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

### **Assembly**

**Third (3<sup>rd</sup> Ordinary) Session  
Geneva, September 24 to October 2, 2018**

### **REPORT**

*adopted by the Assembly*

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/58/1): 1, 2, 4, 5, 6, 11(ii), 12, 26, 29 and 30.
2. The reports on the said items, with the exception of item 26, are contained in the General Report (document A/58/11).
3. The report on item 26 is contained in the present document.
4. Mr. Mohamed El Selmi (Tunisia), Chair of the Assembly, presided over the meeting.

## ITEM 26 OF THE CONSOLIDATED AGENDA

## MARRAKESH TREATY

5. Discussions were based on document MVT/A/3/1 Rev. Reference was made to document MVT/A/3/INF/1 Rev.

6. The Secretariat stated that the number of contracting parties to the Marrakesh Treaty continued to rise since the Treaty had entered into force in September 2016. Forty-one Member States had joined the Treaty, and several other Member States were taking active steps toward joining it. Responding to the strong interest expressed by Member States, over the previous year the Secretariat had organized 11 national, sub-regional, regional and inter-regional events all over the world for the promotion of the Marrakesh Treaty. That had been done in coordination with the World Blind Union (WBU) and many local and regional stakeholders. The Secretariat had also established the information access point on the WIPO website in accordance with Article 9 of the Marrakesh Treaty. The access point was designed to provide information about the implementation of the Marrakesh Treaty and to encourage the voluntary sharing of information among Member States in order to facilitate cross-border sharing of accessible works.

7. The Delegation of Botswana commended the growing number of contracting parties to the Marrakesh Treaty. The Delegation highlighted that the Treaty enabled a smooth collaboration with publishers to make basic educational materials accessible. The Delegation thanked WIPO for supporting the project through which 40 Botswanans were trained to use modern technologies to convert published works into accessible formats. The project, which was concluded in August 2018, resulted in 30 educational books being converted, loaded in 185 DAISY readers, and presented to learners in primary and secondary schools. The Delegation expressed gratitude for the support extended by the Government of the Republic of Korea through WIPO for another project to convert books into accessible formats for learners in public schools. That project was implemented by the Botswana Association of the Blind and Partially Sighted and its objective was to convert 60 educational books for learners in public schools into accessible formats. These projects indicated that domestication and implementation of the Treaty produced numerous tangible ways to address real-life problems and demonstrated that a balanced copyright system was equally beneficial for all parties.

8. The Delegation of Canada thanked the Chair, Vice-Chairs and members of the Assembly. The Delegation noted the anniversary of the coming into force of the Marrakesh Treaty and acknowledged the growth in the cross-border exchange networks since that date. The anticipated ratification of the Treaty by the European Union, the United States of America and other countries, and its subsequent implementation, would expand the cross-border exchange network and make available a variety of materials in accessible formats. The Canadian National Institute for the Blind had provided nearly 22,000 titles to the Accessible Books Consortium (ABC) catalogue and the Centre for Equitable Library Access had been one of the top three users of the ABC Global Book Service over the past few years. The number of titles in the ABC continued to grow, with 361,000 titles in the catalogue. In 2018, the National Library Archive of Quebec joined and it was now in the process of integrating over 20,000 additional accessible titles in French into the Global Book Service. The Delegation referred to the information access point for the Marrakesh Treaty on the WIPO website and the questionnaire circulated by the Secretariat in 2017, and encouraged all Member States of the Marrakesh Treaty to respond to the questionnaire. The Delegation highlighted that in Canadian law there was no specific list of authorized entities and the term 'non-profit organization' had been defined broadly with domestic import and export exceptions, as well as the exception for circumvention of technological protection measures, which was available to any non-profit organization that acted for the benefit of persons with a print disability. The Delegation encouraged non-profit organizations within Canada that were engaged in the production and

provision of accessible format materials to share with WIPO their contact information as well as information concerning the number of accessible titles in their collections and the languages covered.

