

# WORLD TRADE ORGANIZATION

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

Original: English

## REVIEW OF LEGISLATION ON COPYRIGHT AND RELATED RIGHTS

### Slovenia<sup>1</sup>

The present document reproduces the introductory statement made by the delegation of Switzerland in the review of legislation on copyright and related rights at the Council's meeting of 22 to 25 July 1996<sup>2</sup>, the questions put to it and the responses given.

## **I. INTRODUCTORY STATEMENT**

The Slovenian Copyright and Related Rights Act entered into force on 29 April 1995. The Act was notified to the TRIPS Council, along with some other intellectual property laws on 25 July 1995, that is exactly a year ago.

During the period of drafting the Act, Slovenia made every effort to incorporate the latest "state of the art" into it, i.e. the latest developments on the international and supranational level. In this regard, extensive consultations were carried out at that time, for example with WIPO, European Commission, US Copyright Office and Max Planck Institute in Munich, to name just some of the most outstanding contacted addresses.

Slovenia is a party to the Paris and Berne Conventions since its independence, i.e. from 25 June 1991. As far as the Rome Convention is concerned, Slovenia acceded to it very recently, in June 1996, along with the Phonograms Convention. Instruments of accession were deposited in New York on 5 July 1996, (i.e. three weeks ago). As a WTO Member, Slovenia is thus party to all those international agreements which are incorporated into the TRIPS Agreement.

In aiming to facilitate communication, we prepared a small booklet, which contains our main intellectual property laws in English, and which is here available to our distinguished colleagues.

## **II. REPLIES TO QUESTIONS POSED BY THE UNITED STATES**

1. *Please explain whether and how Slovenian law provides protection for works, phonograms and performances from other WTO Members, and whether and how it does so on the basis of national*

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<sup>1</sup>Slovenia's notification of laws and regulations in the area of copyright and related rights under Article 63.2 of the Agreement has been circulated in document IP/N/1/SVN/1/Add.2.

<sup>2</sup>The minutes of the meeting have been circulated in document IP/C/M/8.

*treatment, as required by TRIPS Article 3 (generally, with respect to all copyrights and neighbouring rights) and Article 9.1 (incorporating Berne Article 5(1)). In particular, please explain how national treatment is afforded with respect to the distribution of levies for private copying under the relevant provisions of Slovenian law.*

Under the Slovenian 1995 Copyright and Related Rights Act (hereinafter referred to as the "Copyright Act"), foreign rightholders of copyright and related rights enjoy the same protection as Slovenian citizens or legal entities, if an international agreement so provides or if other legal grounds exist (see Article 176(2)). It should also be noted that Article 8 of the Constitution of the Republic of Slovenia provides for direct applicability of ratified and published international agreements. These provisions obviously cover the TRIPS Agreement, the Berne Convention (1971) and the Rome Convention, to which Slovenia is a party. Consequently, the protection of works, performances and phonograms from other WTO Members, based on the principle of national treatment, is fully implemented in Slovenian law.

While provisions on levies for private copying will become applicable in two years after the coming into force of the Copyright Act (i.e. 29 April 1997, see Article 187(1)), national treatment will be afforded to rightholders from WTO Members on the basis of TRIPS.

2. *Does Slovenia apply the "rule of the shorter term" to phonograms and performances from other WTO Members? If so, please explain how you justify such action under TRIPS Article 4.*

In conformity with TRIPS Article 14.5 the term of protection under the Slovenian Copyright Act is 50 years for both performers and producers of phonograms, computed as defined in Articles 127 and 132 of the Copyright Act.

The "rule of the shorter term", as provided for in Article 181 of the Copyright Act, does not apply to WTO Members. In fact, this rule seems to be irrelevant whenever the requirements of TRIPS Article 14.5 are met.

3. *Please explain whether and how Slovenia protects against both the direct and indirect reproduction of phonograms as required by TRIPS Article 14.2, including by digital transmission in the context of interactive services.*

The Slovenian Copyright Act provides an exclusive right for the producer of phonograms to reproduce his phonograms (see Article 129.1). This right covers both direct and indirect reproductions, including those made from a broadcast.

The Copyright Act has a broad definition of the right of reproduction, which expressly includes also the saving in electronic form (see Article 23(2)). This definition applies also to related rights (see Article 4(2)). The protection of phonograms in the context of digital transmission and interactive services is presently under discussion in the framework of a possible new Instrument of protection within WIPO.

4. *Please explain whether and how Slovenia provides full retroactive protection to works, phonograms and performances from other WTO Members, as required by TRIPS Articles 9.1, 14.6 and 70.2, each of which incorporate by reference or rely upon Berne Article 18. Please give the date back to which such protection extends with respect to each category of subject matter.*

In accordance with Article 18 of the Berne Convention, the 1995 Copyright Act provides full retroactive protection for works, performances and phonograms from other WTO Members (see Article 193(1) and (2)).

Works:

The 70 year term of protection extends to works that were enjoying protection under the former copyright legislation. Thus the present retroactive protection applies to works, the author of which has died in 1925 or later, provided that they have not fallen in the public domain before 1995 (the year of the entry into force of the Copyright Act) under the former 50 year term.

Performances:

The 50 year term of protection extends to performances that were enjoying protection under the former copyright legislation. Thus, the present retroactive protection applies to performances, which were fixed, performed or broadcast in 1990 or later.

Phonograms:

The 50 year term of protection extends to phonograms, which were first fixed in 1975 or later.