

**Council for Trade-Related Aspects of Intellectual Property Rights**

NOTIFICATIONS ALREADY MADE UNDER THE PROVISIONS OF  
THE BERNE CONVENTION AND THE ROME CONVENTION REFERRED  
TO IN ARTICLES 1.3 AND 3.1 OF THE TRIPS AGREEMENT

Note by the Secretariat

1. At its meeting of 9 March 1995, the Council for TRIPS discussed the question of procedures for notifications under Articles 1.3 and 3.1 of the TRIPS Agreement. In order to facilitate further deliberations on this matter, the Council requested the Secretariat to compile, with the assistance of the WIPO and the United Nations Legal Office, a complete listing of the notifications already made under the relevant provisions of the Berne Convention and the Rome Convention.
2. In response to this request, this Note and its Annex lists the notifications already made under Article 6 of the Berne Convention and Articles 5(3), 6(2) and 16(1)(b) of the Rome Convention which are referred to in Articles 1.3 and 3.1 of the TRIPS Agreement.

The Berne Convention

3. The provision contained in Article 6 of the Paris Act (1971) of the Berne Convention was first added as a protocol in 1914 and later included in the Berne Convention proper in the Rome Act (1928). Since then only minor changes have been made to it. According to the information provided by the International Bureau of the WIPO, whose Director General is the depositary of the Stockholm Act (1967) and the Paris Act (1971) of the Berne Convention, no notification has been made under Article 6(3) of either of the said Acts.

The Rome Convention

4. The Annex to this Note contains the notifications already made under Articles 5(3) and 6(2) of the Rome Convention, which are referred to in Article 1.3 of the TRIPS Agreement, and Article 16(1)(b) of the Rome Convention, which is referred to in Article 3.1 of the TRIPS Agreement. The Annex is prepared on the basis of an up-to-date list of States parties to the Rome Convention and the corresponding texts of reservations and declarations that was provided on 29 March 1995 by the Treaty Section of the Office of Legal Affairs of the United Nations, whose Secretary-General is the depositary of the Convention. The documents were extracts from the publication Multilateral Treaties Deposited with the Secretary-General, which is published in English and French only. The depositary notifications, on the basis of which this publication is prepared, are drafted in English and French only.
5. The Annex reproduces the texts of only those reservations and declarations contained in the documents provided by the United Nations that relate to the provisions of the Rome Convention which are referred to in Articles 1.3 and 3.1 of the TRIPS Agreement. The complete listing of all reservations and declarations and other information on the status of the Rome Convention is available in the above mentioned publication. The complete listing is also available in the WTO Secretariat for consultation by interested delegations.

## ANNEX

**INTERNATIONAL CONVENTION FOR THE PROTECTION OF PERFORMERS,  
PRODUCERS OF PHONOGRAMS AND BROADCASTING ORGANIZATIONS**

*Done at Rome on 26 October 1961*

**ENTRY INTO FORCE:** 18 May 1964, in accordance with article 25.  
**REGISTRATION:** 18 May 1964, No. 7247.  
**TEXT:** United Nations, *Treaty Series*, VOL. 496, P.43.  
**STATUS:** Signatories: 26. Parties: 47.

*Note:* The Convention was drawn up by the Diplomatic Conference on the International Protection of Performers, Producers of Phonograms and Broadcasting Organisations convened jointly by the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the International Union for the Protection of Literary and Artistic Works. The Conference was held at Rome at the invitation of the Government of Italy from 10 to 26 October 1961.