9. The Delegation of Mexico stated that approximately 4 million people in their country were visually handicapped as per their national census. The Delegation stated that considerable progress had been made towards implementing the Treaty, in particular the mechanisms for the inclusion of persons with visual disabilities. The National Copyright Institute in Mexico together with civil society had been working on a mechanism through which it would be possible to fully implement the various provisions of the Marrakesh Treaty. The Delegation referred to the modifications made to Article 148 of the national copyright law, with its constitutionality confirmed by the Mexican Supreme Court. The Delegation stated that the works made available in accessible formats were available for use by people with disabilities without remuneration, though the source had to be cited and there was no right to alter the content. In this way, Mexico wanted to guarantee that individuals who had any kind of disability preventing them from having access to a work in its original format would have access to it in a format that was accessible to them and that was appropriate for the various types of disability that were present in Mexico. The Delegation reported that Mexico was in the process of accrediting authorized entities and was going through a self-regulation procedure, under which universities and other bodies had to demonstrate that they were complying with the applicable requirements for their authorized entity status to be recognized. Furthermore, those requirements were going to be published so that everyone would know what they were and so that the mechanism of self-regulation for the identification and registration of authorized entities in Mexico would be known.

10. The Delegation of Australia welcomed the increasing number of ratifications and accessions to the Marrakesh Treaty. As a result of the accession of Australia to the Marrakesh Treaty, the non-profit organization, Vision Australia, had been able to import almost 2,000 accessible titles, generating over 30,000 loans for people who were blind, visually impaired or otherwise print disabled. The Delegation encouraged all Member States to ratify and implement the Marrakesh Treaty, so that people around the globe could fully enjoy its benefits, particularly the cross-border exchange of accessible format books.

11. The Delegation of the Russian Federation stated that the Marrakesh Treaty was extremely significant. The Russian Federation had taken all the necessary steps to ensure that the Treaty was widely applied in its territory. In 2018, the Russian Federation had adopted the necessary legal provisions to become party to the Marrakesh Treaty. The Treaty was extremely important not only from the point of view of its social and humanitarian impact, but also as a legal provision for helping to tackle the problem of exclusion, one which the Delegation had been working on very hard over the last couple of years. The Treaty clearly reflected flexibilities in the area of intellectual property and had found a good balance between the rights of rightsholders and specific categories of the population. As the Russian Federation had a very rich literary tradition, access to this literary tradition for people with visual impairment or a print disability was important as it enabled those people to fully participate in the cultural and social life of the country. As the key issue was cross-border exchange of works in accessible formats, the Russian Federation was ready to cooperate actively with other countries for the benefit of all those who needed assistance through the Marrakesh Treaty and to spread knowledge about the Treaty.

12. The Delegation of Brazil stated that the Marrakesh Treaty was one of the great successes of WIPO in its history of more than 130 years. As one of the original sponsors of the Treaty, alongside the Delegations of Ecuador and Paraguay, the Delegation was very proud to have participated in the negotiations that led to the successful adoption of the Marrakesh Treaty. The Treaty responded to the specific needs of persons with visual disabilities and demonstrated that a balanced treaty which fully respected the protection of copyrighted works could ensure that

exceptions and limitations benefitted their intended beneficiaries. The expeditious ratifications were indicative of the fact that the Treaty responded to the needs of the international community. The upcoming ratification of the European Union would add a significant number of countries where many different languages are spoken, creating additional opportunities for international cooperation. WIPO and its Member States had the challenge and the responsibility to ensure that the implementation of the Treaty ran smoothly. Member States needed to be ready to give technical assistance in accordance with the provisions of the Treaty and the recommendations of the Development Agenda. The Delegation urged Member States to provide financial resources and the legal framework to support authorized entities in carrying out cross-border exchanges of works in accessible formats. The ABC was a concrete answer from WIPO to the book famine, and was an admirable initiative to facilitate access to books that contributed to increased quality education. In Brazil, initiatives by WIPO worked collaboratively with national programs and the Dorina Nowill Foundation to bring more works to visually impaired persons. The Foundation distributed adapted books free of charge to more than 2800 schools, libraries and organizations dedicated to visually impaired persons in Brazil. Over the course of decades, the Foundation had adapted more than 1,000 different books in Braille, 2700 in audiobooks, and 900 in accessible digital formats such as DAISY. The Benjamin Constant Institute, supported by the Brazilian Ministry of Education, was also active in the provision of adapted books to visually impaired persons. In 2017 alone, the Institute adapted 180 works, distributing 48,000 copies of those works to visually impaired persons. These and other initiatives offered opportunities for international cooperation, especially with Portuguese speaking countries, which would lead to additional ratifications of the Treaty. In this light, the Marrakesh Treaty Assembly was an opportunity for delegations to share their national experiences and ensure that the Treaty brought about positive effects for beneficiaries. The Delegation thanked the Secretariat for the information on the 11 events that had taken place in the year since the previous WIPO General Assembly and indicated that it would appreciate additional information on events in the documents prepared for the next session of the Marrakesh Assembly.

