

澳門特別行政區**REGIÃO ADMINISTRATIVA ESPECIAL
DE MACAU****行政長官辦公室****GABINETE DO CHEFE DO EXECUTIVO****第 177/2021 號行政長官批示****Despacho do Chefe do Executivo n.º 177/2021**

行政長官行使《澳門特別行政區基本法》第五十條賦予的職權，並根據第21/2017號行政法規《社會保障基金的組織及運作》第十三條第一款及第三款的规定，作出本批示。

Usando da faculdade conferida pelo artigo 50.º da Lei Básica da Região Administrativa Especial de Macau e nos termos dos n.ºs 1 e 3 do artigo 13.º do Regulamento Administrativo n.º 21/2017 (Organização e funcionamento do Fundo de Segurança Social), o Chefe do Executivo manda:

一、續任何鈺珊為社會保障基金監察委員會主席，任期自二零二二年一月十五日起，為期兩年。

1. É renovado o mandato da presidente da Comissão de Fiscalização do Fundo de Segurança Social, Ho Ioc San, pelo período de dois anos, a partir de 15 de Janeiro de 2022.

二、社會保障基金監察委員會主席每月有權收取相等於公共行政薪俸表一百一十點的報酬。

2. A presidente da Comissão de Fiscalização do Fundo de Segurança Social tem direito a uma remuneração mensal correspondente ao índice 110 da tabela indiciária da Administração Pública.

二零二一年十一月八日

8 de Novembro de 2021.

行政長官 賀一誠

O Chefe do Executivo, *Ho Iat Seng*.

第 25/2021 號行政長官公告**Aviso do Chefe do Executivo n.º 25/2021**

中華人民共和國於二零一四年七月九日，就二零一二年六月二十四日在北京通過的《視聽表演北京條約》（下稱“《條約》”），向世界知識產權組織總幹事交存了批准書；

Considerando que a República Popular da China efectuou, em 9 de Julho de 2014, junto do Director-Geral da Organização Mundial da Propriedade Intelectual, o depósito do seu instrumento de ratificação do Tratado de Pequim sobre Interpretações Audiovisuais (doravante designado por «Tratado»), adoptado em Pequim em 24 de Junho de 2012;

中華人民共和國在交存批准書時聲明《條約》適用於中華人民共和國澳門特別行政區，以及中華人民共和國不受《條約》第11條第(1)款和第(2)款規定的約束；

Considerando igualmente que, no momento do aludido depósito do seu instrumento de ratificação, a República Popular da China declarou que o Tratado se aplica à Região Administrativa Especial de Macau da República Popular da China e que a República Popular da China não se encontra vinculada pelo disposto nos n.ºs (1) e (2) do artigo 11.º do Tratado;

《條約》已於二零二零年四月二十八日對中華人民共和國生效，包括對澳門特別行政區生效；

Mais considerando que o Tratado entrou em vigor para a República Popular da China, incluindo a Região Administrativa Especial de Macau, em 28 de Abril de 2020;

基於此，行政長官根據第3/1999號法律《法規的公佈與格式》第五條(一)項和第六條第一款的规定，命令公佈《視聽表演北京條約》的中文和英文正式文本。

O Chefe do Executivo manda publicar, nos termos da alínea 1) do artigo 5.º e do n.º 1 do artigo 6.º da Lei n.º 3/1999 (Publicação e formulário dos diplomas), o Tratado de Pequim sobre Interpretações Audiovisuais, nos seus textos autênticos em línguas chinesa e inglesa.

二零二一年十一月八日發佈。

Promulgado em 8 de Novembro de 2021.

行政長官 賀一誠

O Chefe do Executivo, *Ho Iat Seng*.

視聽表演北京條約*

目錄

序言

- 第 1 條： 與其他公約和條約的關係
- 第 2 條： 定義
- 第 3 條： 保護的受益人
- 第 4 條： 國民待遇
- 第 5 條： 精神權利
- 第 6 條： 表演者對其尚未錄製的表演的經濟權利
- 第 7 條： 複製權
- 第 8 條： 發行權
- 第 9 條： 出租權
- 第 10 條： 提供已錄製表演的權利
- 第 11 條： 廣播和向公眾傳播的權利
- 第 12 條： 權利的轉讓
- 第 13 條： 限制和例外
- 第 14 條： 保護期
- 第 15 條： 關於技術措施的義務
- 第 16 條： 關於權利管理信息的義務
- 第 17 條： 手續
- 第 18 條： 保留和通知
- 第 19 條： 適用的時限

