E

WIPO

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

DIPLOMATIC CONFERENCE
ON THE PROTECTION OF AUDIOVISUAL PERFORMANCES

Geneva, December 7 to 20, 2000

AMENDMENT TO ARTICLE 12

OF THE BASIC PROPOSAL FOR THE SUBSTANTIVE PROVISIONS
OF AN INSTRUMENT ON THE PROTECTION OF AUDIOVISUAL PERFORMANCES
TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE
(IAVP/DC/3)

Proposal by the Delegation of the United States of America

TheUnitedStatesbelievesth atitwouldbehelpfulinfocusingthedebateover Article12topresentinonedocumentanewversionofthecurrentArticle12oftheBasic Proposal.

Article12

AlternativeE

Transfer

Onceaperformerhasconsentedtotheincorporationofhisper formanceinan audiovisualfixation,heshallbedeemedtohavetransferredallexclusiverightsof authorizationprovidedforinthisTreatywithrespecttothatparticularfixationtoitsproducer, subjecttowrittencontractualclausestothecontrary.

NewAlternative,toreplaceAlternativesFandG

LawApplicabletoExerciseofExclusiveRightsofAuthorization

(1)   Theentitlementtoexerciseanyoftheexclusiverightsofauthorizationshall,inthe absenceofanagreementtothecontrarybytheperformerregardingapplicablelaw,be governedbythelawofthecountrywhichismostcloselyconnectedwithaparticular audiovisualfixation.

(2)   Amongthefactorsthatmaybeconsideredindetermining"thecountrywhichismost closelyconnectedwithaparticularaudiovisualfixation"are:theContractingPartyinwhich theproducerofthefixation,orthepersonorentitywhichownsorcontrolstheproducer,has itsheadquartersorhabitualresidence;theContractingPartyofwhichthemajorityof performersarenationals;andtheContractingPartyinwhichmostofthephotographytakes place.

AgreedStatement

AgreedstatementconcerningArticle12:

BecauseArticle12(1)appliesonlytoexclusiverightsofauthorization,ithasnoeffect onanyothertypeofrightsincludingmoralrightsandrightsofequitableremuneration.

AlternativeH

[Nosuchprovision].

[Endofdocument]