

# International Copyright and Related Rights Treaties

Beijing Treaty and Marrakesh Treaty

Bandar Seri Begawan, May 12, 2018

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WIPO Office in Singapore

# Outline

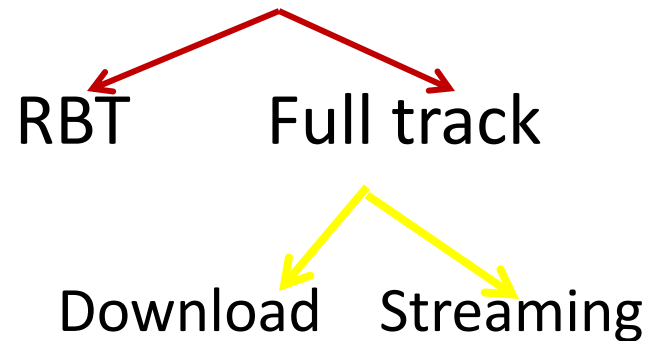
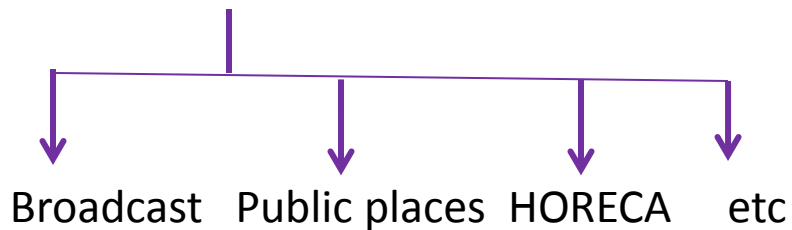
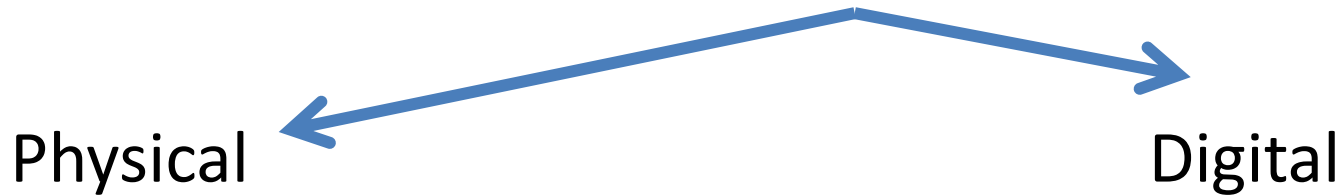
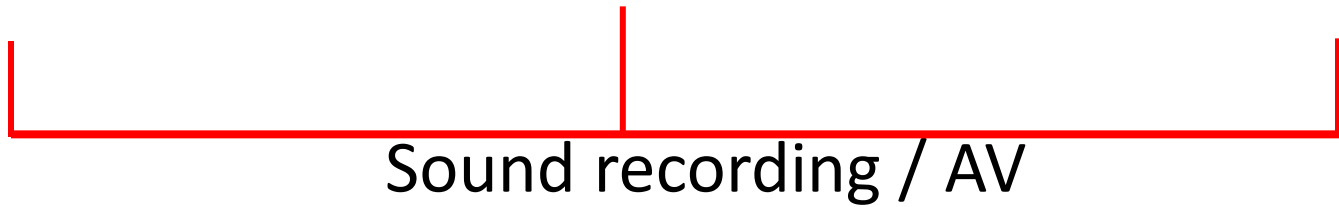
- Legal protection as a solid foundation for any creative economy
- Collective management organization as a model for administering rights (Administration)
- Alerting the consumers: awareness in the digital era (Respect)

# Importance of international treaties

- Level *playing* field
- Allows CMOs to function nationally and collaborate globally
- Minimum standards for national laws
- Induces international (music trade) business – through exports and imports

# Study case: music production

Composer/publisher      Artist      Producer



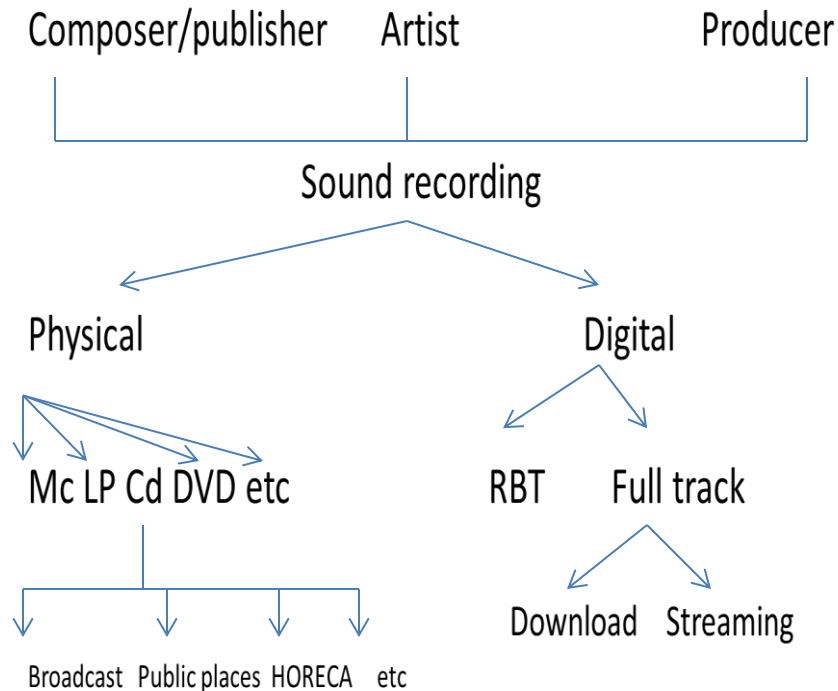
Source: ASIRI and CD

# The CR and RR international treaties

- Berne Convention (BC), 1886; **176** members
- Rome Convention (RC), 1961; **93**
- (Geneva) Phonograms Treaty (PT), 1971; **79**
- (Brussels) Satellite Convention (SC), 1974; **37**
- WCT & WPPT (WW), 2002; **96** members
- Beijing Treaty (BTAP), 2012; **19** signatories
- Marrakesh Treaty (MVT), 2013; **35**

