. Possible requirement of fixation; 3. Derivative works; 4. Official texts; 5. Collections; 6. Obligation to protect; beneficiaries of [protected] 7. Works of applied art and industrial designs; 8 News]

- (1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its

expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

- (2) It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.
- (3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.
- (4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.
- (5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.
- (6) The works mentioned in this Article shall enjoy protection in all countries of the Union, This protection shall operate for the benefit of the author and his successors in title.
- (7) Subject to the provisions of Article 7(4) of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.
- (8) The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of press information.

Article 2bis

[Possible Limitation of Protection of Certain Works:

1. Certain speeches; 2. Certain uses of lectures and addresses;
3. Right to make collections of such works]

- (1) It shall be a matter for legislation in the countries of the Union to exclude, wholly or in part, from the protection provided by the preceding Article political speeches and speeches delivered in the course of legal proceedings.
- (2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press, broadcast, communicated to the public by wire and made the subject of public communication as envisaged in Article 11bis(1) of this Convention, when such use is justified by the inforamatory purpose.
- (3) Nevertheless, the author shall enjoy the exclusive right of making a collection of his works mentioned in the preceding paragraphs.

Article 3

[Criteria of Eligibility for Protection: 1. Nationality of author; place of publication of work; 2. Residence of author; 3. "Published" works; 4. "Simultaneously published" works]

- (1) The protection of this Convention shall apply to:
 - (a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;
 - (b) authors who are not nationals of one of the countries, or simultaneously in a country outside the Union and in a country of the Union.
- (2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purposes of this Convention, be assimilated to nationals of that country.
- (3) The expression "published works" means works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.
- (4) A work shall be considered as having been published simultaneously in several

countries if it has been published in two or more countries within thirty days of its first publication.

Article 4

[Criteria of Eligibility for Protection of Cinematographic Works, Works of Architecture and Certain Artistic Works]

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to:

- (a) authors of cinematographic works the maker of which has his headquarters or habitual residence in one of the countries of the Union;
- (b) authors of works of architecture erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

Article 5

[Rights Guaranteed: 1. and 2. Outside the country of origin; 3. In the country of origin; 4. "Country of origin"]

- (1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.
- (2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.
- (3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.
- (4) The country of origin shall be considered to be:
 - (a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection;
 - (b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;
 - (c) in the case of unpublished works or of works first published in a country

outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:

- (i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country, and
- (ii) when these are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

Article 6

[Possible Restriction of Protection in Respect of Certain Countries Outside the Union:

1. In the country of the first publication and in other countries;
2. No retroactivity; 3. Notice]

- (1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the other country and are not habitually resident in one of the countries of the Union. If the country of first publication avails itself of this right, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.
- (2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.
- (3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the Director General of the World Intellectual Property Organization (hereinafter designated as "the Director General") by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are nationals of those countries are subjected. The Director General shall immediately communicate this declaration to all the countries of the Union.

Article 6bis

[Moral Rights: 1. To claim authorship; to object to certain modifications and other derogatory actions;
2. After the author's death:
3. Means of redress]

- (1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to

object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

- (2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation of the country where protection is claimed. However, those countries whose legislation, at the moment of their ratification of or accession to this Act, did not provide for the protection after the death of the author of all the rights set out in the preceding paragraph may provide that some of these rights may, after his death, cease to be maintained.
- (3) The means of redress for safeguarding the rights granted by this Article shall be governed by the legislation of the country where protection is claimed.

Article 7

[Term of Protection: 1. Generally; 2. For cinematographic works; 3. For anonymous and pseudonymous works; 4. For photographic works and works of applied art; 5. Starting date of computation; 6. Longer terms; 7. Shorter terms; 8. Applicable law; comparison of terms]

- (1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death.
- (2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.
- (3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.
- (4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied art in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

- (5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4) shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin of the first of January of the year following the death or such event.
- (6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.
- (7) Those countries of the Union bound by the Rome Act of this Convention which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraphs shall have the right to maintain such term when ratifying or acceding to the present Act.
- (8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

Article 7bis

[Term of Protection for Works of Joint Authorship]

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

Article 8

[Right of Translation]

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

Article 9

[Right of Reproduction: 1. Generally; 2. Possible exceptions; 3. Sound and visual recordings]

- (1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner of form.
- (2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.
- (3) Any sound or visual recording shall be considered as a reproduction for the

purposes of this Convention.

Article 10

[Certain Free Uses of Works : 1. Quotations;
2. Illustrations for teaching; 3. Indication
of source and author]

- (1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose including quotations from newspaper articles and periodicals in the form of press summaries.
- (2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.
- (3) Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source, and of the name of the author if it appears thereon.

Article 10bis

[Further Possible Free Uses of Works: 1. Of certain
articles and broadcast works; 2. Of works seen or
heard in connection with current events]

- (1) It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press, the broadcasting or the communication to the public by wire of articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character, in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation shall be determined by the legislation of the country where protection is claimed.
- (2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

Article 11
[Certain Rights in Dramatic and Musical Works :

1. Right of public performance and of communication to the public of a performance;
 2. In respect of translations
- (1) Authors of dramatic, dramtico-musical and musical works shall enjoy the exclusive right of authorizing :
 - (i) the public performance of their works, including such public performance by any means or process;
 - (ii) any communication to the public of the performance of their works.
 - (2) Authors of dramatic or dramtico-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 11bis
[Broadcasting and Related Rights : 1. Broadcasting and other wireless communications, public communication of broadcast by wire or rebroadcast, public communication of broadcast by loudspeaker or analogous instruments;
2. Compulsory licenses; 3. Recording; ephemeral recordings]

- (1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing;
 - (i) the public recitation of their works, including such public recitation by any means or process;
 - (ii) any communication to the public of the recitation of their works.
- (2) Authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 12
[Right of Adaptation, Arrangement and Other Alteration]

