



ACCESSION TO WIPO TREATIES

**PORTFOLIO COMMITTEE ON
TRADE AND INDUSTRY
13 November 2018**



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



To brief the Portfolio Committee on the progress of the ratification of the Treaties.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



NOTABLE PROVISIONS OF THE TREATIES

WIPO COPYRIGHT TREATY-WCT

- Protection for authors of literary and artistic works.
- Adequate rights protection in the digital sphere by making provisions relating to **technological protection measures** and rights management information.
- **Rights management information** help to **identify a work and its owner, track usages of the work and assist** in the distribution of collected revenues.
- Technological Protection Measures aid the **prevention of unauthorised use of works either through access control mechanisms** (passwords or encryption) or copy control mechanisms (limiting the number of authorised copies).

WIPO PERFORMANCES AND PHONOGRAMS TREATY-WPPT

- Protects the rights of performers and producers of phonograms in the digital space.
- strengthening the position of performers, especially musicians by creating a legal framework/economic tool for the **equitable remuneration of the performer**.
- **Protecting neighbouring rights** to ensure economic benefit to those that add substantial creative, technical or organisational skill in the process of bringing a work to the public

BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

- Protects performers in audiovisual performances.
- Provides **economic and moral** rights to audiovisual performers.
- Grants copyright owners the **exclusive rights** 'to communicate the work to the public' and the 'making available' right.



PROCEDURE TO RATIFY THE TREATIES

The procedure is as follow:

- Obtain a legal opinion from the **Department of Justice and Constitutional Development** that will deal with the agreement's consistency with domestic law
- Contact the relevant desk at **DIRCO** to provide inputs on the agreement from a political point of view.
- The desk at DIRCO will request a **legal opinion from the State Law advisors (IL)** that will deal with the agreement's consistency with international law
- The desk at DIRCO will provide feedback to the line function department after which the line function department will prepare a final text of the agreement, explanatory memorandum and a draft President's Minute.
- The line function department must forward the following documentation (in hard copy) to the Office of the Chief State Law Advisor (IL) for certification:
 - o Draft text of President's Minute on prescribed format
 - o Explanatory memorandum of agreement
 - o Final text of the agreement
 - o Copy of the legal advice of the Department of Justice and Constitutional Development
 - o Copy of the legal advice of the Office of the Chief State Law advisor (IL) in DIRCO
 - o Certificate of authenticity issued by the Minister of the responsible government department in case of multilateral agreements.

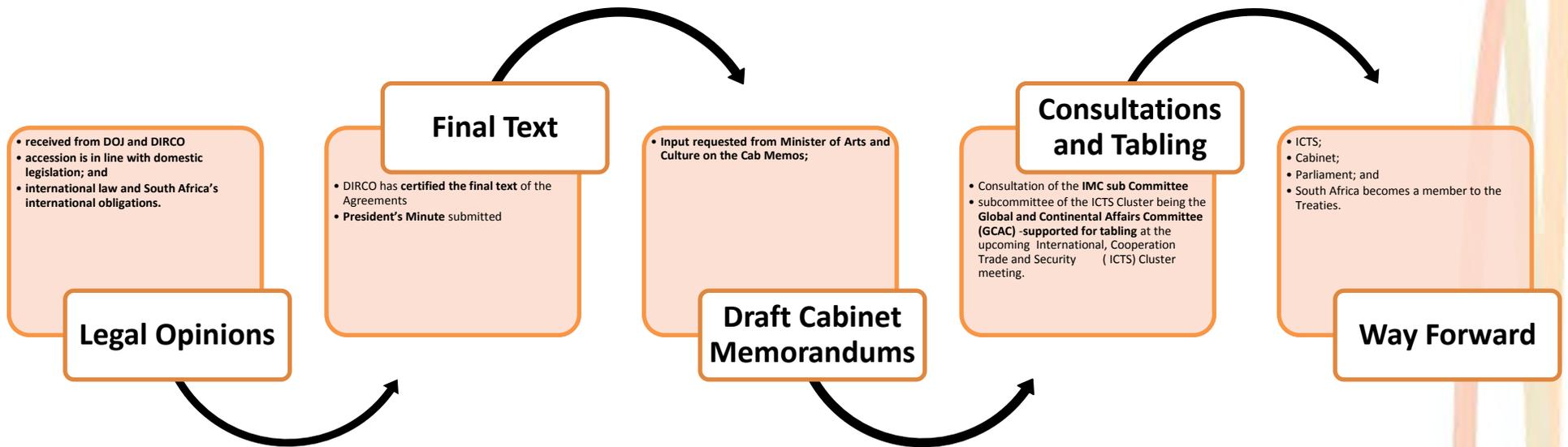
All documents must be in twofold and placed in a Z137 folder

- After certification the line function department takes the following documentation to the Minister to counter sign the President's Minute, and thereafter to the Presidency to obtain the necessary approval to sign the agreement:

PROCEDURE TO RATIFY THE TREATIES

- o Text of President's Minute
- o Explanatory memorandum of agreement
- o Certified text of the agreement
- o Copy of the legal advice of the Department of Justice and Constitutional Development
- o Copy of the legal advice of the Office of the Chief State Law Advisor in DIRCO
- o Certificate of authenticity issued by the Minister of the responsible government department in case of multilateral agreements
- After the President has signed the Minute, the Treaty Section may be contacted for binding thereof.
- After signature the agreement must be deposited with the official custodian which is the South African Treaty Section, located in the Office of the Chief State Law Advisor (IL) in DIRCO.
- All agreements have to be tabled in Parliament.

IMPLEMENTATION PLAN



CONCLUSION

A review of the **40 year old copyright legislative framework** is necessary to enable a **balanced** legislative regime cognisant of the **interests of all stakeholders including owners; consumers and investors.**



To achieve this balance South Africa's **developmental agenda; socio-economic needs and international developments** are considered.



Accession to the WIPO Treaties will ensure that:

- the law keeps pace with technological developments;
- Protection for rights holders in the digital environment;
- Recognition of new technological methods of exploiting copyright works;
- Strengthening of the position of performers; producers and authors in local and other markets;
- Access to copyright works specifically by those most vulnerable;



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



THANK YOU



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