13. The Delegation of Uganda was pleased to have been the thirty-eighth country to deposit its ratification instrument for the Marrakesh Treaty, which entered into force in Uganda on July 23, 2018. The Delegation stated that it had commenced the Treaty implementation process and that in partnership with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Uganda was developing an implementation strategy including a communication plan for the Treaty. As a result of those plans, plus other initiatives, the Delegation hoped to remove all the legal hurdles that impeded accessibility of material for visually impaired persons.

14. The Delegation of the United Arab Emirates was pleased to announce that it was currently working with the ABC to establish a capacity building project in its country. The aim of that project was to provide training for publishers in the region on the production of books in accessible formats. The publishers produced children's books in Arabic for use by students who were blind, visually impaired or otherwise print disabled. The United Arab Emirates had joined the Marrakesh Treaty in October 2014.

15. The Delegation of El Salvador, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), stated that it attached great importance to the Marrakesh Treaty. Of the 20 countries that had been needed to accede to or ratify the Treaty for it to come into force, nine of them came from the Latin America region. Other members of GRULAC were going through the steps required for ratification or accession. As Article 13 of the Treaty stated, one of the major functions of the Assembly was to deal with questions related to the upkeep and promotion of the Treaty. From the report, the Delegation was happy to see that the Secretariat was doing a lot of work to promote the Treaty and support Member States through legislative assistance. Over the previous 12 months, 11 activities had been carried out to promote the

Treaty, and two of those events took place in the GRULAC region. The Delegation thanked the Secretariat for its effort.

16. The Delegation of the Republic of Korea expressed its gratitude to the Secretariat for the preparation of the document. The Marrakesh Treaty corresponded to the view of the Delegation that the system of copyright and related rights should aim for a balance between protection and use. The Delegation was pleased to hear that 41 Member States had joined the Treaty. The Republic of Korea was party to the Marrakesh Treaty and actively supported the implementation of the Treaty. The Delegation extended its appreciation to both the WIPO Secretariat and the Delegation of Botswana for their excellent achievement in the ABC project over the past 12 months, and looked forward to further implementing the project in cooperation with WIPO through the Korea Funds-in-Trust. The Delegation requested the support of the Member States for that project, as well as active participation by additional Member States to become party to the Treaty in the near future.

17. The Delegation of the United States of America congratulated the countries that had joined the Treaty in the past year and reiterated that the United States House of Representatives had passed the legislation implementing the Marrakesh Treaty by unanimous consent. That step would enable the United States of America to ratify the Treaty in the near future.

18. The Delegation of Japan stated that in the month of April 2018 Japan had agreed to accede to the Marrakesh Treaty, owing to the fact that the number of contracting parties to the Treaty had steadily increased, and that Japan would be depositing the instrument on October 1, 2018. The Delegation emphasized the importance of the Treaty for access to published works for the blind, visually impaired and otherwise print disabled and hoped that more Member States would become party to the Marrakesh Treaty to further facilitate the cross-border exchange network under the Treaty.