* 本條約由保護音像表演外交會議於 2012 年 6 月 24 日在北京通過。

- 第 20 條： 關於權利行使的條款
- 第 21 條： 大會
- 第 22 條： 國際局
- 第 23 條： 成為本條約締約方的資格
- 第 24 條： 本條約規定的權利和義務
- 第 25 條： 本條約的簽署
- 第 26 條： 本條約的生效
- 第 27 條： 成為本條約締約方的生效日期
- 第 28 條： 退約
- 第 29 條： 本條約的語文
- 第 30 條： 保存人

序言

締約各方，

出於以儘可能有效和一致的方式發展和維護保護表演者對其視聽表演的權利的願望，

回顧《建立世界知識產權組織（WIPO）公約》大會 2007 年所通過的旨在確保發展方面的考慮構成本組織工作的組成部分的發展議程各項建議的重要性，

承認有必要採用新的國際規則，以提供解決由經濟、社會、文化和技術發展所提出的問題的適當方法，

承認信息與通信技術的發展和交匯對視聽表演的製作與使用的深刻影響，

承認有必要保持表演者對其視聽表演的權利與廣大公眾的利益，尤其是教育、研究和獲得信息的利益之間的平衡，

承認 1996 年 12 月 20 日在日內瓦簽訂的《世界知識產權組織表演和錄音製品條約》（WPPT）對表演者的保護不延伸到其以視聽錄製品錄製的表演方面，

提及關於版權和鄰接權若干問題的外交會議於 1996 年 12 月 20 日通過的《關於視聽表演的決議》，

達成協議如下：

第 1 條

與其他公約和條約的關係

(1) 本條約的任何內容均不得減損締約方相互之間依照《世界知識產權組織表演和錄音製品條約》或依照 1961 年 10 月 26 日在羅馬簽訂的《保護表演者、錄音製品製作者和廣播組織國際公約》已承擔的現有義務。

(2) 依本條約給予的保護不得觸動或以任何方式影響對文學和藝術作品版權的保護。因此，本條約的任何內容均不得被解釋為損害此種保護。

(3) 除《世界知識產權組織表演和錄音製品條約》之外，本條約不得與任何其他條約有任何關聯，亦不得損害任何其他條約所規定的任何權利和義務。^{1、2}

第 2 條

定義

在本條約中：

(a) “表演者”係指演員、歌唱家、音樂家、舞蹈家以及對文學或藝術作品或民間文學藝術表達進行表演、歌唱、演說、朗誦、演奏、表現或以其他方式進行表演的其他人員；³

(b) “視聽錄製品”係指活動圖像的體現物，不論是否伴有聲音或聲音表現物，從中通過某種裝置可感覺、複製或傳播該活動圖像；⁴

¹ 關於第 1 條第 (1) 款的議定聲明：各方達成共識，本條約的任何內容均不得影響《世界知識產權組織表演和錄音製品條約》(WPPT) 所規定的任何權利或義務或其解釋；另外，各方達成共識，第 3 款不對本條約締約方增加批准或加入《世界知識產權組織表演和錄音製品條約》或遵守其任何規定的任何義務。

² 關於第 1 條第 (3) 款的議定聲明：各方達成共識，係世界貿易組織成員的締約方承認《與貿易有關的知識產權協定》(《TRIPS 協定》) 的各項原則與目標，並達成共識：本條約的任何內容均不影響《TRIPS 協定》的規定，包括但不限於涉及反競爭行為的規定。

³ 關於第 2 條 (a) 款的議定聲明：各方達成共識，表演者的定義涵蓋凡對表演過程中創作的或首次錄製的文學或藝術作品進行表演的人。

⁴ 關於第 2 條 (b) 款的議定聲明：特此確認，載於第 2 條 (b) 款的“視聽錄製品”的定義，不損害《世界知識產權組織表演和錄音製品條約》的第 2 條 (c) 款。

(c) “廣播”係指以無線方式的傳送，使公眾能接收聲音或圖像，或圖像和聲音，或圖像和聲音的表現物；通過衛星進行的此種傳送亦為“廣播”；傳送密碼信號，只要廣播組織或經其同意向公眾提供了解碼的手段，即為“廣播”；

(d) “向公眾傳播”表演係指通過除廣播以外的任何媒體向公眾傳送未錄製的表演或以視聽錄製品錄製的表演。在第 11 條中，“向公眾傳播”包括使公眾能聽到或看到，或能聽到並看到以視聽錄製品形式錄製的表演。

第 3 條

保護的受益人

(1) 締約各方應將本條約規定的保護給予係其他締約方國民的表演者。

(2) 非締約方國民但在一個締約方境內有慣常居所的表演者，在本條約中視同該締約方的國民。

第 4 條

國民待遇

(1) 在本條約所專門授予的專有權以及本條約第 11 條所規定的獲得合理報酬的權利方面，每一締約方均應將其給予本國國民的待遇給予其他締約方的國民。

(2) 在本條約第 11 條第(1)款和第 11 條第(2)款授予的權利方面，締約方應有權將其依本條第(1)款給予另一締約方國民的保護限制在其本國國民在該另一締約方享有的那些權利的範圍和期限之內。

