

A world map in shades of blue and white, serving as a background for the slide. The map shows the outlines of continents and countries, with some areas highlighted in a darker blue.

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libraries in over 60 countries

The Beijing Treaty and libraries - an EIFL webinar

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Overview

- Beijing Treaty on Audiovisual Performances adopted by WIPO on June 24, 2012
- Requires parties to provide economic and moral rights to performers in audiovisual works
- Many countries already provide these rights, but Treaty establishes international norm
- Treaty takes effect once 30 countries deposit their instruments of ratification

Background

- Performers rights – often treated as “related right”
- Joint authorship problem particularly serious with audiovisual works
- Need for efficient mechanism for transferring rights from performer to producer

History

- 1996 – Audiovisual performers separated from phonogram performers: WIPO Performances and Phonograms Treaty
- 2000 – Diplomatic Conference fails over transfer of rights provision (US v. EU)
- 2010 – Negotiations resume – agreement reached between Screen Actors Guild and Motion Picture Association of America

Impact of Treaty

- Where performers already have rights, they will continue to be transferred to producers.
- Where performers don't have rights, they will now have rights which producers will have to secure.
- WPPT provided rights to performers and producers; Beijing only to performers.

Impact of Treaty

- Stronger moral rights – not always transferable.
- Stronger economic rights for amateur performers (YouTube videos)

Rights

- Moral Rights (Art. 5)
 - Attribution
 - Integrity
- Economic Rights
 - Fixation (Art. 6)
 - Reproduction (Art. 7)
 - Distribution of copies (Art. 8)
 - Rental (Art. 9)
 - Internet Streaming (Art. 10)
 - Broadcasting (Art. 11)
- Fifty-Year Term (Art. 14)

Transfer of Rights

- Permissive provision that allows countries to adopt a means of automatically transferring economic rights to producer (Art. 12)
- Transfer can be prevented by contract
- Similar to US Copyright Act

Limitations and Exceptions

- Countries have same flexibilities as with copyright law (Art. 13)
- Comply with “3 step test” (special cases which do not conflict with normal exploitation and do not unreasonably prejudice legitimate interests of performer).

Technological Protections

- Countries must provide adequate protection against circumvention of effective technological measures (Art. 15)
- Footnote 10 provides that Art. 15 does not prevent a country from adopting effective and necessary measures to ensure that a beneficiary of an exception may enjoy that exception.

Libraries and the Treaty

- Libraries should ensure that flexibilities permitted under Arts. 13 and 15 are included in national implementations; existing exceptions must apply to new rights
- Libraries should make sure that all necessary rights are secured, e.g. from amateurs.

EIFL members, contact EIFL if in need of help and advice.

Recommended reading:
[The Beijing Treaty on Audiovisual Performances - an EIFL Briefing for Libraries](#)

URL:
www.eifl.net/eifl-ip-resources

The Beijing Treaty on Audiovisual Performances
An EIFL Briefing for Libraries



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On June 24, 2012, member states of the World Intellectual Property Organization (WIPO) adopted the Beijing Treaty on Audiovisual Performances (TAVP) at a diplomatic conference. The aim of the treaty is to provide legal protection to performers in audiovisual works, such as actors in motion pictures. Although the practical impact of the TAVP on most libraries is likely to be slight, it is important for librarians to have a general understanding of the first international copyright treaty adopted in 15 years, and to ensure that flexibilities regarding exceptions and limitations and technological protection measures (TPM) are included when the Treaty is adopted into national law.

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