

Beijing Treaty on Audiovisual Performances (BTAP)

Assembly

First (1st Ordinary) Session
Geneva, September 21 to 29, 2020

RULES OF PROCEDURE

Document prepared by the International Bureau

1. The Beijing Treaty on Audiovisual Performances (hereinafter referred to as “the Beijing Treaty”) came into force on April 28, 2020, having received the required number of 30 ratifications or accessions. The present document contains information and proposals on procedural questions relative to the inaugural session of the Beijing Treaty Assembly (hereinafter referred to as “the Assembly”). It is proposed that the Assembly adopt rules of procedure, elect officers and consider information on the membership and implementation of the Treaty during this session (document BTAP/A/1/2).

General Rules of Procedure

2. Article 21(5) of the Beijing Treaty states:

“Article 21

“Assembly

[...]

“(5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.”

3. It is proposed that, in order to implement this provision, the Assembly adopt as its own Rules of Procedure the *WIPO General Rules of Procedure* (WIPO publication number 399 (FE) Rev. 3), as has every other body within WIPO, as amended by the introduction of the Special Rules detailed below.

Special Rules

4. The Beijing Treaty contains certain provisions which depart from practices in prior WIPO treaties and conventions. As a consequence, it is necessary to consider certain Special Rules to amend the *WIPO General Rules of Procedure*.

5. Amendment of the *WIPO General Rules of Procedure* is expressly envisaged by those Rules themselves¹.

Officers

6. Rule 9 of the *WIPO General Rules of Procedure* states that officers shall be elected in the first meeting of each ordinary session. Consequently, officers of WIPO bodies serve from their election at an ordinary session, up to but not including the next ordinary session, generally a period of two years.

7. The Beijing Treaty provides, in Article 21(4), that the Assembly “shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.” Consistent with this provision, and compliant with the constitutional reform amendments adopted by the WIPO General Assembly in 2003, concerning, specifically, the periodicity of the WIPO General Assembly sessions², the Beijing Treaty Assembly will meet each year in ordinary session (as is also the case with the Marrakesh Treaty Assembly). As the WIPO General Assembly, as well as the other Assemblies of the Member States of WIPO, are meeting in extraordinary sessions in 2020, the officers presiding over them are serving the second year of their respective terms of office. In order to allow the election of the officers of the Beijing Treaty Assembly to follow the same cycle as that of the other Assemblies, it is therefore proposed that, for this inaugural session, the Chair and Vice-Chairs of the Beijing Treaty Assembly be elected, exceptionally, for a period of one year, up to but not including the next ordinary session in 2021. As of 2021, and consistently thereafter, it is proposed that the terms of office for the Chair and the Vice-Chairs of the Beijing Treaty Assembly be two years; thus, the election of officers for the Beijing Treaty Assembly will be in alignment with the other bodies within WIPO.

8. It is therefore proposed to replace Rule 9 of the *WIPO General Rules of Procedure* with the following Special Rule to account for the Beijing Treaty Assembly meeting in ordinary session each year (rather than every two years), subject to the understanding that the application of the Special Rule, and therefore the two-year term of office, shall begin with the officers elected at the second (i.e., 2021) ordinary session of the Beijing Treaty Assembly. As noted in paragraph 7 above, and without prejudice to the proposed special Rule 9, the Chair and Vice-Chairs of the Beijing Treaty Assembly elected at this inaugural session of the

¹ “Rule 56: Amendment of General Rules of Procedure

“(1) These General Rules of Procedure may be amended, as far as each body which has adopted them is concerned, by a decision of that body, provided that the said decision is taken as far as possible in joint meeting and that the said body accepts the amendment according to the procedure laid down for amendment of its own rules of procedure.

“(2) Any amendment to these General Rules of Procedure shall enter into force for each body which has adopted these General Rules of Procedure when that body has accepted the amendment.

² See document A/39/15. With respect to the General Assembly, Member States adopted an amendment to Article 6(4)(a) of the WIPO Convention to provide that “The General Assembly shall meet once in every calendar year in ordinary session, upon convocation by the Director General.” It should be noted that while the constitutional reform amendments were adopted by the relevant Assemblies of the Member States of WIPO, they have not yet entered into force.