<i>Participant</i>	<i>Signature, succession (d)</i>	<i>Ratification, accession (a) succession (d)</i>	<i>Participant</i>	<i>Signature, succession (d)</i>	<i>Ratification, accession (a) succession (d)</i>
Argentina	26 Oct 1961	2 Dec 1991	Iceland	26 Oct 1961	15 Mar 1994
Australia		30 Jun 1992 <i>a</i>	India	26 Oct 1961	
Austria	26 Oct 1961	9 Mar 1973	Ireland	30 Jun 1962	19 Jun 1979
Barbados		18 Jun 1983 <i>a</i>	Israel	7 Feb 1962	
Belgium	26 Oct 1961		Italy	26 Oct 1961	8 Jan 1975
Bolivia		24 Aug 1993 <i>a</i>	Jamaica		27 Oct 1993 <i>a</i>
Bosnia and Herzegovina	12 Jan 1994 <i>d</i>		Japan		26 Jul 1989 <i>a</i>
Brazil	26 Oct 1961	29 Jun 1965	Lebanon	26 Jun 1962	
Burkina Faso		14 Oct 1987 <i>a</i>	Lesotho		26 Oct 1989 <i>a</i>
Cambodia	26 Oct 1961		Luxembourg		25 Nov 1975 <i>a</i>
Chile	26 Oct 1961	5 Jun 1974	Mexico	26 Oct 1961	17 Feb 1964
Colombia		17 Jun 1976 <i>a</i>	Monaco	22 Jun 1962	6 Sep 1985
Congo		29 Jun 1962 <i>a</i>	Netherlands		7 Jul 1993 <i>a</i>
Costa Rica		9 Jun 1971 <i>a</i>	Niger		5 Apr 1963 <i>a</i>
Czech Republic		30 Sep 1993 <i>d</i>	Nigeria		29 Jul 1993 <i>a</i>
Denmark	26 Oct 1961	23 Jun 1965	Norway		10 Apr 1978 <i>a</i>
Dominican Republic		27 Oct 1986 <i>a</i>	Panama		2 Jun 1983 <i>a</i>
Ecuador	26 Jun 1962	19 Dec 1963	Paraguay	30 Jun 1962	26 Nov 1969
El Salvador		29 Mar 1979 <i>a</i>	Peru		7 May 1985 <i>a</i>
Fiji		11 Jan 1972 <i>a</i>	Philippines		25 Jun 1984 <i>a</i>
Finland	21 Jun 1962	21 Jul 1983	Slovakia		28 May 1993 <i>d</i>
France	26 Oct 1961	3 Apr 1987	Spain	26 Oct 1961	14 Aug 1991
Germany	26 Oct 1961	21 Jul 1966	Switzerland		24 Jun 1983 <i>a</i>
Greece		6 Oct 1992 <i>a</i>	Sweden	26 Oct 1961	13 Jul 1962
Guatemala		14 Oct 1976 <i>a</i>	United Kingdom	26 Oct 1961	30 Oct 1963
Holy See	26 Oct 1961		Uruguay		4 Apr 1977 <i>a</i>
Honduras		16 Nov 1989 <i>a</i>	Yugoslavia	26 Oct 1961	
Hungary		10 Nov 1994 <i>a</i>			

***Declarations and Reservations under Articles 5 (3), 6 (2) and 16 (1) (b)***  
***(Unless otherwise indicated, the declarations and reservations were made***  
***upon ratification, accession or succession.)***

AUSTRALIA

*Declarations:*

Australia, pursuant to article 5 (3), will not apply the criterion of publication;

Australia, pursuant to article 6 (2), will protect broadcasts only if the headquarters of the broadcasting organisation is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State;

...

Australia, pursuant to article 16 (1) (b), will not, as regards article 13, apply item (d) of that article.

AUSTRIA

...

3. In accordance with article 16, paragraph 1 (b), of the Convention, Austria will not apply article 13 (d).

CONGO

In a communication received on 16 May 1964, the Government of the Congo has notified the Secretary-General that it has decided to make its accession subject to the following declarations:

(1) Article 5, paragraph 3: the "criterion of publication" is excluded;

...

DENMARK

1) *With regard to article 6, paragraph 2:* Protection will be granted to broadcasting organisations only if their headquarters is situated in another Contracting State and if their broadcasts are transmitted from a transmitter situated in the same Contracting State.

...

FIJI

(1) In respect of Article 5 (1) (b) and in accordance with Article 5 (3) of the Convention, Fiji will not apply, in respect of phonograms, the criterion of fixation;

(2) In respect of Article 6 (1) and in accordance with Article 6 (2) of the Convention, Fiji will protect broadcasts only if the headquarters of the broadcasting organisation is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State;

...

#### FRANCE

##### *Article 5*

The Government of the French Republic declares, in conformity with article 5, paragraph 3 of the Convention, concerning the protection of phonograms, that it rejects the criterion of the first publication in favour of the criterion of first fixation.

...

#### GERMANY

1. The Federal Republic of Germany makes use of the following reservations provided for in article 5, paragraph 3, and article 16, paragraph 1 a (iv) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations:

- 1) As regards the protection of producers of phonograms it will not apply the criterion of fixation referred to in article 5, paragraph 1 (b) of the Convention;

...

