

I TRATTATI WIPO

19. Treaty on the International Registration of Audiovisual Works. Done at Geneva on April 20, 1989 [Trattato sulla registrazione delle opere audiovisive, fatto a Ginevra il 20 aprile 1989]. Testo inglese.

Storia: questo trattato è stato firmato a Ginevra il 20 aprile.

Paesi aderenti: Argentina, Austria, Brasile, Burkina Faso, Cile, Colombia, Francia, Messico, Perù, Repubblica Ceca, Senegal, Slovacchia, Ungheria

Riserve, dichiarazioni, comunicazioni, obiezioni: nessuna.

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Treaty on the International Registration of Audiovisual Works. Done at Geneva on April 20, 1989

The Contracting States

Desirous to increase the legal security in transactions relating to audiovisual works and thereby to enhance the creation of audiovisual works and the international flow of such works and to contribute to the fight against piracy of audiovisual works and contributions contained therein;

Have agreed as follows:

CHAPTER I

SUBSTANTIVE PROVISIONS

1. *Establishment of the Union.* – The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for the international registration of audiovisual works (hereinafter referred to as "the Union").

2. *Audiovisual Work.* – For the purposes of this Treaty, "audiovisual work" means any work that consists of a series of fixed related images, with or without accompanying sound, susceptible of being made visible and, where accompanied by sound, susceptible of being made audible.

3. *The International Register.* – (1) *Establishment of the International Register.* - The International Register of Audiovisual Works (hereinafter referred to as "the International Register") is hereby established for the purpose of the registration of statements concerning audiovisual works and rights in such works, including, in particular, rights relating to their exploitation.

(2) *Setting Up and Administration of the International Registry.* - The International Registry of Audiovisual Works (hereinafter referred to as "the International Registry") is hereby set up for the purpose of keeping the International Register. It is an administrative unit of the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the International Bureau" and "the Organization" respectively.)

(3) *Location of the International Registry.* - The International Registry shall be located in Austria as long as a treaty to that effect between the Republic of Austria and the Organization is in force. Otherwise it shall be located in Geneva.

(4) *Applications.* - The registration of any statement in the International Register shall be based on an application filed to this effect, with the prescribed contents in the prescribed form and subject to the payment of the prescribed fee, by a natural person or legal entity entitled to file an application.

(5) *Eligibility for Being an Applicant.* - (a) Subject to subparagraph (b), the following shall be entitled to file an application:

(i) any natural person who is a national of, is domiciled in, has his habitual residence in, or has a real and effective industrial or commercial establishment in a Contracting State;

(ii) any legal entity which is organized under the laws of or has a real and effective industrial or commercial establishment in a Contracting State.

(b) If the application concerns a registration already effected, it may also be filed by a natural person or legal entity not satisfying the conditions referred to in subparagraph (a).

4. *Legal Effect of the International Register.* – (1) *Legal Effect.* - Each Contracting State undertakes to recognize that a statement recorded in the International Register shall be considered as true until the contrary is proved, except

(i) where the statement cannot be valid under the copyright law, or any other law concerning intellectual property rights in audiovisual works of that State, or

(ii) where the statement is contradicted by another statement recorded in the International Register.

(2) - *Safeguard of Intellectual Property Laws and Treaties.* - No provision of this Treaty shall be interpreted as affecting the copyright law, or any other law concerning intellectual property rights in audiovisual works, of any Contracting State or if that State is party to the Berne Convention for the Protection of Literary and Artistic Works or any other treaty concerning intellectual property rights in audiovisual works the rights and obligations of the said State under the said Convention or treaty.

CHAPTER II

ADMINISTRATIVE PROVISIONS

5. *Assembly.* – (1) *Composition.* (a) The Union shall have an Assembly that shall consist of the Contracting States.

(b) The Government of each Contracting State shall be represented by one delegate who may be assisted by alternate delegates advisors and experts.

(2) *Expenses of Delegations.* - The expenses of each delegation shall be borne by the Government which has appointed it, except for the travel expenses and the subsistence allowance of one delegate for each Contracting State which shall be paid from the funds of the Union.

