

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS**

**Fourth Session**  
**Geneva, April 11, 12 and 14, 2000**

**SUBMISSION OF THE UNITED STATES OF AMERICA  
ON THE NEW ARTICLE 4**

*Submitted by the United States of America<sup>1</sup>*

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<sup>1</sup> Submitted on February 15, 2000.

SUBMISSION OF THE UNITED STATES OF AMERICA  
FOR THE APRIL 11, 12 AND 14, 2000,  
MEETING OF THE STANDING COMMITTEE ON COPYRIGHT  
AND RELATED RIGHTS

1. The United States recognizes that national treatment is a problematic issue and that it is necessary to deal with the concerns of all of the participants in this process of developing an appropriate set of principles to deal with performers rights in the digital age. As we noted in our last submission, striking an appropriate balance may take some time to achieve.
2. It is a fundamental principle that performers should be compensated for their performances and that different approaches exist in several countries and regions. The provisions on national treatment in the proposed new treaty need to take into account the different systems by which performers are compensated, including collective bargaining agreements and systems of equitable remuneration.
3. The second fundamental principle is that remuneration that is collected on account of performances must be distributed to the individuals appearing in those performances. If such distributions are not made, then collections ought not be made with respect to such performances. In order to propose an implementation of this important principle, we submit the following new Article 4 for consideration as part of the US Proposal.

ARTICLE 4

National Treatment

- (1) Each Contracting Party shall accord to nationals covered in Article 3, in respect of the subject matter protected under this Treaty, the protection that it accords its own nationals in respect to:
  - (i) the exclusive rights provided in this Treaty;
  - (ii) rights which derive from any exclusive right provided in this Treaty, including but not limited to rights of remuneration; and
  - (iii) any other rights as to which another Contracting Party provides, under its domestic law, substantially the same level of protection for such subject matter.
- (2) Any Contracting Party that, under its domestic law, provides for rights of remuneration or mandatory collective administration of exclusive rights with respect to a performance, fixed or unfixed, protected under this Treaty may provide in a Declaration to the Director General that it will not provide the benefits of such rights to nationals of another Contracting Party. The Contracting Party making such Declaration shall provide in its national law measures that preclude collection for such rights in respect of audiovisual performances by nationals of any other Contracting Party in respect of which such Declaration is made.

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