

Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (MVT)

Assembly

**Second (2nd Ordinary) Session
Geneva, October 2 to 11, 2017**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/57/1): 1, 2, 3, 4, 5, 6, 10, 12, 27, 30 and 31.
2. The report on the said items, with the exception of item 27, are contained in the General Report (document A/57/12).
3. The report on item 27 is contained in the present document.
4. Mr. Mohamed El Selmi (Tunisia) was elected Chair of the Assembly; Mr. Mark Schaan (Canada) and Mr. Abdelsalam Al Ali (United Arab Emirates) were elected Vice-Chairs.

ITEM 27 OF THE CONSOLIDATED AGENDA

MARRAKESH TREATY

5. Discussions were based on document MVT/A/2/1 Rev. Reference was made to document MVT/A/2/INF/1 Rev.

6. The Secretariat stated that the number of State signatories to the Marrakesh Treaty continued to rise since the Treaty had entered into force in September 2016. Thirty-two Member States had joined the Treaty, and another one was scheduled to join the following week, bringing the total number to 33 Member States. The Secretariat noted that several other Member States had taken concrete steps to join the Treaty in the near future. Given the clear interest demonstrated by Member States, the Secretariat had organized, in the previous year, nine different regional, sub-regional and national level activities designed to promote the Marrakesh Treaty, and it had included the Marrakesh Treaty in several of its other programs. At the national level, the Secretariat had also undertaken a number of initiatives related to legislative and regulatory assistance. Following Article 9 of the Marrakesh Treaty, the Secretariat was taking measures to set up, on the WIPO website, an information access point for the Marrakesh Treaty. According to Article 9.1 of the Marrakesh Treaty, "Contracting Parties shall endeavor to foster the cross-border exchange of accessible format copies by encouraging the voluntary sharing of information to assist authorized entities in identifying one another. The International Bureau of WIPO shall establish an information access point for this purpose." WIPO was creating an information access point, on which according to Article 9.3 "The International Bureau of WIPO is invited to share information, where available, about the functioning of this Treaty". The Secretariat had sent a questionnaire to all the Members of the Marrakesh Assembly, which was designed to collect relevant information, and the results of which would be made available to the public on a special page of the WIPO website. The Secretariat stated that, in the upcoming year, it would be pleased to work with Member States, and to respond to any of their requests for assistance with regard to joining or implementing the Marrakesh Treaty.

7. The Delegation of the Republic of Korea took note of document MVT/A/2/1 Rev. The Delegation was pleased to see that since the previous WIPO General Assembly, more Member States had ratified and acceded to the Marrakesh Treaty. The Treaty has a clear humanitarian and social development dimension, which facilitates access to published works for persons who were blind, visually impaired or otherwise print disabled. The Delegation stated that it was not only a proud member of the Treaty, but was also a strong advocate for its implementation. That year, in its country, the Ministry of Culture, Sports and Tourism had increased its contribution to the WIPO funds-in-trust (FIT), from approximately 469,000 Swiss Francs to 913,000 Swiss Francs, making it the largest copyright-related FIT in WIPO. The trust supported numerous WIPO activities in the area of copyright and related rights, including the Accessible Books Consortium (ABC), which was a major instrument currently employed by WIPO and partner organizations, such as the World Blind Union (WBU) and the Daisy Consortium, for the successful implementation of the Marrakesh Treaty. Through the FIT, the Republic of Korea had recently financed and supported the second phase of the ABC capacity building project in India, which consisted of awareness raising seminars, production of books in accessible formats, and publisher and end-user trainings. These activities, which were distributed across three different Indian States, namely, Uttar Pradesh, Punjab, and Rajasthan, made books accessible to persons with print disabilities and provided reading devices for end users. During that project, other stakeholders were given training sessions on conversion of books into accessible formats. The country had joined the ABC Global Book Service on September 30, 2016, and had been sharing its catalogue and collection of books in accessible formats with other members using that service. The Delegation believed that the Marrakesh Treaty and its successful implementation could potentially enrich the lives of millions of visually impaired

persons around the world, and encouraged Member States that had not yet joined the Treaty to participate.

8. The Delegation of Ecuador stated that it was one of the initial advocates of the Marrakesh Treaty, and in April 2016, in order to ensure that more than 287,000 visually impaired or otherwise print-disabled Ecuadorians could benefit, it had ratified the Treaty. At the national level, the Delegation had initiated public policies and had united its efforts with various actors in the public and private sectors in order to overcome the barriers present in access to knowledge, education and information. Like many WIPO Member States, the legislation of Ecuador had exceptions and limitations for the visually impaired. The Delegation stated that what was more critical in those discussions was the issue of cross-border exchange of works in accessible formats, which would guarantee genuine access to the widest range of content for the visually impaired. There was a need to move from theory to practice, and a need to implement the Marrakesh Treaty. The Delegation was pleased to see an increasing number of members to the Marrakesh Treaty and welcomed the new Treaty members, who would make it possible to have even more works in accessible formats available. The Delegation stated that the reach of the Treaty was limited by a number of challenges, and recognized the usefulness of the WIPO activities that had been carried out in the different regions. The Delegation reiterated its interest in organizing such activities and events in its country.