(3) 如果另一締約方使用了本條約第 11 條第 (3) 款允許的保留，本條第 (1) 款規定的義務對締約方不再適用；如果某一締約方作出了此種保留，本條第 (1) 款規定的義務也不適用於該締約方。

第 5 條

精神權利

(1) 不依賴於表演者的經濟權利，甚至在這些權利轉讓之後，表演者仍應對於其現場表演或以視聽錄製品錄製的表演有權：

- (i) 要求承認其係表演的表演者，除非因使用表演的方式而決定可省略不提其係表演者；以及
- (ii) 反對任何對其表演進行的將有損其聲譽的歪曲、篡改或其他修改，但同時應對視聽錄製品的特點予以適當考慮。

(2) 根據本條第 (1) 款授予表演者的權利在其死亡後應繼續保留，至少到其經濟權利期滿為止，並可由被要求提供保護的締約方立法所授權的個人或機構行使。但批准或加入本條約時其立法尚未規定在表演者死亡後保護上款所述全部權利的國家，則可規定其中部分權利在表演者死亡後不再保留。

(3) 為保障本條所授予的權利而採取的補救方法應由被要求提供保護的締約方立法規定。⁵

⁵ 關於第 5 條的議定聲明：為本條約的目的，並在不損害任何其他條約的前提下，會議達成共識：鑒於視聽錄製品及其製作和發行的特點，在正常利用表演的過程中以及在經表演者授權的使用過程中對該表演所作的修改，諸如使用現有或新的媒體或格式進行編輯、壓縮、配音或格式化編排，將不足以構成第 5 條第 (1) 款第 (ii) 項意義下的修改。只有在客觀上對表演者的聲譽造成重大損害的改動才涉及第 5 條第 (1) 款第 (ii) 項所規定的權利。會議還達成共識：純粹使用新的或改進的技術或媒體，其本身不足以構成第 5 條第 (1) 款第 (ii) 項意義下的修改。

第 6 條

表演者對其尚未錄製的表演的經濟權利

表演者應享有專有權，對於其表演授權：

- (i) 廣播和向公眾傳播其尚未錄製的表演，除非該表演本身已屬廣播表演；和
- (ii) 錄製其尚未錄製的表演。

第 7 條

複製權

表演者應享有授權以任何方式或形式對其以視聽錄製品錄製的表演直接或間接地進行複製的專有權。⁶

第 8 條

發行權

(1) 表演者應享有授權通過銷售或其他所有權轉讓形式向公眾提供其以視聽錄製品錄製的表演的原件或複製品的專有權。

(2) 對於已錄製表演的原件或複製品經表演者授權被首次銷售或其他所有權轉讓之後適用本條第(1)款中權利的用盡所依據的條件(如有此種條件)，本條約的任何內容均不得影響締約各方確定該條件的自由。⁷

⁶ 關於第 7 條的議定聲明：第 7 條所規定的複製權及其通過第 13 條所允許的例外，完全適用於數字環境，尤其是以數字形式使用表演的情況。各方達成共識，在電子媒體中以數字形式存儲受保護的表演，構成該條意義下的複製。

⁷ 關於第 8 條和第 9 條的議定聲明：這些條款中的用語“原件和複製品”，受各該條中發行權和出租權的約束，專指可以作為有形物品投放流通的固定的複製品。

第 9 條

出租權

(1) 表演者應享有授權按締約各方國內法中的規定將其以視聽錄製品錄製的表演的原件和複製品向公眾進行商業性出租的專有權，即使該原件或複製品已由表演者發行或經表演者授權發行。

(2) 除非商業性出租已導致此種錄製品的廣泛複製，從而嚴重損害表演者的專有複製權，否則締約方被免除第(1)款規定的義務。⁸

第 10 條

提供已錄製表演的權利

表演者應享有專有權，以授權通過有線或無線的方式向公眾提供其以視聽錄製品錄製的表演，使該表演可為公眾中的成員在其個人選定的地點和時間獲得。

第 11 條

廣播和向公眾傳播的權利

(1) 表演者應享有授權廣播和向公眾傳播其以視聽錄製品錄製的表演的專有權。

(2) 締約各方可以在向世界知識產權組織總幹事交存的通知書中聲明，它們將規定一項對於以視聽錄製品錄製的表演直接或間接地用於廣播或向公眾傳播獲得合理報酬的權利，以代替本條第(1)款中規定的授權的權利。締約各方還可以聲明，它們將在立法中對行使該項獲得合理報酬的

