



Overview of WIPO-Administered Treaties on Copyright and Related Rights

**Regional meeting with Caribbean countries on
Beijing and Marrakesh Treaties**

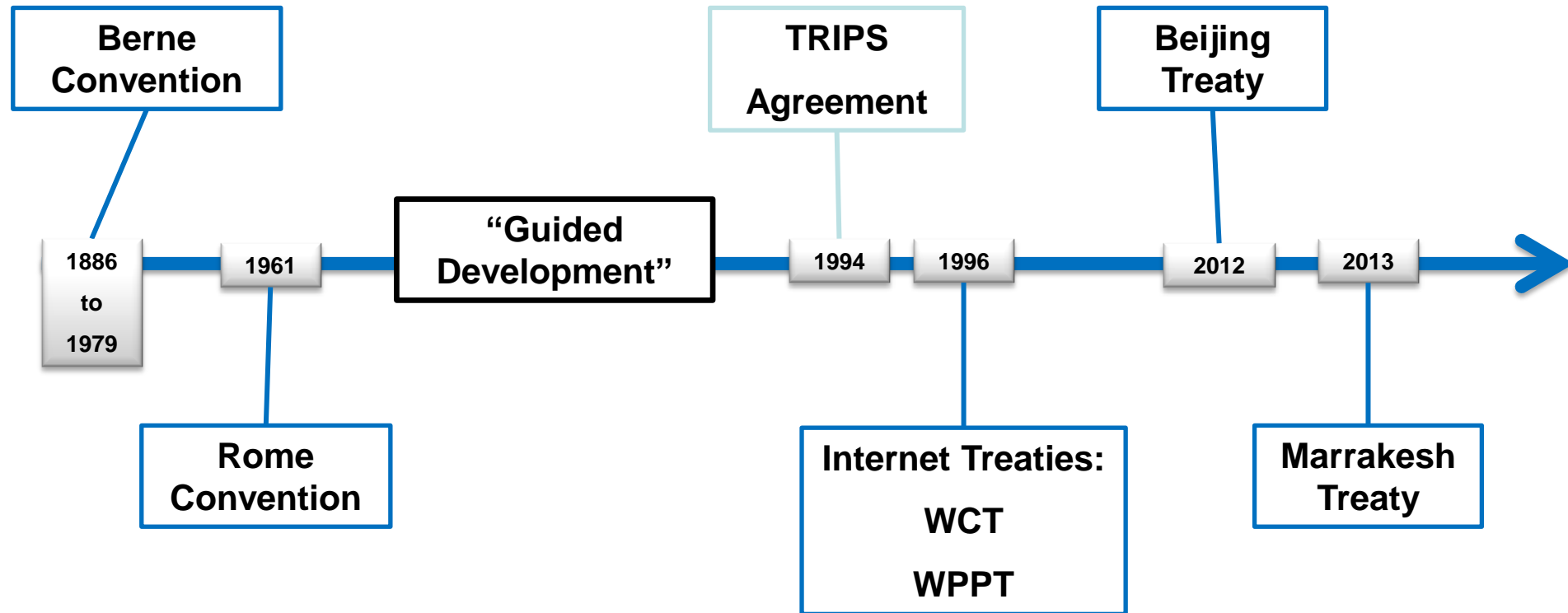
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**Kingston
November 23, 2015**

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Development of International Copyright Framework



Development of International Copyright Framework

	Copyright	Related rights	Limitations & Exceptions
1st layer	Berne	Rome	Marrakesh
(1.5th layer)	"Guided Development"		
2nd layer	TRIPS		
3rd layer	WCT	WPPT + Beijing	

Berne Convention – Overview

Berne Convention for the Protection of Literary and Artistic Works

- Minimum standard of copyright protection

- 168 Contracting States

- Principles

- National treatment

Works originating in one of the other Contracting States is given the same protection as the works of its own nationals.

- Absence of formalities (Automatic protection)

Protection is automatic and not be conditional with any formality (e.g. ©).

- Independence of protection (Territoriality)

Protection is independent of the existence of protection in the country of origin of the work.