9. The Delegation of Canada stated that having reached the critical milestone of 20 ratifications and accessions in September 2016, it had witnessed the entry into force of the Marrakesh Treaty, and welcomed the new ratifications and accessions. The Assembly offered the opportunity to work collaboratively, and to ensure that the membership of the Treaty, and the network of cross-border exchange, would continue to expand. The Delegation urged the members of the Assembly to continue to raise awareness about the Treaty, both at WIPO and in other settings. The Delegation stated that in February 2017, at the 44th meeting of the Asia Pacific Economic Cooperation (APEC), in the intellectual property rights expert group, it had signaled its hope that that forum would be a further opportunity for Marrakesh Treaty members, or prospective members, to share experiences on the implementation of the Treaty, or issues that could help expand its membership and promote the benefits of its adoption. In April 2017, national representatives had participated in WBU's workshop on the Marrakesh Treaty in Toronto and had, together with Canadian National Institute for the Blind (CNIB), explained Canada's implementation approach, and shared Canada's experiences in the interest of supporting ratification, accession and implementation efforts in other countries. The Delegation would endeavor to continue its efforts to raise awareness.

10. The Delegation of Brazil underlined the Director General's statement from the first Marrakesh Assembly that in the long history of WIPO, the Marrakesh Treaty was one of its greatest successes. The Delegation was encouraged that the number of signatories to the Treaty had continued to grow. As one of the original sponsors of the Treaty, alongside the Delegations of Ecuador and Paraguay, it was proud to have participated in the negotiations that led to its successful entry into force. The Marrakesh Treaty was a balanced instrument, responding to the specific needs of persons with visual disabilities without weakening copyright. The Delegation believed that the Treaty contributed to the strengthening and legitimacy of the system. Member States had to ensure that the Treaty's implementation was effective and WIPO had to stand ready to give technical assistance to its Member States, in accordance with the provisions of the Treaty and the recommendations of the Development Agenda (DA). The Delegation urged Member States to provide financial support and to implement the legal framework that would support authorized entities in carrying out cross-border exchanges of works in accessible formats. The Delegation was looking forward to fully collaborating with other Portuguese speaking countries in that initiative. The Delegation noted that, in document MVT/A/2/1 Rev., not enough information was provided on the Treaty's promotion. Paragraph five only had a perfunctory list of cities that held Marrakesh Treaty related events, without data on the number of participants or whether the event had been national, regional and

so on. The document mentioned that the Marrakesh Treaty had been included “in a number of other programs and activities,” but did not provide further details. The Delegation thanked the Secretariat for the additional information it had just provided, and requested further clarification about the efforts carried out in support of the Treaty, thus assisting Member States to evaluate additional actions that might be needed. The Delegation reiterated that the Marrakesh Treaty was one of the great success stories in WIPO’s history.

11. The Delegation of the United States of America expressed great pleasure that the Marrakesh Treaty had entered into force in September 2016, and that, as of the upcoming week, 33 countries would have ratified or acceded to the Treaty. The Delegation congratulated the Member States and the Secretariat for their tireless efforts that had led to the entry into force of that landmark agreement. The Delegation noted with approval, the continuing activities of the Secretariat to promote membership to the Treaty, and the efforts to assist Member States in its implementation. The Delegation reiterated that the Marrakesh Treaty held the potential to open up a world of knowledge to a population that was too often shut off from it.

12. The Delegation of Botswana was delighted to observe the growing number of Member States becoming party to the Marrakesh Treaty, and welcomed all new members. The Delegation was grateful for the support that it had received from the Secretariat in the implementation of a capacity building project to convert printed materials into accessible formats under the ABC. Through that project, close to 40 Botswanans had been trained on how to use modern technology to convert books, news, information publication materials, government policy documents, and laws into accessible formats for print disabled persons in Botswana. The Delegation stated that students would be provided with tools that would enable them to read books that were accessible, thus easing their experience as learners in public schools. The implementation process of the Treaty had involved consultation with various stakeholders, and that project had served as the immediate proof to people and policy makers that the Marrakesh Treaty could be immediately applied to solve real-life challenges. The Delegation encouraged other countries to join the Treaty, so as to facilitate cross-border exchange of accessible format copies. The Delegation called for the Secretariat to provide support to countries such as its own, to domesticate and implement the Treaty.

13. The Delegation of Kenya stated that it had recently joined the Marrakesh Treaty and looked forward to formally implementing it. The Delegation looked forward to cooperating with other Member States, and commended the efforts of the Republic of Korea in supporting countries in the process of ratifying, acceding to and fully implementing the Treaty. There was need for support from each other and from the Secretariat, to ensure that stakeholders, authorized entities and other organizations were able to benefit from the Treaty.