# Superimposing treaties on study case

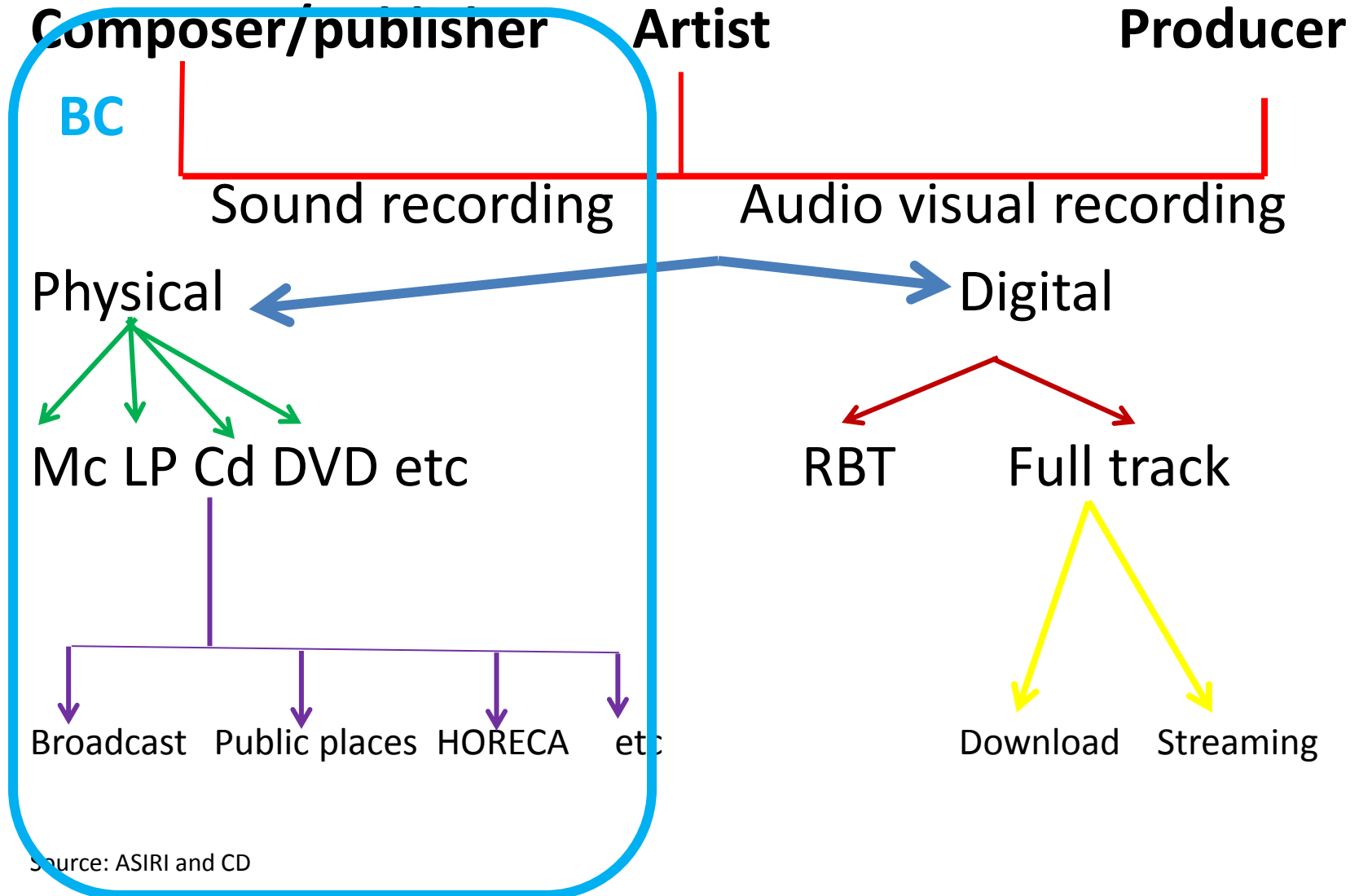
## Study case: Music production



## Treaties

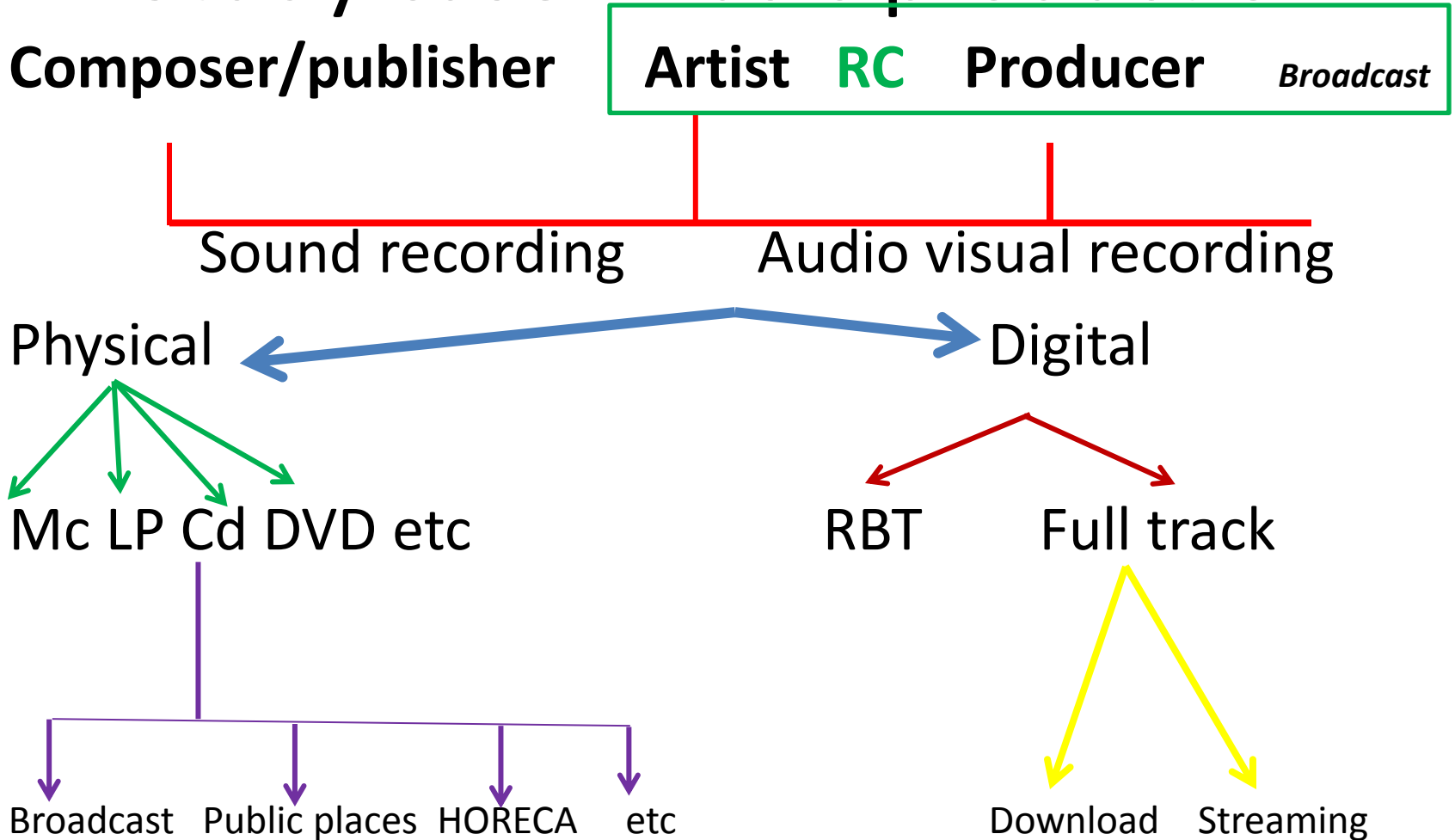
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- Rome Convention (RC), 1961**
- Phonograms Treaty (PT), 1971**
- [Satellite Convention (SC), 1974]
- WCT & WPPT (WW), 2002**
- Beijing Treaty (BT), 2012**
- [Marrakesh Treaty (MT), 2013]