⁸ 關於第 8 條和第 9 條的議定聲明：這些條款中的用語“原件和複製品”，受各該條中發行權和出租權的約束，專指可以作為有形物品投放流通的固定的複製品。

權利規定條件。

(3) 任何締約方均可聲明其將僅對某些使用情形適用本條第(1)款或第(2)款的規定，或聲明其將以某種其他方式對其適用加以限制，或聲明其將根本不適用第(1)款和第(2)款的規定。

第 12 條 權利的轉讓

(1) 締約方可以在其國內法中規定，表演者一旦同意將其表演錄製於視聽錄製品中，本條約第 7 條至第 11 條所規定的進行授權的專有權應歸該視聽錄製品的製作者所有，或應由其行使，或應向其轉讓，但表演者與視聽錄製品製作者之間按國內法的規定訂立任何相反合同者除外。

(2) 締約方可以要求，對於依照其國內法的規定製作的視聽錄製品，此種同意或合同應採用書面形式，並應由合同當事人雙方或由經其正式授權的代表簽字。

(3) 不依賴於上述專有權轉讓規定，國內法或者具有個人性質、集體性質或其他性質的協議可以規定，表演者有權依照本條約的規定，包括第 10 條和第 11 條的規定，因表演的任何使用而獲得使用費或合理報酬。

第 13 條 限制與例外

(1) 締約各方可以在其國內立法中，對給予表演者的保護規定與其國內立法給予文學和藝術作品的版權保護相同種類的限制或例外。

(2) 締約各方應使本條約中所規定權利的任何限制或例外僅限於某些不與表演的正常利用相抵觸、也不致不合理地損害表演者合法利益的特殊

情況。⁹

第 14 條

保護期

依本條約給予表演者的保護期，應自表演錄製之年年終算起，至少持續到 50 年期滿為止。

第 15 條

關於技術措施的義務

締約各方應規定適當的法律保護和有效的法律補救辦法，制止規避由表演者為行使本條約所規定的權利而使用並限制對其表演實施未經該有關表演者許可的或法律不允許的行為的有效技術措施。¹⁰、¹¹

第 16 條

關於權利管理信息的義務

(1) 締約各方應規定適當和有效的法律補救辦法，制止任何人明知，或就民事補救而言，有合理根據知道其行為會誘使、促成、便利或包庇對本條約所規定的任何權利的侵犯，而故意實施以下活動：

⁹ 關於第 13 條的議定聲明：關於《世界知識產權組織版權條約》（WCT）第 10 條（涉及限制與例外）的議定聲明，亦可比照適用於本條約的第 13 條（涉及限制和例外）。

¹⁰ 與第 13 條相關的關於第 15 條的議定聲明：各方達成共識，本條任何規定均不阻止締約方採取有效而必要的措施，以確保當視聽表演已採用技術措施而受益人有權合法使用該表演時，例如在權利人未對某一具體表演採取能讓受益人享受國內法所規定的例外與限制的適當和有效措施的情況下，受益人能享受其國內法中根據第 13 條作出的例外或限制規定。此外，在不損害錄有表演的視聽作品的法律保護的情況下，各方達成共識，第 15 條規定的義務不適用於不受或不再受履行本條約的國內立法保護的表演。

¹¹ 關於第 15 條的議定聲明：“表演者使用的技術措施”一語，與《世界知識產權組織表演和錄音製品條約》的情況一樣，應作廣義的理解，亦指代表表演者實施行為的人，包括其代理人、被許可人或受讓人，包括製作者、服務提供者 and 經適當許可使用表演進行傳播或廣播的人。

- (i) 未經許可去除或改變任何權利管理的電子信息；
- (ii) 未經許可發行、為發行目的進口、廣播、向公眾傳播或提供明知未經許可而被去除或改變權利管理電子信息的表演或以視聽錄製品錄製的表演的複製品。

(2) 本條中的用語“權利管理信息”係指識別表演者、表演者的表演或對表演擁有任何權利的所有人的信息，或有關使用表演的條款和條件的信息，以及代表此種信息的任何數字或代碼，各該項信息均附於以視聽錄製品錄製的表演上。¹²

第 17 條

手續

享有和行使本條約所規定的權利無須履行任何手續。

第 18 條

保留和通知

(1) 除第 11 條第 (3) 款的規定外，本條約不允許有任何保留。

(2) 依第 11 條第 (2) 款或第 19 條第 (2) 款所作的任何通知，可以在批准書或加入書中提出，通知的生效日期應與本條約對作出通知的國家或政府間組織生效的日期相同。任何此種通知亦可隨後提出，但在此情況下，通知應於世界知識產權組織總幹事收到通知三個月後或通知中指定的任何更晚的日期生效。

¹² 關於第 16 條的議定聲明：關於《世界知識產權組織版權條約》第 12 條（涉及關於權利管理信息的義務）的議定聲明，亦可比照適用於本條約的第 16 條（涉及關於權利管理信息的義務）。

