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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

**STANDING COMMITTEE ON COPYRIGHT
AND RELATED RIGHTS**

**Eighth Session
Geneva, November 4 to 8, 2002**

PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

Proposals submitted by Honduras

I. TITLE

Draft WIPO Treaty on the Protection of Broadcasting Organizations

II. PREAMBLE

The Contracting Parties,

Wishing to develop and maintain impartial protection of the rights of broadcasting organizations in the most effective and uniform manner possible,

Recognizing the need for the international standard to correspond and give timely responses to the questions raised by economic, social, cultural and technological occurrences,

Recognizing the profound impact which the development and convergence of information and communication technologies have had, the natural result of which has been the possibility of unauthorized uses of broadcasts in different cultural contexts.

Recognizing the need to maintain a balance between the rights of broadcasting organizations, and the rights and interests of the general public, in particular in education, research and access to information.

III. RELATION TO OTHER AGREEMENTS AND CONVENTIONS; RELATION TO COPYRIGHT AND OTHER CATEGORIES OF HOLDERS OF RELATED RIGHTS

Article 1

Relation to other Conventions and Treaties

Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome, October 26, 1961 (hereinafter referred to as the "Rome Convention").

Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright or neighboring rights in program material incorporated in broadcasts. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.

This Treaty shall have no connection with, nor shall it prejudice any rights and obligations under, any other treaties.

IV. DEFINITIONS*

Article 2 Definitions

For the purposes of this Treaty, “broadcasting” means the transmission by wire or wireless means, for public reception, of sounds or of images, or of images and sounds or of the representation thereof; transmission of encrypted signals is “broadcasting” where the means for decrypting are supplied to the public by the broadcasting organization or with its consent.

V. BENEFICIARIES OF PROTECTION UNDER THIS TREATY

Article 3 Beneficiaries of Protection under this Treaty

Contracting Parties shall accord the protection provided under this Treaty to broadcasting organizations of the other Contracting Parties which meet the following conditions:

- the headquarters of the broadcasting organization is situated in another Contracting Party; or
- the broadcasts are retransmitted from a transmitter or transmitters situated in the territory of another Contracting Party. In the case of satellite broadcasts, the relevant places shall be that at which, under the control and responsibility of the broadcasting organization, the program -carrying signals intended for reception by the public are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

VI. NATIONAL TREATMENT

Article 4 National Treatment

Each Contracting Party shall accord to nationals of other Contracting Parties, as set out in Article 3 on definitions, the treatment which it grants to its own nationals with regard to the exclusive rights specifically granted in this Treaty.

* The State of Honduras, in the same way as other States, is ready to launch a debate on the definition to be added to, or which must accompany, the definition of “broadcasting” for a full understanding of this Treaty.

VII. RIGHTS OF BROADCASTING ORGANIZATIONS

Article 5 Rights of Broadcasting Organizations

Economic rights of broadcasting organizations:

Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit:

- the retransmission, by wire or wireless means, whether simultaneous or based on fixations, of their broadcasts;
- delayed transmission by any means;
- distribution by television;
- the fixation of their broadcasts on any material carrier, including obtaining photographs from television signals;
- direct or indirect reproduction, by any procedure or in any form, of the fixations of their broadcasts;
- the decrypting of encoded broadcasts;
- the transmission of programs by cable to the public;
- the importation and distribution of fixations or of copies of fixations of broadcasts produced without authorization;
- commercial hiring to the public;
- the communication to the public of their broadcasts, where such communication is made by television and is in places accessible to the public against payment of an entrance fee;
- the making available to the public, by wire or wireless means, of fixations of their broadcasts, in such a way that members of the public may access them from a place and at a time of their own choosing.

VIII. LIMITATIONS AND EXCEPTIONS

Article 6 Limitations and Exceptions

Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of broadcasting organizations as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.

Contracting Parties shall confine any limitations or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with the normal exploitation of the broadcast and do not unreasonably prejudice the legitimate interests of the broadcasting organization.

IX. TERM OF PROTECTION

Article 7 Term of Protection

The term of protection to be granted to broadcasting organizations under this Treaty shall be not less than 50 years, calculated from the end of the year in which the broadcast took place for the first time.

X. OBLIGATIONS CONCERNING TECHNOLOGICAL MEASURES

Article 8 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 broadcasting organizations in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their broadcasts, which are not authorized by the broadcasting organizations concerned or permitted by law.

XI. OBLIGATIONS CONCERNING RIGHTS MANAGEMENT INFORMATION

Article 9 Obligations Concerning Rights Management Information

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:

- to remove or alter any electronic rights management information without authorization;
- to distribute, import for distribution, retransmit, communicate or make available to the public, without authorization, broadcasts or fixations of broadcasts knowing that electronic rights management information has been removed or altered without authorization.

XII. FORMALITIES

Article 10 Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

XIII. RESERVATIONS

Article 11 Reservations

No reservation to this Treaty shall be permitted.

XIV. APPLICATION IN TIME

Article 12 Application in Time

Contracting Parties shall apply the provisions of Article 18 of the Berne Convention, *mutatis mutandis*, to the rights of broadcasting organizations provided for in this Treaty.

XV. PROVISIONS ON ENFORCEMENT OF RIGHTS

Article 13

(a) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.

(b) Contracting Parties shall ensure that rights 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 efficient remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

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