# Study case: music production



Source: ASIRI and CD

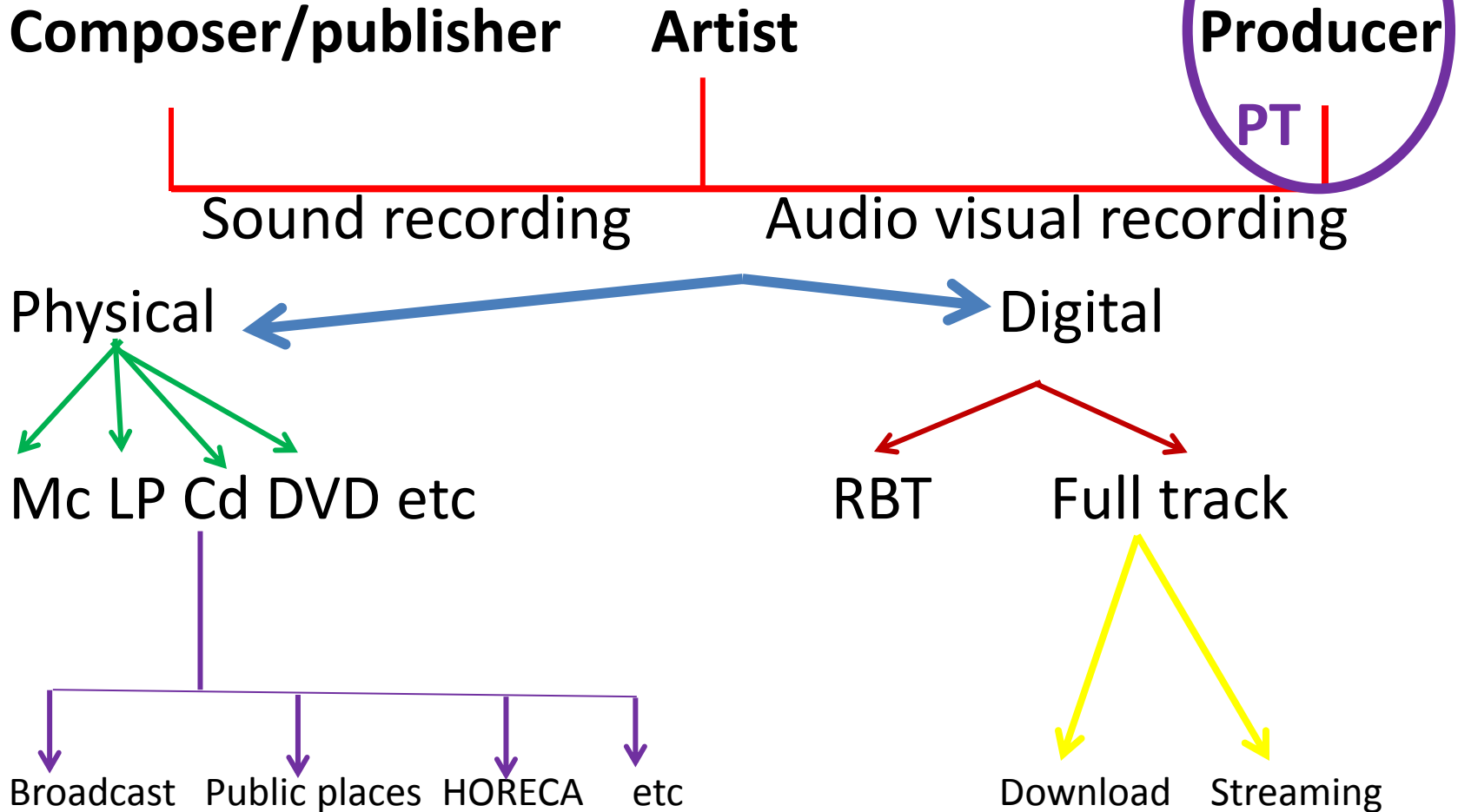
# Study case: music production



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