#### ICELAND

##### *Declarations:*

Iceland, pursuant to article 5, paragraph 3, will not apply the criterion of fixation.

Iceland, pursuant to article 6, paragraph 2, will protect broadcasts only if the headquarters of the broadcasting organisation is situated in another Contracting State and if the broadcast was transmitted from a transmitter situated in the same Contracting State.

...

#### IRELAND

(1) With regard to article 5, paragraph 1, and in accordance with article 5, paragraph 3, of the Convention: Ireland will not apply the criterion of fixation;

(2) With regard to article 6, paragraph 1, and in accordance with article 6, paragraph 2, of the Convention: Ireland will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State;

...

## ITALY

(1) With regard to article 6, paragraph 1, and in accordance with article 6, paragraph 2, of the Convention: Italy will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State;

...

(3) With regard to article 13 and in accordance with article 16, paragraph 1 (b), of the Convention: Italy will not apply the provisions of article 13 (d);

...

## JAPAN

### *Declaration:*

(1) Pursuant to article 5, paragraph 3 of the Convention, the Government of Japan will not apply the criterion of publication concerning the protection of producers of phonograms,

...

## LESOTHO

### *Reservations:*

...

### *With regard to article 13:*

... [The Kingdom of Lesotho] does not consider itself bound by the provisions of item (d).

## LUXEMBOURG

1. With regard to the protection of producers of phonograms, Luxembourg will not apply the criterion of publication but only the criteria of nationality and fixation, in accordance with article 5, paragraph 3, of the Convention.

...

3. With regard to broadcasting organizations, in accordance with article 16, paragraph 1 (b), of the Convention, Luxembourg will not apply the protection envisaged in article 13 (d) against communication to the public of their television broadcasts.

## MONACO

### *Reservations:*

1. With regard to the protection of producers of phonograms, Monaco will not apply the criterion of publication but only the criteria of nationality and fixation, in accordance with article 5, paragraph 3.

...

3. With regard to broadcasting organizations, in accordance with article 16, paragraph 1 (b), Monaco will not apply the provisions of article 13(d) concerning protection against communication to the public of television broadcasts.

## NIGER

### *Declarations:*

(1) Article 5, paragraph 3: the "criterion of publication" is excluded;

...

## NIGERIA

### *Declarations:*

1. With regard to article 5, paragraph 3, the Federal Republic of Nigeria will not apply the criteria of publication under article 5, paragraph 1 (c).

2. With regard to article 6, paragraph 2, the Federal Republic of Nigeria will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and if the broadcast is transmitted from a transmitter situated in the same Contracting State.

...

## NORWAY

### *Reservations:*

...

d) Pursuant to article 6, paragraph 2, reservation is made to the effect that broadcasts are only protected if the headquarters of the broadcasting organisation is situated in another Contracting State, and the broadcast is transmitted from a transmitter in the same Contracting State.

...

SPAIN

*Declarations:*

*Article 5*

[The Government of Spain] will not apply the criterion of first publication and will apply instead the criterion of first fixation.

*Article 6*

[The Government of Spain] will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State.

...

SWITZERLAND

*Reservations:*

*Ad article 5*

The Swiss Government declares, in accordance with article 5, paragraph 3 of the Convention, that it rejects the criterion of first fixation. It will therefore apply the criterion of first publication.

...

SWEDEN

...

(d) With regard to article 16, paragraph 1, sub-paragraph (b): the provisions of article 13, item (d), will be applied only with respect to the communication to the public of television broadcasts in a cinema or similar place.

...

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

(1) In respect of article 5(1) (b) and in accordance with article 5(3) of the Convention, the United Kingdom will not apply, in respect of phonograms, the criterion of fixation;

(2) In respect of article 6 (1) and in accordance with article 6 (2) of the Convention, the United Kingdom will protect broadcasts only if the headquarters of the broadcasting organisation is

situated in another Contracting State and the broadcast was transmitted from a transmitter situated in the same Contracting State;

...

<i>Territorial Application</i>		
<i>Participant</i>	<i>Date of receipt of the notification</i>	<i>Territories</i>
United Kingdom <sup>1</sup>	20 Dec 1966	Gibraltar
	10 Mar 1970	Bermuda

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<sup>1</sup>The territorial applications were effected subject to the same declarations as those made on behalf of the United Kingdom upon ratification of the Convention.