19. The Representative of the International Federation of Library Associations and Institutions (IFLA) underscored the fast-paced growth of the Marrakesh Treaty, which was the quickest WIPO copyright instrument with realistic possibilities for universal coverage to enter into force in the past 40 years. Becoming party to the Treaty had been identified as an essential part of delivering equitable access. The Treaty demonstrated the benefits of multilateralism and dealt with market failures while it ensured fulfilment of human rights. To maximize the possibilities for beneficiaries and authorized entities becoming party to the Treaty needed to be followed by implementing legislation. Hence, the Representative invited an analysis of the impact of the reservations permitted in Articles 4(4) and 4(5) of the Treaty. The Representative emphasized the need for investment and support for beneficiaries and the institutions that served them, and remarked on the need for an increase in the number of institutions, libraries in particular, offering access to beneficiaries. The Representative highlighted IFLA's work with the WBU to develop a guide aimed at building confidence and understanding among libraries. The guide rejected the approach of obligations on authorized entities to register formally, and noted that this rejection was consistent with the Treaty. The Representative encouraged the ABC Global Book Service, and other efforts that promoted born-accessible publishing, such as the Australian Inclusive Publishing Initiative, and implored Member States to achieve universal legal coverage to ensure universal impact.

20. The Assembly of the Marrakesh Treaty took note of the "Status of the Marrakesh Treaty" (document MVT/A/3/1 Rev.).

21. The Director General referred to document MVT/A/3/INF/1 Rev. on the activities of the ABC. The Director General commented on the general awareness about the ABC, a public-private partnership in which all relevant parties are grouped in the value chain of production and consumption of books in accessible formats. Several delegations, in particular,

the Delegations of Brazil, Botswana, and Canada, had already commented on it. He explained that the value chain was constituted by authors, publishers and distributors (such as libraries and other authorized entities), non-governmental organizations of certain descriptions (such as the WBU or, in the case of Canada, for example, the Canadian National Institute for the Blind (CNIB)), and various technical organizations associated with the technologies of accessibility (such as the DAISY Consortium). Each party in the value chain was represented on the ABC Board. He described ABC's three major functions as the ABC Global Book Service, capacity-building activities, and activities related to the encouragement of inclusive publishing. Briefly commenting on the Global Book Service, the Director General explained that it was an online catalogue that made available information and data concerning the existence of books in accessible formats throughout the world, with a search option for the catalogue and the option to request a book listed in the catalogue. The Director General indicated the growth of the Service in terms of size and use. Forty-three authorized entities had joined the Service, which included four authorized entities from Latin America, and the size of the Service had increased by 72 per cent in the previous 12 months. By September 2018, a cumulative total of 233,000 accessible format copies of titles had been downloaded from the Service and made available to blind and visually impaired persons throughout the world through the authorized entities. This was an increase of 41 per cent from the previous year. With the European Union joining the Treaty, over 270,000 titles would become available for cross-border exchange without any rights authorization, in other words, taking advantage of the permissions under the Treaty. Capacity-building activities included projects that were under way and had been established in 12 countries to provide training and technical assistance in the latest accessible book production techniques. Those 12 countries were Argentina, Bangladesh, Botswana, Burkina Faso, India, Indonesia, Mexico, Mongolia, Nepal, Sri Lanka, Uruguay and Viet Nam. The Director General acknowledged the generous contribution to the capacity building activities of the ABC from the Government of Australia, in particular for the production of accessible educational materials. Over 5,000 accessible educational materials for students at all levels had been produced in national languages that related to education or educational titles in those 12 countries since the launch of the ABC. For inclusive publishing, the idea was to encourage publishers to include accessibility from the outset, in other words, to adopt what was called "born accessible" practices. Leadership and achievements in advancing the accessibility of digital publications were recognized by sponsoring the ABC International Excellence Award for Accessible Publishing each year, with the decision on the award made by a jury of international accessibility experts. The 2018 winners were Hachette France and the DAISY Forum of India. WIPO received a record number of nominations for the awards in 2018, from 11 countries across four continents. The Director General expressed appreciation to everyone associated with ABC and described it as a great partnership taking advantage of the structure, facilities, and permissions that were established by the Marrakesh Treaty.

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