(3) *Tasks.* - (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) exercise such tasks as are specially assigned to it under this Treaty;

(iii) give directions to the Director General of the Organization (hereinafter referred to as "the Director General"), concerning the preparation for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) determine the program and adopt the biennial budget of the Union, and approve its final accounts;

(vi) adopt the financial regulations of the Union;

(vii) establish and decide from time to time the membership of a consultative committee consisting of representatives of interested non-governmental organizations and such other committees and working groups as it deems appropriate to facilitate the work of the Union and of its organs;

(viii) control the system and amounts of the fees determined by the Director General;

(ix) determine which States other than Contracting States and which intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;

(x) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(4) *Representation.* - A delegate may represent and vote in the name of one State only.

(5) *Vote.* - Each Contracting State shall have one vote.

(6) *Quorum.* (a) One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum the Assembly may make decisions but with the exception of the decisions concerning its own procedure all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence.

(7) *Majority.* a) Subject to Article 8(2)(b) and Article 10(2)(b) the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

(8) *Sessions.* - (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and in the absence of

exceptional circumstances during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the Contracting States or on the Director General's own initiative.

(9) *Rules of Procedure.* - The Assembly shall adopt its own rules of procedure.

6. International Bureau. - (1) *Tasks.* - The International Bureau shall:

(i) perform through the International Registry, all the tasks related to the keeping of the International Register;

(ii) provide the secretariat of revision conferences, of the Assembly, of the committees and working groups established by the Assembly and of any other meeting convened by the Director General and dealing with matters of concern to the Union;

(iii) perform all other tasks specially assigned to it under this Treaty and the Regulations referred to in Article 8 or by the Assembly.

(2) *Director-General.* - The Director-General shall be the chief executive of the Union and shall represent the Union.

(3) *Meetings Other Than Sessions of The Assembly.* - The Director-General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.

(4) *Role of the International Bureau in the Assembly and Other Meetings.* - (a) The Director-General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly the committees and working groups established by the Assembly, and any other meeting convened by the Director-General and dealing with matters of concern to the Union.

(b) The Director-General or a staff member designated by him shall be ex officio secretary of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph (a).

(5) *Revision Conferences.* - (a) The Director-General shall in accordance with the directions of the Assembly make the preparations for revision conferences.

(b) The Director-General may consult with intergovernmental and non-governmental organizations concerning the said preparations.

(c) The Director-General and staff members designated by him shall take part without the right to vote in the discussions at revision conferences.

(d) The Director-General or a staff member designated by him shall be ex officio secretary of any revision conference.

7. Finances. (1) *Budget.* - (a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the union and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) *Coordination with Other Budgets.* - The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) *Sources of Income.* - The budget of the union shall be financed from the following sources:

(i) fees due for registrations and other services rendered by the International Registry;

(ii) sale of, or royalties on, the publications of the International Registry;

(iii) donations particularly by associations of rights holders in audiovisual works;

(iv) gifts, bequests, and subventions;

(v) rents, interests and other miscellaneous income.

(4) *Self-Supporting Financing.* - The amounts of fees due to the International Registry and the prices of its publications shall be so fixed that they, together with any other income, should be sufficient to cover the expenses connected with the administration of this Treaty.

(5) *Continuation of Budget; Reserve Fund.* - If the budget is not adopted before the beginning of a new financial period it shall be at the same level as the budget of the previous period as provided in the financial regulations. If the income exceeds the expenses the difference shall be credited to a reserve fund.

(6) *Working Capital Fund.* - The Union shall have a working capital fund which shall be constituted from the income of the Union.

(7) *Auditing of Accounts.* - The auditing of the accounts shall be effected by one or more of the Contracting States or by external auditors as provided in the financial regulations. They shall be designated with their agreement by the Assembly.

8. Regulations. - (1) *Adoption of Regulations.* - The Regulations adopted at the same time as this Treaty are annexed to this Treaty.

(2) *Amending the Regulations.* - (a) The Assembly may amend the Regulations.

(b) Any amendment of the Regulations shall require two-thirds of the votes cast.

(3) *Conflict between the Treaty and the Regulations.* - In the case of conflict between the provisions of this Treaty and those of the Regulations the former shall prevail.