Berne Convention – Objects of protection

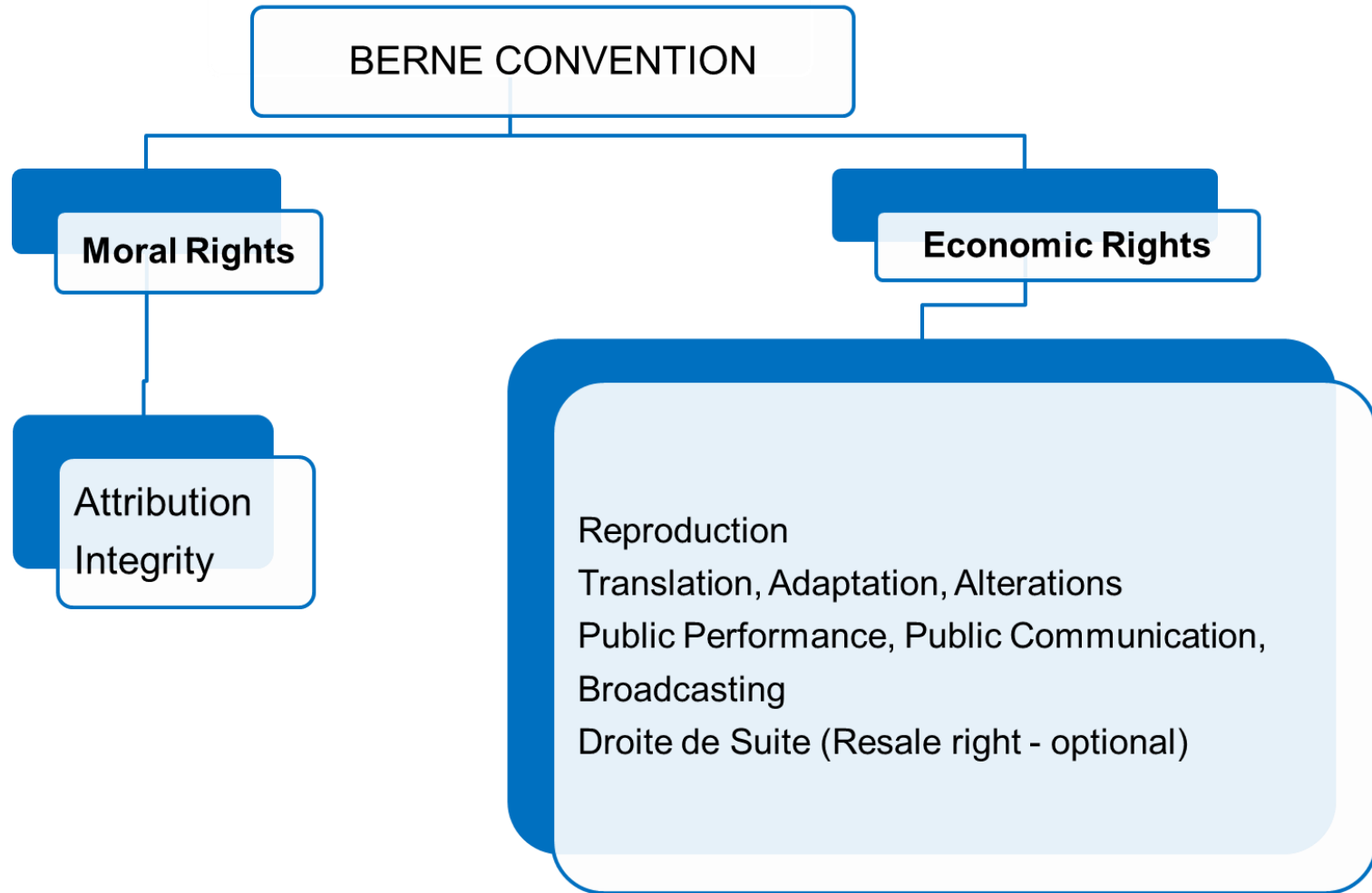
- Large scope

Every production in the literary, scientific and artistic domain, whatever the mode or form of its expression.