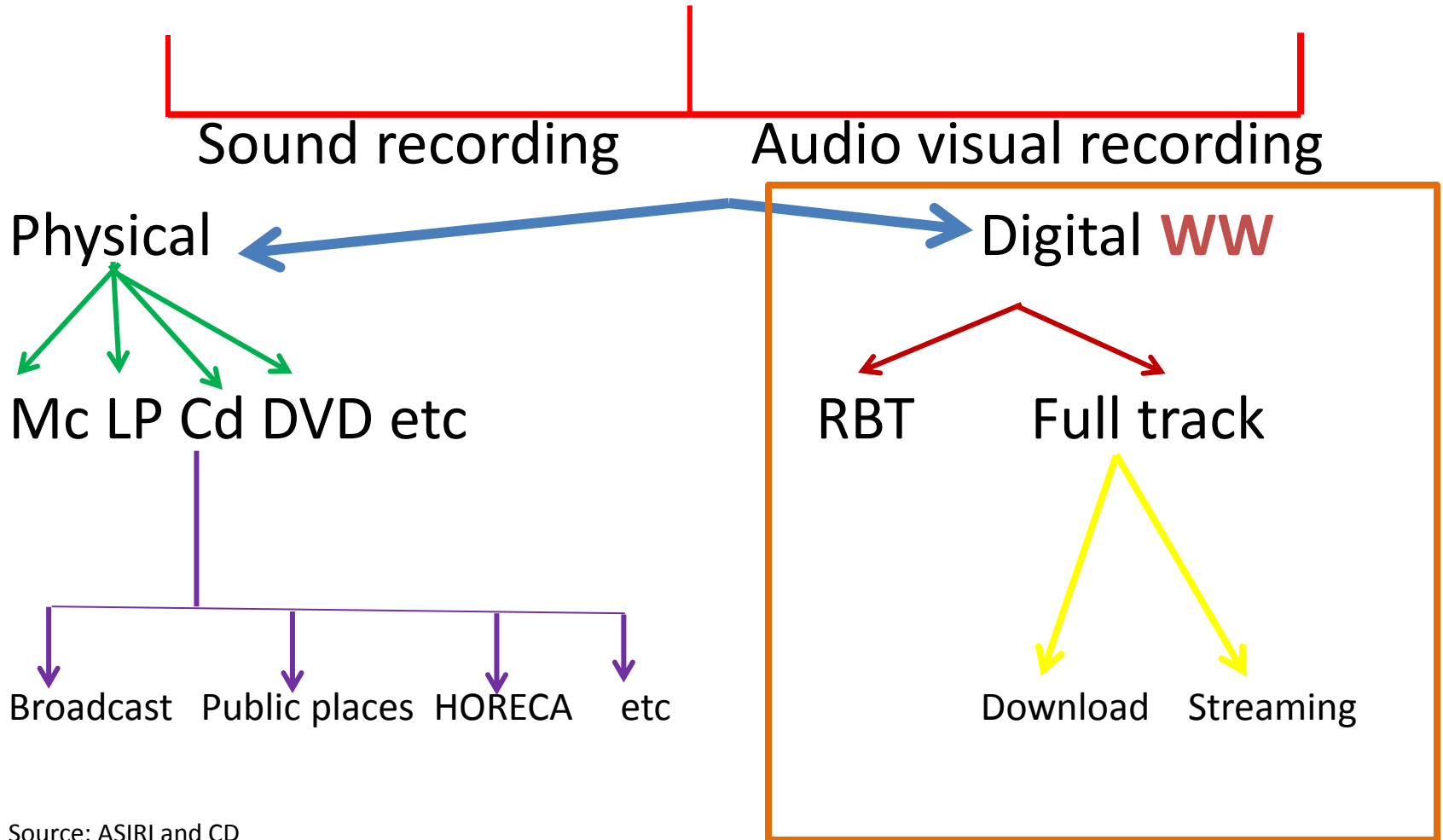
# Study case: music production



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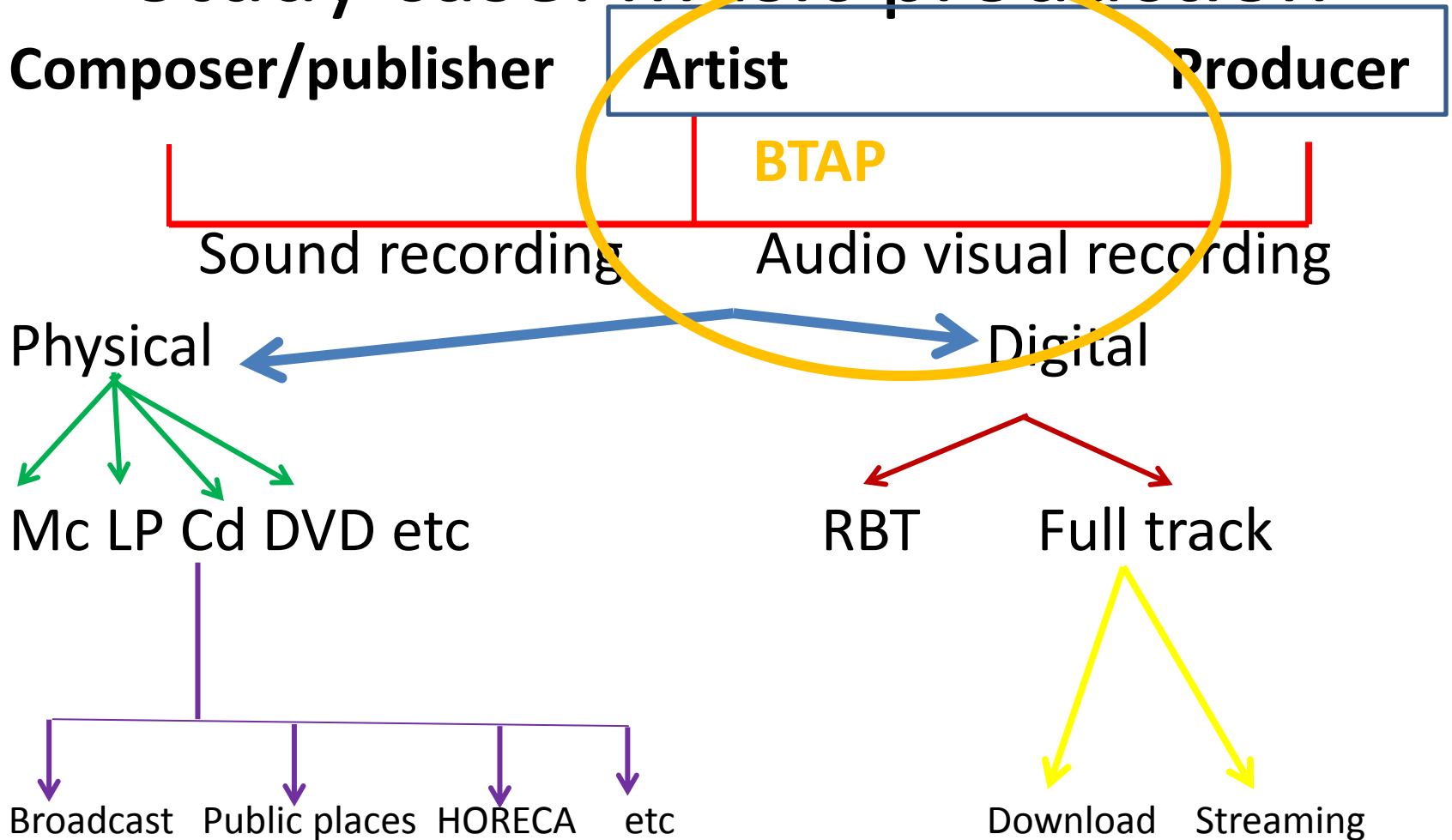
# Study case: music production