第 19 條

時間上的適用範圍

(1) 締約各方應對本條約生效之時存在的已錄製的表演，以及本條約對締約各方生效之後進行的所有表演，給予本條約所規定的保護。

(2) 儘管有本條第(1)款的規定，締約方仍可以在向世界知識產權組織總幹事交存的通知書中聲明，對於本條約對每一締約方生效之時存在的已錄製的表演，將不適用本條約第 7 條至第 11 條的規定，或不適用其中的任何一條或多條規定。對於此種締約方，其他締約方可以使所述各條的適用僅限於本條約對該締約方生效之後進行的表演。

(3) 本條約規定的保護不得損害本條約對每一締約方生效之前實施的任何行為、訂立的任何協議或取得的任何權利。

(4) 締約各方可以在其立法中制定過渡性條款，規定凡在本條約生效之前就某一表演從事合法活動的人，可以在本條約對相應締約方生效之後，就該同一表演從事與第 5 條和第 7 條至第 11 條所規定的權利範圍相符的活動。

第 20 條

關於權利行使的條款

(1) 締約各方承諾根據其法律制度採取必要的措施，以確保本條約的適用。

(2) 締約各方應確保依照其法律可以提供執法程序，以便能採取制止對本條約所規定權利的任何侵權行為的有效行動，包括防止侵權的即時補救和為遏制進一步侵權的補救。

第 21 條

大會

- (1) (a) 締約方應設大會。
 - (b) 每一締約方應有一名代表出席大會，該代表可由副代表、顧問和專家協助。
 - (c) 各代表團的費用應由指派它的締約方負擔。大會可以要求世界知識產權組織（以下稱為“WIPO”）提供財政援助，以便利按照聯合國大會既定慣例認為是發展中國家或市場經濟轉型期國家的締約方代表團參加。
- (2) (a) 大會應處理涉及維護和發展本條約及適用和實施本條約的事項。
 - (b) 大會應履行依第 23 條第(2)款向其指定的關於接納某些政府間組織成為本條約締約方的職能。
 - (c) 大會應對召開任何修訂本條約的外交會議作出決定，並給予世界知識產權組織總幹事籌備此種外交會議的必要指示。
- (3) (a) 凡屬國家的每一締約方應有一票，並應只能以其自己的名義表決。
 - (b) 凡屬政府間組織的締約方可以代替其成員國參加表決，其票數與其屬本條約締約方的成員國數目相等。如果此種政府間組織的任何一個成員國行使其表決權，則該組織不得參加表決，反之亦然。
- (4) 大會應由總幹事召集，如無例外情況，應與世界知識產權組織大

會同時同地舉行。

(5) 大會應努力通過協商一致作出決定，並應制定自己的議事規則，包括召集特別會議、法定人數的要求，以及按本條約的規定，作出各類決定所需的多數等規則。

第 22 條

國際局

與本條約有關的行政工作應由世界知識產權組織國際局履行。

第 23 條

成為本條約締約方的資格

(1) 世界知識產權組織的任何成員國均可以成為本條約的締約方。

(2) 如果任何政府間組織聲明其對於本條約涵蓋的事項具有權限和具有約束其所有成員國的立法，並聲明其根據其內部程序被正式授權要求成為本條約的締約方，大會可以決定接納該政府間組織成為本條約的締約方。

(3) 歐洲聯盟在通過本條約的外交會議上作出上款提及的聲明後，可以成為本條約的締約方。

第 24 條

本條約規定的權利和義務

除本條約有任何相反的具體規定以外，每一締約方均應享有本條約規定的一切權利並承擔本條約規定的一切義務。

第 25 條

本條約的簽署

本條約通過後即在世界知識產權組織總部開放以供任何有資格的有關方簽署，期限一年。

第 26 條

本條約的生效

本條約應在第 23 條所指的三十個有資格的有關方交存批准書或加入書三個月之後生效。

第 27 條

成為本條約締約方的生效日期

本條約應自下列日期起具有約束力：

(i) 對第 26 條提到的三十個有資格的有關方，自本條約生效之日起；

(ii) 對第 23 條提到的每一個其他有資格的有關方，自其向世界知識產權組織總幹事交存批准書或加入書之日滿三個月起。

第 28 條

退約

本條約的任何締約方均可退出本條約，退約應通知世界知識產權組織總幹事。任何退約應於世界知識產權組織總幹事收到通知之日起一年後生效。

第 29 條

本條約的語文

(1) 本條約的簽字原件為一份，以中文、阿拉伯文、英文、法文、俄文和西班牙文簽署，各該文種的文本具有同等效力。

(2) 除本條第(1)款提到的語文外，任何其他語文的正式文本須由世界知識產權組織總幹事應有關方請求，在與所有有關方磋商之後制定。在本款中，“有關方”係指涉及到其正式語文或正式語文之一的世界知識產權組織任何成員國，並且如果涉及到其正式語文之一，亦指歐洲聯盟和可以成為本條約締約方的任何其他政府間組織。