- Originality criteria

- Sweat of the brow (Common law countries)
- Reflection of author's personality (Civil law countries)

Berne Convention – Protected rights



- × Distribution right
- × Rental right

Berne Convention – Duration

- Economic rights
 - General rule: 50 years after the author's death
 - Exception: 25 years for photography and applied art
- Moral rights
 - “At least until the expiry of the economic rights”

Berne Convention – Limitations and exceptions

- Certain categories of works
- Particular acts of exploitation
- Three-step test for the reproduction right

“It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works (1) **in certain special cases**, provided that such reproduction does (2) **not conflict with a normal exploitation** of the work and does (3) **not unreasonably prejudice the legitimate interests of the author**”.

⇒ Private use, libraries and archives, use for blind people...

Rome Convention - Overview

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

- First international instrument dedicated to related rights, fixing the minimum standard
- 92 Contracting States
- Any Contracting States of Berne may join.
- Lower economic right protection than Berne; no moral rights

Rome Convention – Beneficiaries

- Beneficiaries
 - Performers
 - Producers of phonograms: Person who first fixes sounds.
 - Broadcasters: Broadcasting amounts to the transmission by wireless means.

Rome Convention – Rights for performers

- May prevent the below actions done without the consent:
 - First fixation of their live performance
 - Reproduction of original fixation
 - Broadcasting and communication to the public of their live performance

- + Equitable remuneration right for broadcasting and communication to the public of their fixed performances

- Limited protection:
 - No rental right and distribution right
 - Audiovisual performers: Only the right of fixation.

Rome Convention – Rights for producers of phonograms

- May prohibit or authorize:
 - Direct or indirect reproduction of their phonograms
- + Equitable remuneration right for broadcasting and communication to the public of their phonograms
- Limited protection:
 - No right to control broadcasting and communication to the public: obliged to tolerate it receiving equitable remuneration.
 - No rental right and distribution right

Rome Convention – Rights for broadcasters

- May prohibit or authorize:
 - Rebroadcasting of their broadcasts
 - Fixation of their broadcasts
 - Reproduction of such fixations

- Limited protection:
 - No right of transmission by wire

Rome Convention – Duration

- 20 years from the end of the year in which;
 - Fixation was made (for phonograms and for performances)
 - Performance took place (for performances not incorporated in phonograms)
 - Broadcast took place

Rome Convention – Limitations and exceptions

- Private use
- Use of short excerpts in connection with reporting current events
- Ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts
- Use for the purpose of teaching or scientific research

Internet Treaties

- **WCT** (WIPO Copyright Treaty)
- **WPPT** (WIPO Performers and Phonograms Treaty)

■ Purpose

Update and supplement of Berne and Rome Conventions especially to reflect the IT technology developments.

■ Features

- Clarification/creation of on-line rights in the digital environment
- Anti-circumvention measures; rights management information

WCT - Overview

- 93 Contracting States

- "Special Agreement" of Berne.

Art. 20: "governments ... reserve the right to enter into **special agreements** among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention"

- Open to any WIPO Member States, irrespective of whether it is a party to Berne

WCT – Principal changes in WCT from Berne

	Berne	WCT
Computer programs and databases as works	No	Yes
Digital storage as reproduction	No	Yes
Right of distribution	No	Yes
Right of rental	No	Yes*
Right of making available	No	Yes
Duration of photographs	20 years	50 years
Three-step test	For reproduction right	For all economic right
Anti-circumvention; rights management information	No	Yes

* Only for computer programs, cinematographic works and works embodied in phonograms

WPPT - Overview

- 94 Contracting States
- No legal link to Rome Convention; Open to any WIPO Member States
- Moral rights for live aural performances and performances fixed in phonograms (not for audiovisual performances => Beijing Treaty)
- NOT dealing with broadcasting organizations

WPPT - Principal changes in WPPT from Rome

		Rome	WPPT
Definition of phonogram		Sounds only	Digital representations of sounds also included
Rights of performers &	Digital storage as right of reproduction	No	Yes
	Right of distribution	No	Yes
Rights of producers of phonograms	Right of rental	No	Yes
	Right of making available	No	Yes
Moral rights for performers		No	Yes
Duration		20 years	50 years
Three-step test		No	Yes
Anti-circumvention; rights management information		No	Yes

Thank you!

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