**Composer/publisher      Artist      Producer**



Source: ASIRI and CD

# Study case: music production



Source: ASIRI and CD

# Study case: music production

Composer/publisher

Artist **RC**

Producer

**BC**

**BTAP**

**PT**

Sound recording

Audio visual recording

Physical

Digital **WW**

Mc LP Cd DVD etc

RBT

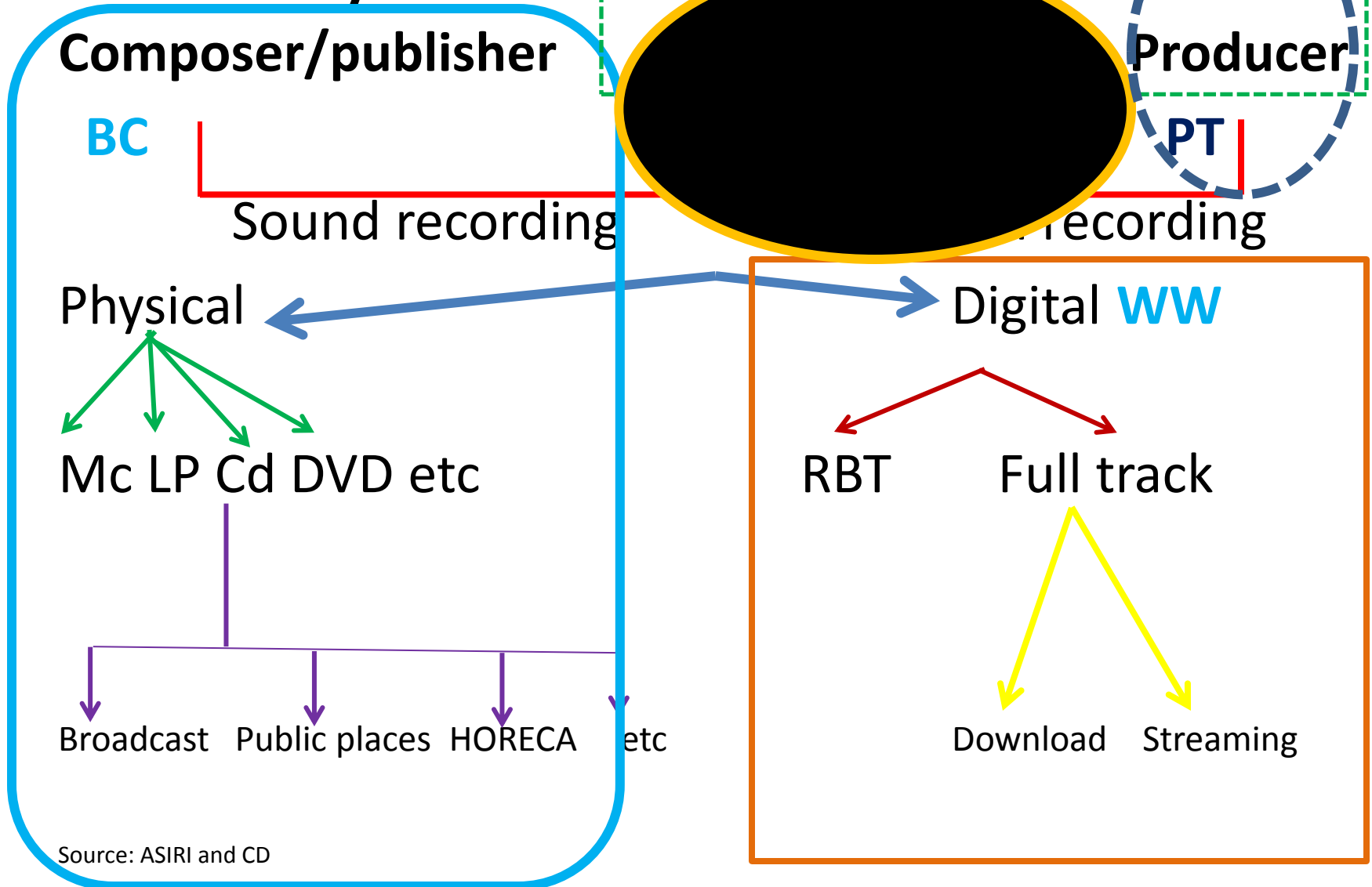
Full track

Broadcast Public places HORECA etc

Download Streaming

Source: ASIRI and CD

# Study case: music production



# Beijing Treaty

- The Beijing Treaty on Audiovisual Performances was adopted on June 24, 2012. It deals with the intellectual property rights of performers in audiovisual performances.

# Marrakesh Treaty

- The Marrakesh Treaty was adopted on June 27, 2013 in Marrakesh and it forms part of the body of international [copyright](#) treaties administered by WIPO. It has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired, and otherwise print disabled (VIPs).