第 30 條

保存人

世界知識產權組織總幹事為本條約的保存人。

Beijing Treaty on Audiovisual Performances***CONTENTS****Preamble****Article 1: Relation to Other Conventions and Treaties****Article 2: Definitions****Article 3: Beneficiaries of Protection****Article 4: National Treatment****Article 5: Moral Rights****Article 6: Economic Rights of Performers in their Unfixed Performances****Article 7: Right of Reproduction****Article 8: Right of Distribution****Article 9: Right of Rental****Article 10: Right of Making Available of Fixed Performances****Article 11: Right of Broadcasting and Communication to the Public****Article 12: Transfer of Rights****Article 13: Limitations and Exceptions****Article 14: Term of Protection****Article 15: Obligations concerning Technological Measures****Article 16: Obligations concerning Rights Management Information****Article 17: Formalities****Article 18: Reservations and Notifications****Article 19: Application in Time****Article 20: Provisions on Enforcement of Rights****Article 21: Assembly****Article 22: International Bureau****Article 23: Eligibility for Becoming Party to the Treaty**

* This Treaty was adopted by the Diplomatic Conference on the Protection of Audiovisual Performances in Beijing, on June 24, 2012.

Article 24: Rights and Obligations under the Treaty

Article 25: Signature of the Treaty

Article 26: Entry into Force of the Treaty

Article 27: Effective Date of Becoming Party to the Treaty

Article 28: Denunciation of the Treaty

Article 29: Languages of the Treaty

Article 30: Depositary

Preamble

The Contracting Parties,

Desiring to develop and maintain the protection of the rights of performers in their audiovisual performances in a manner as effective and uniform as possible,

Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the Convention Establishing the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work,

Recognizing the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

Recognizing the profound impact of the development and convergence of information and communication technologies on the production and use of audiovisual performances,

Recognizing the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interest, particularly education, research and access to information,

Recognizing that the WIPO Performances and Phonograms Treaty (WPPT) done in Geneva on December 20, 1996, does not extend protection to performers in respect of their performances fixed in audiovisual fixations,

Referring to the Resolution concerning Audiovisual Performances adopted by the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions on December 20, 1996,

Have agreed as follows:

Article 1**Relation to Other Conventions and Treaties**

- (1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the WPPT or the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome on October 26, 1961.
- (2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.
- (3) This Treaty shall not have any connection with treaties other than the WPPT, nor shall it prejudice any rights and obligations under any other treaties^{1,2}.

¹ Agreed statement concerning Article 1: It is understood that nothing in this Treaty affects any rights or obligations under the WIPO Performances and Phonograms Treaty (WPPT) or their interpretation and it is further understood that paragraph 3 does not create any obligations for a Contracting Party to this Treaty to ratify or accede to the WPPT or to comply with any of its provisions.

² Agreed statement concerning Article 1(3): It is understood that Contracting Parties who are members of the World Trade Organization (WTO) acknowledge all the principles and objectives of the Agreement on Trade-Related
[Footnote continued on next page]

Article 2

Definitions

For the purposes of this Treaty:

- (a) "performers" are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore³;
- (b) "audiovisual fixation" means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device⁴;
- (c) "broadcasting" means the transmission by wireless means for public reception of sounds or of images or of images and sounds or of the representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is "broadcasting" where the means for decrypting are provided to the public by the broadcasting organization or with its consent;
- (d) "communication to the public" of a performance means the transmission to the public by any medium, otherwise than by broadcasting, of an unfixed performance, or of a performance fixed in an audiovisual fixation. For the purposes of Article 11, "communication to the public" includes making a performance fixed in an audiovisual fixation audible or visible or audible and visible to the public.

Article 3

Beneficiaries of Protection

- (1) Contracting Parties shall accord the protection granted under this Treaty to performers who are nationals of other Contracting Parties.
- (2) Performers who are not nationals of one of the Contracting Parties but who have their habitual residence in one of them shall, for the purposes of this Treaty, be assimilated to nationals of that Contracting Party.

Article 4

National Treatment

- (1) Each Contracting Party shall accord to nationals of other Contracting Parties the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty and the right to equitable remuneration provided for in Article 11 of this Treaty.

[Footnote continued from previous page]

Aspects of Intellectual Property Rights (TRIPS Agreement) and understand that nothing in this Treaty affects the provisions of the TRIPS Agreement, including, but not limited to, the provisions relating to anti-competitive practices.