(4) *Administrative Instructions.* - The Regulations provide for the establishment of Administrative Instructions.

CHAPTER III

REVISION AND AMENDMENT

9. Revision of the Treaty. - (1) *Revision Conferences.* This Treaty may be revised by a conference of the Contracting States.

(2) *Convocation.* - The convocation of any revision conference shall be decided by the Assembly.

(3) *Provisions That Can Be Amended Also by the Assembly.* - The provisions referred to in Article 10(1)(a) may be amended either by a revision conference or according to Article 10.

10. Amendment of Certain Provisions of the Treaty. - (1) *Proposals.* (a) Proposals for the amendment of Article 5(6) and (8), Article 6(4) and (5) and Article 7(1) to (3) and (5) to (7) may be initiated by any Contracting State or by the Director-General.

(b) Such proposals shall be communicated by the Director-General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2) *Adoption.* - (a) Amendments to the provisions referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast.

(3) *Entry Into Force.* - (a) Any amendment to the provisions referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director-General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting States which were Contracting States at the time the amendment was adopted by the Assembly.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph (a) shall bind all States which become Contracting States after the date on which the amendment was adopted by the Assembly.

CHAPTER IV

FINAL PROVISIONS

11. Becoming Party to the Treaty. - (1) Adherence. Any State member of the Organization may become party to this Treaty by:

(i) Signature followed by the deposit of an instrument of ratification, acceptance or approval, or

(ii) the deposit of an instrument of accession.

(2) *Deposit of Instruments.* - The instruments referred to in paragraph (1) shall be deposited with the Director-General.

12. Entry Into Force of the Treaty. - (1) *Initial Entry Into Force.* This Treaty shall enter into force, with respect to the first five States which have deposited their instruments of ratification, acceptance, approval or accession, three months after the date on which the fifth instrument of ratification, acceptance, approval or accession has been deposited.

(2) *States Not Covered by the Initial Entry Into Force.* - This Treaty shall enter into force with respect to any State not covered by paragraph (1) three months after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession unless a later date has been indicated in the instrument of ratification,

acceptance, approval or accession. In the latter case, this Treaty shall enter into force with respect to the said State on the date thus indicated.

13. Reservations to the Treaty. – (1) *Principle.* Subject to paragraph (2) no reservation may be made to this Treaty.

(2) *Exception.* - Any State, upon becoming party to this Treaty, may, in a notification deposited with the Director-General, declare that it will not apply the provisions of Article 4(1) in respect of statements which do not concern the exploitation of intellectual property rights in audiovisual works. Any State that has made such a declaration may by a notification deposited with the Director-General, withdraw it.

14. Denunciation of the Treaty. – (1) *Notification.* Any Contracting State may denounce this Treaty by notification addressed to the Director-General.

(2) *Effective Date.* - Denunciation shall take effect one year after the day on which the Director-General has received the notification.

(3) *Moratorium on Denunciation.* - The right of denouncing this Treaty provided for in paragraph (1) shall not be exercised by any Contracting State before the expiration of five years from the date on which this Treaty enters into force with respect to it.

15. Signature and Languages of the Treaty. – (1) *Original Texts.* - This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

(2) *Official Texts.* - Official texts shall be established by the Director-General, after consultation with the interested Governments, in the Arabic, German, Italian, Japanese, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(3) *Time Limit for Signature.* - This Treaty shall remain open for signature at the International Bureau until December 31, 1989.

16. Depositary Functions. – (1) *Deposit of the Original.* - The original of this Treaty and the Regulations shall be deposited with the Director-General.

(2) *Certified Copies.* - The Director-General shall transmit two copies, certified by him, of this Treaty and the Regulations, to the Governments of States entitled to sign this Treaty.

(3) *Registration of The Treaty.* - The Director-General shall register this Treaty with the Secretariat of the United Nations.

(4) *Amendments.* - The Director-General shall transmit two copies, certified by him, of any amendment to this Treaty and the Regulations to the Governments of the Contracting States and, on request to the Government of any other State.

17. Notifications. – The Director-General shall notify the Governments of the States members of the Organization of any of the events referred to in Articles 8(2), 10(2) and (3), 11, 12, 13 and 14.