# The Facts

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**285  
million  
VIPs in the  
world**

At least 57  
national laws with  
exceptions

Around 1% to 10%  
of printed materials  
in accessible  
formats

90% of VIPs in  
developing  
countries



# It is not only a matter of Legislation

-  **Trusted Intermediaries**
-  **Enabling Legal Regime**
-  **Development Dimension**
-  **Concerns in the Digital Environment**
-  **Technological Tools**
-  **Standards Interoperability**
-  **Information and Training**



# Structure

## Preamble

1. Relation to other Conventions and Treaty
2. Definitions (works; accessible format copy; authorized entity)
3. Beneficiary Persons
4. **National level**
5. **Cross-border exchange (exportation)**
6. **Importation**
7. Technological Protection Measures
8. Respect for Privacy
9. Cooperation to facilitate exchange
10. Implementation provisions
11. Respect for Copyright provisions
12. Other Limitations and Exceptions

# Definition: Work

- Within the meaning of Article 2.1 Berne\*;
- in the form of text, notation and/or related illustrations  
(Agreed Statement to include Audiobooks);
- Whether published or otherwise made available.

(\*Translation is not included (Agreed statement 4(3))

# Definition: Accessible format copy

- Defined with reference to the functional activities that can be carried out by beneficiaries and refers to “permit[ting] the person to have access as feasibly and comfortably as a person without visual impairment or other print disability”

(e.g. Braille, Daisy, large print);

- Must respect the integrity of the work;
- Used exclusively by the beneficiary person.

# Definition: Authorized entity (1)

- Broad definition that encompasses many non-profit and government entities, whether they are specifically authorized by the government or “recognized” by the government (including through receiving funds) as entities that may provide many functions, but notably education and information provider to VIPs;

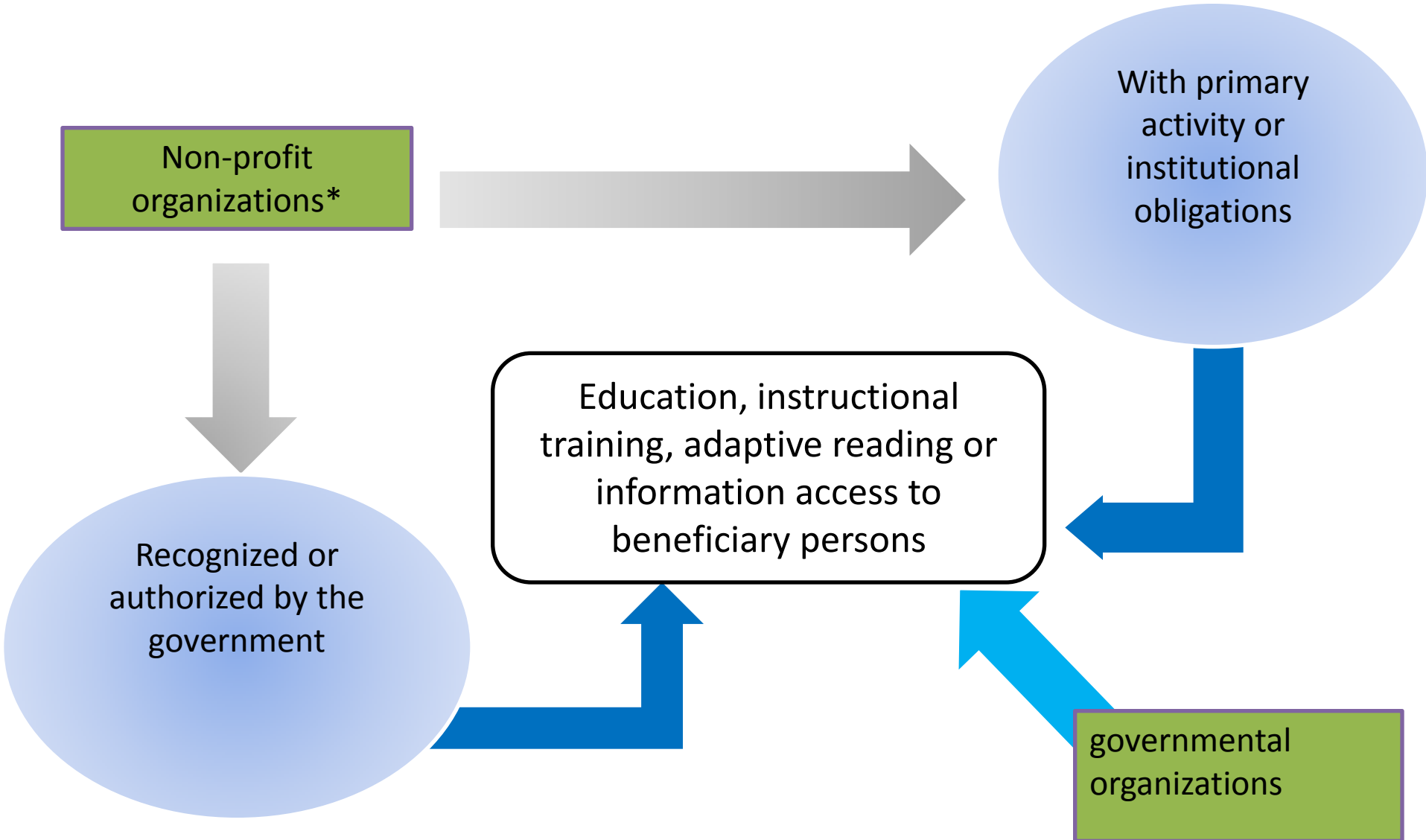
## Definition: Authorized entity (2)

- authorized or recognized by the government;
- on a non-profit basis;
- Serving VIP as “primary activities” or institutional obligations;
- Duties: (1) verify conditions for being a beneficiary; (2) limit distribution to them; (3) discourage unauthorized uses; (4) maintain due care and keep records.