³ Agreed statement concerning Article 2(a): It is understood that the definition of "performers" includes those who perform a literary or artistic work that is created or first fixed in the course of a performance.

⁴ Agreed statement concerning Article 2(b): It is hereby confirmed that the definition of "audiovisual fixation" contained in Article 2(b) is without prejudice to Article 2(c) of the WPPT.

(2) A Contracting Party shall be entitled to limit the extent and term of the protection accorded to nationals of another Contracting Party under paragraph (1), with respect to the rights granted in Article 11(1) and 11(2) of this Treaty, to those rights that its own nationals enjoy in that other Contracting Party.

(3) The obligation provided for in paragraph (1) does not apply to a Contracting Party to the extent that another Contracting Party makes use of the reservations permitted by Article 11(3) of this Treaty, nor does it apply to a Contracting Party, to the extent that it has made such reservation.

Article 5 Moral Rights

(1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live performances or performances fixed in audiovisual fixations, have the right:

- (i) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
- (ii) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation, taking due account of the nature of audiovisual fixations.

(2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed⁵.

Article 6 Economic Rights of Performers in their Unfixed Performances

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

- (i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and
- (ii) the fixation of their unfixed performances.

⁵ Agreed statement concerning Article 5: For the purposes of this Treaty and without prejudice to any other treaty, it is understood that, considering the nature of audiovisual fixations and their production and distribution, modifications of a performance that are made in the normal course of exploitation of the performance, such as editing, compression, dubbing, or formatting, in existing or new media or formats, and that are made in the course of a use authorized by the performer, would not in themselves amount to modifications within the meaning of Article 5(1)(ii). Rights under Article 5(1)(ii) are concerned only with changes that are objectively prejudicial to the performer's reputation in a substantial way. It is also understood that the mere use of new or changed technology or media, as such, does not amount to modification within the meaning of Article 5(1)(ii).

Article 7
Right of Reproduction

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in audiovisual fixations, in any manner or form⁶.

Article 8
Right of Distribution

(1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in audiovisual fixations through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer⁷.

Article 9
Right of Rental

(1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in audiovisual fixations as determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.

(2) Contracting Parties are exempt from the obligation of paragraph (1) unless the commercial rental has led to widespread copying of such fixations materially impairing the exclusive right of reproduction of performers⁸.

Article 10
Right of Making Available of Fixed Performances

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

⁶ Agreed statement concerning Article 7: The reproduction right, as set out in Article 7, and the exceptions permitted thereunder through Article 13, fully apply in the digital environment, in particular to the use of performances in digital form. It is understood that the storage of a protected performance in digital form in an electronic medium constitutes a reproduction within the meaning of this Article.

⁷ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

⁸ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

Article 11

Right of Broadcasting and Communication to the Public

- (1) Performers shall enjoy the exclusive right of authorizing the broadcasting and communication to the public of their performances fixed in audiovisual fixations.
- (2) Contracting Parties may in a notification deposited with the Director General of WIPO declare that, instead of the right of authorization provided for in paragraph (1), they will establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or for communication to the public. Contracting Parties may also declare that they will set conditions in their legislation for the exercise of the right to equitable remuneration.
- (3) Any Contracting Party may declare that it will apply the provisions of paragraphs (1) or (2) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply the provisions of paragraphs (1) and (2) at all.

Article 12

Transfer of Rights

- (1) A Contracting Party may provide in its national law that once a performer has consented to fixation of his or her performance in an audiovisual fixation, the exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation subject to any contract to the contrary between the performer and the producer of the audiovisual fixation as determined by the national law.
- (2) A Contracting Party may require with respect to audiovisual fixations produced under its national law that such consent or contract be in writing and signed by both parties to the contract or by their duly authorized representatives.
- (3) Independent of the transfer of exclusive rights described above, national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11.

Article 13

Limitations and Exceptions

- (1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.
- (2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests⁹ of the performer.

⁹ Agreed statement concerning Article 13: The Agreed statement concerning Article 10 (on Limitations and Exceptions) of the WIPO Copyright Treaty (WCT) is applicable *mutatis mutandis* also to Article 13 (on Limitations and Exceptions) of the Treaty.

Article 14
Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

Article 15
Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law^{10,11}.

Article 16
Obligations concerning Rights Management Information

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:

- (i) to remove or alter any electronic rights management information without authority;
- (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, "rights management information" means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation¹².

¹⁰ Agreed statement concerning Article 15 as it relates to Article 13: It is understood that nothing in this Article prevents a Contracting Party from adopting effective and necessary measures to ensure that a beneficiary may enjoy limitations and exceptions provided in that Contracting Party's national law, in accordance with Article 13, where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance, in circumstances such as where appropriate and effective measures have not been taken by rights holders in relation to that performance to enable the beneficiary to enjoy the limitations and exceptions under that Contracting Party's national law. Without prejudice to the legal protection of an audiovisual work in which a performance is fixed, it is further understood that the obligations under Article 15 are not applicable to performances unprotected or no longer protected under the national law giving effect to this Treaty.