Assembly shall consequently only serve for one year, up to but not including the second ordinary session of the Assembly.

Rule 9: Officers

- (1) *The Assembly shall elect a Chair and two Vice-Chairs, who shall remain in office for two ordinary sessions, until the election of new officers.*
- (2) *The outgoing Chair and Vice-Chair shall not be immediately eligible for reelection to the office which they have held.*

Delegation

9. The *WIPO General Rules of Procedure* specify that delegations are comprised of Member States exclusively³. The *WIPO General Rules of Procedure* also specify that intergovernmental organizations shall be observers⁴.

10. Notwithstanding the foregoing, the Beijing Treaty defines the status of certain intergovernmental organizations within the context of the Assembly. That status differs from the observer status which the *WIPO General Rules of Procedure* give to intergovernmental organizations.

In that regard, Article 23 of the Beijing Treaty states that:

*“Article 23
“Eligibility for Becoming Party to the Treaty*

“1. Any Member State of WIPO may become party to this Treaty.

“2. The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

“3. The European Union, having made the declaration referred to in the preceding paragraph at the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.”

11. It is therefore proposed that Rule 7 of the *WIPO General Rules of Procedure* be replaced by a Special Rule ensuring that the definition of “Delegations” is expanded to include those intergovernmental organizations that will become Contracting Parties in accordance with Article 23(2) of the Beijing Treaty:

Rule 7: Delegations

(1) Each State member of a body shall be represented by one or more delegates, who may be assisted by alternates, advisors, and experts.

³ “Rule 7: Delegations

“(1) Each State member of a body shall be represented by one or more delegates, who may be assisted by alternates, advisors, and experts [...]”

⁴ “Rule 8: Observers

“(1) The Director General shall invite such States and intergovernmental organizations to be represented by observers as are entitled to observer status under a treaty or agreement.”

(2) Any intergovernmental organization that becomes a party to the Beijing Treaty in accordance with Article 23(2) of that Treaty shall be deemed a delegation, and shall enjoy, in the Assembly, the same rights as a State delegation, except as otherwise provided in these rules.

(3) Each delegation shall have a head of delegation.

(4) Any alternate, advisor or expert may act as delegate by orders of the head of his or her delegation.

(5) Each delegate or alternate shall be accredited by the competent authority of the State or intergovernmental organization which he or she represents. The Director General shall be notified of the appointment of delegates and alternates in writing, issuing preferably from the Ministry of Foreign Affairs, or the competent authority of the intergovernmental organization.

Voting

12. Article 21(3)(b) of the Beijing Treaty states:

*“Article 21
“Assembly*

[...]

“(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.”

[...]

13. In view of the provisions of the Beijing Treaty allowing certain intergovernmental organizations to become parties, to be delegations, and to exercise the right to vote in the Assembly, under certain conditions, it is proposed to replace Rule 25 of the *WIPO General Rules of Procedure*, with the following Special Rule:

Rule 25: Voting

(1) Proposals and amendments submitted by a delegation shall be put to the vote only if they are supported by at least one other delegation.

(2) Each Contracting Party that is a State shall have one vote and shall vote in its own name.

(3) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States that are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

Additional Special Rules

14. Article 21(5) of the Beijing Treaty states, in relevant part, that the Assembly shall establish its own rules of procedure “including [for] the convocation of extraordinary sessions [and] the requirements of a quorum.” As the *WIPO General Rules of Procedure* do not contain specific provisions on these two matters (rather, they are governed by the text of the WIPO Convention and certain other treaties), the following Additional Special Rules of Procedure for the Beijing Treaty Assembly are therefore proposed:

(1) Quorum

One-half of the States members of the Beijing Treaty Assembly shall constitute a quorum.

(2) Convocation of Extraordinary Sessions

The Assembly shall meet in extraordinary session upon convocation by the Director General at the request of one-fourth of the States members of the Assembly.

15. *The Assembly is invited to consider and adopt, as its own Rules of Procedure, the WIPO General Rules of Procedure with Rules 7, 9 and 25 amended as provided in document BTAP/A/1/1 (paragraphs 8, 11 and 13), as well as with the two additional special Rules of Procedure as provided in paragraph 14 of the same document.*

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