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

Article 13

[Possible Limitation of the Right of Recording of Musical Works and Any Works Pertaining Thereto:

1. Compulsory licenses; 2. Transitory measures;
3. Seizure on importation of copies made without the author's permission]

- (1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any words, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work, together with such words, if any, but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the rights of these authors to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.
- (2) Recordings of musical works made in a country of the Union in accordance with Article 13(3) of the Conventions signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until a date two years after that country becomes bound by this Act.
- (3) Recordings made in accordance with paragraphs (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

Article 14

[Cinematographic and Related Rights:

1. Cinematographic adaptation and reproduction; distribution; public performance and public communication by wire of works thus adapted or reproduced;
 2. Adaptation of cinematographic productions;
 3. No compulsory licenses]
- (1) Authors of literary or artistic works shall have the exclusive right of authorizing:
 - (i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;
 - (ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.
 - (2) The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original works.
 - (3) The provisions of Article 13 (1) shall not apply.

Article 14bis
[Special Provisions Concerning Cinematographic Works;

1. Assimilation to "original" works; 2. Ownership; limitation of certain rights of certain contributors; 3. Certain other contributors]

- (1) Without prejudice to the copyright in any work which may have been adapted or reproduced a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

- (2) (a) Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.
(b) However, in the countries of the Union which, by legislation, include among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work, such authors if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public by wire, broadcasting or any other communication to the public, or to the subtitling or dubbing of texts, of the work.
(c) The question whether or not the form of the undertaking referred to above should, for the application of the preceding subparagraph (b), be in a written agreement or written act of the same effect shall be a matter for the legislation of the country where the maker of the cinematographic work has his headquarters or habitual residence. However, it shall be a matter for the legislation of the country of the Union where protection is claimed to provide that the said undertaking shall be in a written agreement or a written act of the same effect. The countries whose legislation so provides shall notify the Director General by means of a written declaration, which will be immediately communicated by him to all the other countries of the Union.
(d) By "contrary or special stipulation" is meant any restrictive condition which is relevant to the aforesaid undertaking.

- (3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work, or to the principal director thereof. However, those countries of the Union whose legislation does not contain rules providing for the application of the said paragraph (2)(b) to such director shall notify the Director General by means of a written declaration, which will be immediately communicated by him to all the other countries of the Union.

Article 14ter

["Droit de suite" in Works of Art and Manuscripts:

1. Right to an interest in resales;
2. Applicable law; 3. Procedure]

- (1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.
- (2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.
- (3) The procedure for collection and the amounts shall be matters for determination by national legislation.

Article 15

[Right to Enforce Protected Rights: 1. Where author's name is indicated or where pseudonym leaves no doubt as to author's identity; 2. In the case of cinematographic works; 3. In the case of anonymous and pseudonymous works; 4. In the case of certain unpublished works of unknown authorship]

- (1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.
- (2) The person or body corporate whose name appears on a cinematographic work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.
- (3) In the case of anonymous and pseudonymous works, other than those referred to in paragraph (1) above, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and in this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply when the author reveals his identity and establishes his claim to authorship of the work.
- (4) (a) In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country

of the Union, it shall be a matter for legislation in that country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.

- (b) Countries of the Union which make such designation under the terms of this provision shall notify the Director General by means of a written declaration giving full information concerning the authority thus designated. The Director General shall at once communicate this declaration to all other countries of the Union.

Article 16

[Infringing Copies: 1. Seizure; 2. Seizure on importation; 3. Applicable law]

- (1) Infringing copies of a work shall be liable to seizure in any country of the Union where the work enjoys legal protection.
- (2) The provisions of the preceding paragraph shall also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.
- (3) The seizure shall take place in accordance with the legislation of each country.

Article 17

[Possibility of Control of Circulation, Presentation and Exhibition of Works]

The provisions of this Convention cannot in any way affect the right of the government of each country of the Union to permit, to control, or to prohibit, by legislation or regulation, the circulation, presentation, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

Article 18

[Works Existing on Convention's Entry Into Force;
1. Protectable where protection not yet expired in country of origin; 2. Non-protectable where protection already expired in country where it is claimed;
3. Application of these principles;
4. Special cases]

- (1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.
- (2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection

- is claimed, that work shall not be protected anew.
- (3) The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle.
 - (4) The preseding provisions shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservations.

Article 19

[Protection Greater than Resulting from Convention]

The provisions of this Convention shall not preclude the making of a claim to the benefit of any greater protection which may be granted by legislation in a country of the Union.

Article 20

[Special Agreements Among Countries of the Union]

The Governments of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements which satisfy these conditions shall remain applicable.

Article 21

[Special provisions Regarding Developing Countries;
1. Reference to Appendix; 2. Appendix part of Act]

- (1) Special provisions regarding developing countries are included in the Appendix.
- (2) Subject to the provision of Article 28(1)(b), the Appendix forms an integral part of this Act.

FN1 Agreed statement 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.

FN2 Agreed statement 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 organization that is a Contracting Party to this Treaty, a national of one of the countries that is member of that organization.

FN3 Agreed statement 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.

FN4 Agreed statement 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.

FN5 Agreed statement 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.

FN6 Agreed statement 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.

Agreed statement 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 TRIP Agreement.

FN7 Agreed statement 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).

FN8 Agreed statement 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.

FN9 Agreed statement 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 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.

FN10 The provisions reproduced herein are referred to in Article 1(4), and some of them also in Articles 1(1), 2, 3, 8, 9 and 13, of the WCT.

FN11x Each Article and the Appendix have been given titles to facilitate their identification. There are no titles in the signed text.

FN12x Each Article and the Appendix have been given titles to facilitate their identification. There are no titles in the signed text.