# Authorized Entities: examples



# The Authorized Entities

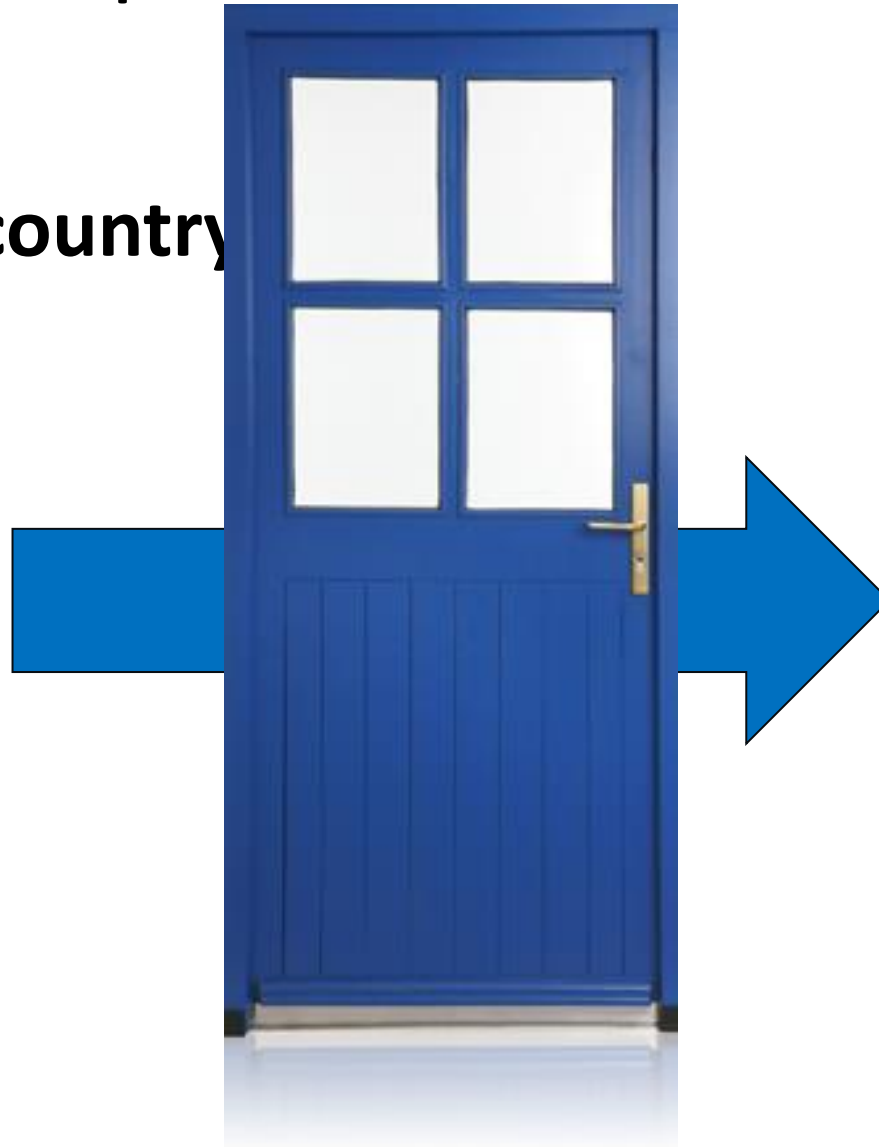




# Cross-border exchange: avoiding duplication of efforts

**Member country  
country B**

**Member**



EXPORT  
IMPORT

# Exportation

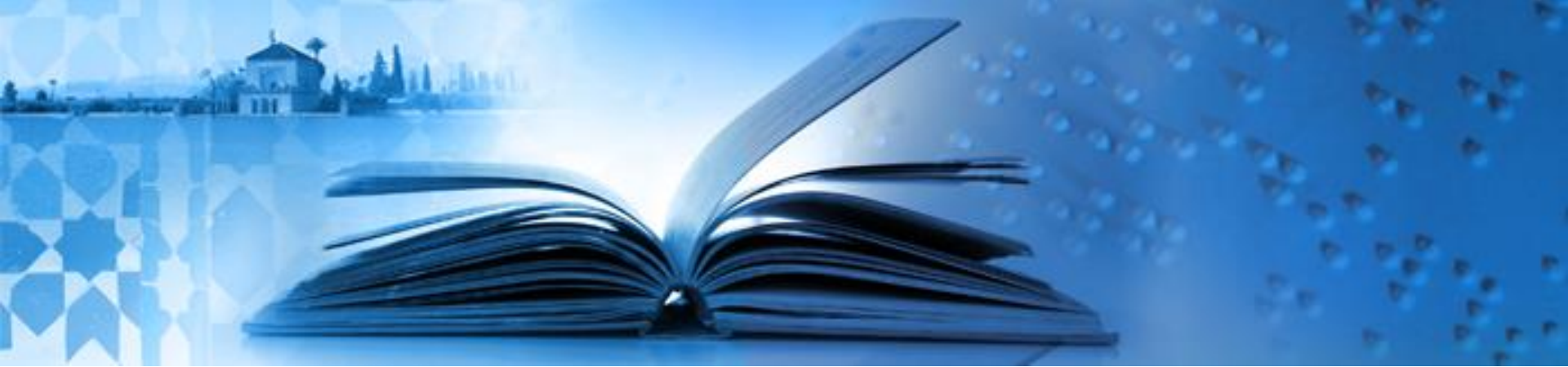
- Distribute or make available accessible formats to other authorized entities in other Member States;
- Distribute or make available accessible formats directly to beneficiary persons;
- “absence of commercial availability” requirement.

# Importation

- Within the scope of limitations and exceptions at the National level (i.e. in cases where beneficiary persons, someone acting on her behalf or an authorized entity can make an accessible copy);
- Mandatory: permit a beneficiary person, someone acting on his/her behalf or an authorized entities to import.

# Cross-border exchange - Conditions

- Both countries are members of the MVT;
- The accessible format copy has been created in accordance with the MVT:
- Exported by an authorized entity;
- Imported by an authorized entity or a beneficiary;
- Further conditions (Article 5.4) may apply.