14. The Representative of Knowledge Ecology International (KEI) stated that the Marrakesh Treaty was the first Treaty administered by WIPO that focused on user rights, and the first Treaty by WIPO that focused on the human right to participate in the cultural life of the community. The text of the Treaty provided a strong legal and political basis for copyright exceptions for persons with disabilities. The Treaty would vastly expand access to works, particularly among persons who share a common language such as Arabic, English, French and Spanish, as well as persons who read multiple languages or persons living in other countries with different languages. The Representative welcomed the report from the Secretariat, noting that 32 Member States had ratified or acceded to the Treaty. In the report discussing the Marrakesh Treaty, the Secretariat noted that since September 2016, WIPO had organized nine national, regional and interregional events, for the promotion of the Treaty. The Representative requested that the Secretariat provide interested persons further details on the briefings, including copies of all power point presentations and briefing documents. The Representative commended the ABC Global Book Service for modifying the procedures to take into account the entry into force of the Marrakesh Treaty in September 2016. As the status report noted, “prior to the entry into force of the Marrakesh Treaty, the cross-border exchange of

accessible books could only occur with the authorization of the copyright owner, we note that now exchanges under the ABC service can occur without such authorization being obtained.” The Secretariat report noted that ABC would advise participating libraries on the implementation of commercial availability requirements. The Representative suggested that the Secretariat provide details on what that advice would be, particularly since very few countries had commercial availability requirements in their national laws, and requested that the Secretariat consult with the technical experts from the print disability communities.

15. The Representative of the International Federation of Library Associations and Institutions (IFLA) stated that the deposit of Nigeria’s ratification instrument earlier that week, as well as the publication of the European Union legislation the previous month, were reasons for celebration. The Representative stated that every new ratification exponentially increased the possibilities for the exchange of accessible format works. That moved the situation closer to the Treaty’s objective: equal access to knowledge and culture for all, with a print disability or otherwise. The Representative applauded those countries that had made the ratification of the Treaty a priority in their legislative agenda. The Representative applauded the ABC Global Book Service’s practical work in making the cross-border exchange of accessible format works a reality. The Representative stated that not all ratifications were equal. For libraries, as institutions dedicated to providing access to Treaty beneficiaries, experience showed that there was a need for vigilance. Every new ratification that maintained or introduced barriers to access represented a disappointment for those who believed that the Marrakesh Treaty would make a real difference. Too often, the issue of piracy was raised as a reason for imposing disproportionate and unreasonable bureaucracy on authorized entities, but there was no evidence of piracy happening to any significant degree. Similarly, there were warnings that the Marrakesh Treaty was just the first step towards the deconstruction of the whole copyright system. But for libraries, the focus was not on precedent, but rather on the potential to offer and bring equal access to some of the most vulnerable. There was no ulterior motive – that was just another ghost story. But while the evidence for such claims was imaginary, the consequences were not. They imposed real costs, in terms of money that could otherwise go to providing services, real costs, in terms of the time taken to comply with conditions, real costs, in terms of requests for exchange refused because it was impossible to be sure if a copy really was commercially unavailable, real costs, in terms of the inability to take part in the ABC Global Book Service, or other services such as Bookshare, which were incompatible with barriers that some had sought to introduce. The Representative stated that there was a clear practical need, the result of a serious market failure, and as such, a golden opportunity to respond. Rather than listening to ghost stories, there was a need to act and seize the opportunity the Marrakesh Treaty offered to eliminate the causes of market failure. The Representative hoped that by the 2018 Marrakesh Assembly, there would be cause for celebration.

16. The Marrakesh Treaty Assembly took note of the “Status of the Marrakesh Treaty” (document MVT/A/2/1 Rev.).

17. The Director General was pleased to report that it was now three years since the launch of the ABC, and that the ABC had had another excellent year. Since its commencement three years ago, the ABC had funded 3,950 accessible educational titles, in the national languages of seven countries in which it had had projects. Additionally, in October 2017, 25 libraries for the blind were participating in the ABC Global Book Service, which was an international library-to-library catalogue that allowed libraries to augment their own collection of accessible books. The Director General wished to show a brief video that was produced by the Secretariat, about an ABC project in Argentina. The Director General stated that this was the first project established in Latin America, and as the delegations were aware, Latin America was participating in the Marrakesh Treaty in a very strong manner with 12 out of the 19 countries in Latin America being party to the Marrakesh Treaty. The project in Argentina was a project that the Secretariat had undertaken with Tiflonexos, a non-governmental organization in Argentina.

Through that project, by the end of 2017, Tiflonexos would be able to produce 800 accessible educational books in Spanish, for students between the ages of 6 and 18. The Director General stated that this was a strong message from the region and that this was a very successful project from Latin America. The video was similar to a video about a project in India shown a year ago.

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