¹¹ Agreed statement concerning Article 15: The expression "technological measures used by performers" should, as this is the case regarding the WPPT, be construed broadly, referring also to those acting on behalf of performers, including their representatives, licensees or assignees, including producers, service providers, and persons engaged in communication or broadcasting using performances on the basis of due authorization.

¹² Agreed statement concerning Article 16: The Agreed statement concerning Article 12 (on Obligations concerning Rights Management Information) of the WCT is applicable *mutatis mutandis* also to Article 16 (on Obligations concerning Rights Management Information) of the Treaty.

**Article 17
Formalities**

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

**Article 18
Reservations and Notifications**

- (1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.
- (2) Any notification under Article 11(2) or 19(2) may be made in instruments of ratification or accession, and the effective date of the notification shall be the same as the date of entry into force of this Treaty with respect to the Contracting Party having made the notification. Any such notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the notification.

**Article 19
Application in Time**

- (1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.
- (3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.
- (4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

**Article 20
Provisions on Enforcement of Rights**

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.
- (2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

**Article 21
Assembly**

- (1) (a) The Contracting Parties shall have an Assembly.
- (b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.
- (c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.
- (2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.
- (b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.
- (c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.
- (3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.
- (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.
- (4) 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.
- (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.

**Article 22
International Bureau**

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

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 in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 24
Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 25
Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 26
Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

Article 27
Effective Date of Becoming Party to the Treaty.

This Treaty shall bind:

- (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;
- (ii) each other eligible party referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO.

Article 28
Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 29 Languages of the Treaty

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 30 Depositary

The Director General of WIPO is the depositary of this Treaty.

二零二一年十一月八日於行政長官辦公室

辦公室主任 許麗芳

Gabinete do Chefe do Executivo, aos 8 de Novembro de 2021. — A Chefe do Gabinete, *Hoi Lai Fong*.

政府總部事務局

批示摘錄

透過簽署人二零二一年十月十五日批示：

根據現行第14/2009號法律《公務人員職程制度》第十三條第一款(二)項、第二款(二)項及(四)項，以及現行第12/2015號法律《公共部門勞動合同制度》第四條第二款及第三款的規定，以附註形式修改下列人員在本局擔任職務的合同第三條款如下所列。

不具期限的行政任用合同

——張瑩暉，自二零二一年十月十七日起晉階至第三職階顧問高級技術員，薪俸點650點；

——劉菲銀，自二零二一年十月二十九日起晉階至第三職階顧問高級技術員，薪俸點650點；

——宋寶夔，自二零二一年十月三十一日起晉階至第三職階顧問高級技術員，薪俸點650點；

——程雪梅、李詠茵、黃家文及黃錦華，自二零二一年十月二十四日起晉階至第三職階特級行政技術助理員，薪俸點330點；

——陳碧茵，自二零二一年十月二十九日起晉階至第二職階特級行政技術助理員，薪俸點315點；

DIRECÇÃO DOS SERVIÇOS PARA OS ASSUNTOS DA SEDE DO GOVERNO

Extracto de despacho

Por despachos da signatária, de 15 de Outubro de 2021:

O pessoal abaixo identificado — alterada, por averbamento, a cláusula 3.^a dos seus contratos, para o exercício de funções nestes Serviços, nos termos da alínea 2) do n.º 1 e das alíneas 2) e 4) do n.º 2 do artigo 13.º da Lei n.º 14/2009 (Regime das carreiras dos trabalhadores dos serviços públicos), em vigor, e dos n.ºs 2 e 3 do artigo 4.º da Lei n.º 12/2015 (Regime do Contrato de Trabalho nos Serviços Públicos), em vigor, conforme a seguir discriminado:

Contrato administrativo de provimento sem termo

— Cheong Ieng Fai progride para técnica superior assessora, 3.º escalão, índice 650, a partir de 17 de Outubro de 2021;

— Lao Fei Ngan progride para técnica superior assessora, 3.º escalão, índice 650, a partir de 29 de Outubro de 2021;

— Song Pou Kuai progride para técnica superior assessora, 3.º escalão, índice 650, a partir de 31 de Outubro de 2021;

— Cheng Sut Mui, Lei Weng Ian, Wong Ka Man e Wong Kam Wa progridem para assistentes técnicos administrativos especialistas, 3.º escalão, índice 330, a partir de 24 de Outubro de 2021;

— Chan Pek Ian progride para assistente técnica administrativa especialista, 2.º escalão, índice 315, a partir de 29 de Outubro de 2021;