# MVT Advantages

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- Help end the Book Famine!
- Increase the reach of works in accessible formats to developing countries
- Further the goals of the CRPD

# Enhanced social integration and cultural participation

- Having equal access to common sources of knowledge and information is crucial not only for learning, but also for social inclusion and cultural participation.
- It is equally important that persons with print disabilities in the community have access to entertainment materials, which afford persons with print disabilities the opportunity to fully participate in cultural developments as consumers or as creators

# Accessible Books Consortium (ABC)

- **Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled - 2013**

**Accessible Books Consortium (ABC) was established in June 2014 acts as a complement to the *Marrakesh Treaty***



## What is it?

- A free, global, on-line catalogue of accessible books for libraries serving the print disabled
  - *“A libraries’ library”*
- Over 319,000 books and growing (10 languages)

## How does it help?

**Wide selection of accessible books**

**Major savings in production since  
collections can be supplemented from  
other libraries**

**A ready-made technical platform**

## Statistics

**Operational in 16 countries with 19 participating organizations**

**100,000 accessible books lent to people with print disabilities through participating libraries**

**5,500 digital files of accessible books shared**

# Berne Convention

- The Berne Convention, adopted in 1886, deals with the protection of works and the rights of their authors. It provides creators such as authors, musicians, poets, painters etc. with the means to control how their works are used, by whom, and on what terms. It is based on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries that want to make use of them

# Rome Convention

- The Rome Convention secures protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organizations. WIPO is responsible for the administration of the convention jointly with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

# Geneva Phonograms Treaty 1971

- In the mid-1960s music labels began producing pre-recorded [compact cassettes](#), a technology developed in the late 1950s which offered relatively compact players and space-efficient storage compared to vinyl records. It was also very much cheaper and simpler to make unauthorized copies compared to vinyl records. By the late 1960s copyright infringement and counterfeiting of these recordings had become common, and the music industry lobbied for a new international treaty which would give them additional powers to combat copyright infringement in the form of unauthorized duplication, importation and distribution.

WIPO publication 2009 / Wikipedia

# Brussels

- The Brussels or Satellites Convention provides for the obligation of each Contracting State to take adequate measures to prevent the unauthorized distribution on or from its territory of any programme-carrying signal transmitted by satellite. A distribution is considered unauthorized if it has not been authorized by the organization – typically a broadcasting organization – that decided on the programme's content. The obligation exists in respect of organizations that are nationals of a Contracting State.

# WIPO Copyright Treaty (WCT)

- The WIPO Copyright Treaty (WCT) is a special agreement under the [Berne Convention](#) which deals with the protection of works and the rights of their authors in the digital environment. In addition to the rights recognized by the Berne Convention, they are granted certain economic rights. The Treaty also deals with two subject matters to be protected by [copyright](#):  
(i) computer programs, whatever the mode or form of their expression; and (ii) compilations of data or other material ("databases").



# WIPO Performances and Phonograms Treaty (WPPT)

- The WIPO Performances and Phonograms Treaty (WPPT) deals with the rights of two kinds of beneficiaries, particularly in the digital environment: (i) performers (actors, singers, musicians, etc.); and (ii) producers of phonograms (persons or legal entities that take the initiative and have the responsibility for the fixation of sounds).

SUMMARY TABLE OF MEMBERSHIP OF THE ASEAN COUNTRIES TO THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) AND THE TREATIES ADMINISTERED BY WIPO, PLUS UN, WTO AND UPOV  
Status as of February, 2018

| Countries         | Member |   |   |    |    |    |   |   |    |    |     |     |    |    |    |     |    |    |   |     |      |                  |    |    | U  | MT | BT | AP |     |   |
|-------------------|--------|---|---|----|----|----|---|---|----|----|-----|-----|----|----|----|-----|----|----|---|-----|------|------------------|----|----|----|----|----|----|-----|---|
|                   | W      | P | B | MI | MM | MP | H | N | LI | LO | PCT | IPC | VC | BP | ST | TLT | PH | RO | S | WCT | WPPT | PLT <sup>2</sup> | GH | UN |    |    |    |    | WTO | U |
| Brunei Darussalam | X      | X | X |    |    | X  | X |   |    |    | X   |     |    | X  |    |     |    |    |   | X   | X    |                  |    | X  | X  |    |    |    |     |   |
| Cambodia          | X      | X |   |    |    | X  |   |   | X  |    | X   |     |    |    |    |     |    |    |   |     |      |                  |    |    | X  | X  |    |    |     |   |
| Indonesia         | X      | X | X |    |    | X  |   |   |    |    | X   |     |    |    |    | X   |    |    |   | X   | X    |                  |    | X  | X  |    |    |    |     |   |
| Lao PDR           | X      | X | X |    |    | X  |   |   |    |    | X   |     |    |    |    |     |    |    |   |     |      |                  |    | X  | X  |    |    |    |     |   |
| Malaysia          | X      | X | X |    |    |    |   | X |    |    | X   |     | X  |    |    |     |    |    |   | X   | → X  |                  |    | X  | X  |    |    |    |     |   |
| Myanmar           | X      |   |   |    |    |    |   |   |    |    |     |     |    |    |    |     |    |    |   |     |      |                  |    | X  | X  |    |    |    |     |   |
| Philippines       | X      | X | X |    |    | X  |   |   |    |    | X   |     |    | X  |    |     |    | X  |   | X   | X    |                  |    | X  | X  |    |    |    |     |   |
| Singapore         | X      | X | X |    |    | X  | X | X |    |    | X   |     |    | X  | X  |     |    |    | X | X   | X    |                  | X  | X  | X  | X  | X  | X  | X   | X |
| Thailand          | X      | X | X |    |    | X  |   |   |    |    | X   |     |    |    |    |     |    |    |   |     |      |                  |    | X  | X  |    |    |    |     |   |
| Viet Nam          | X      | X | X |    | X  | X  |   |   |    |    | X   |     |    |    |    |     | X  | X  | X |     |      |                  |    | X  | X  | X  |    |    |     |   |
| → TOTAL:          | 10     | 9 | 8 | 0  | 1  | 8  | 2 | 2 | 1  | 0  | 8   | 0   | 1  | 3  | 1  | 1   | 1  | 2  | 2 | 5   | 5    | 0                | 1  | 10 | 10 | 2  | 1  | 0  | 0   |   |

→ W: WIPO; P: Paris; B: Berne; MI: Madrid (Indications of Source); MM: Madrid (Marks); MP: Madrid Protocol; H: Hague; N: Nice; LI: Lisbon; LO: Locarno; PCT: Patent Cooperation Treaty; IPC: International Patent Classification (Strasbourg); VC: Vienna (Classification); BP: Budapest; ST: Singapore Treaty; TLT: Trademark Law Treaty; PH: Geneva Convention (Phonograms); RO: Rome Convention (Related Rights); S: Brussels Convention (Satellites); WCT: WIPO Copyright Treaty; WPPT: WIPO Performances and Phonograms Treaty; PLT: Patent Law Treaty; GH: Geneva Act of Hague; UN: United Nations; WTO: World Trade Organization; U: UPOV; MT: Marrakesh Treaty; BTAP: Beijing Treaty