

**Marrakesh Treaty to Facilitate Access
to Published Works for Persons Who
Are Blind, Visually Impaired, or
Otherwise Print Disabled
(MVT or Marrakesh VIP Treaty, 2013)**

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The Facts



The infographic features a central blue circle with white text, surrounded by a light blue ring. To the right of the ring is a small blue circle. Three rectangular boxes with blue borders are stacked vertically on the right side of the page, each containing a fact. The overall design is clean and professional, using a blue and white color scheme.

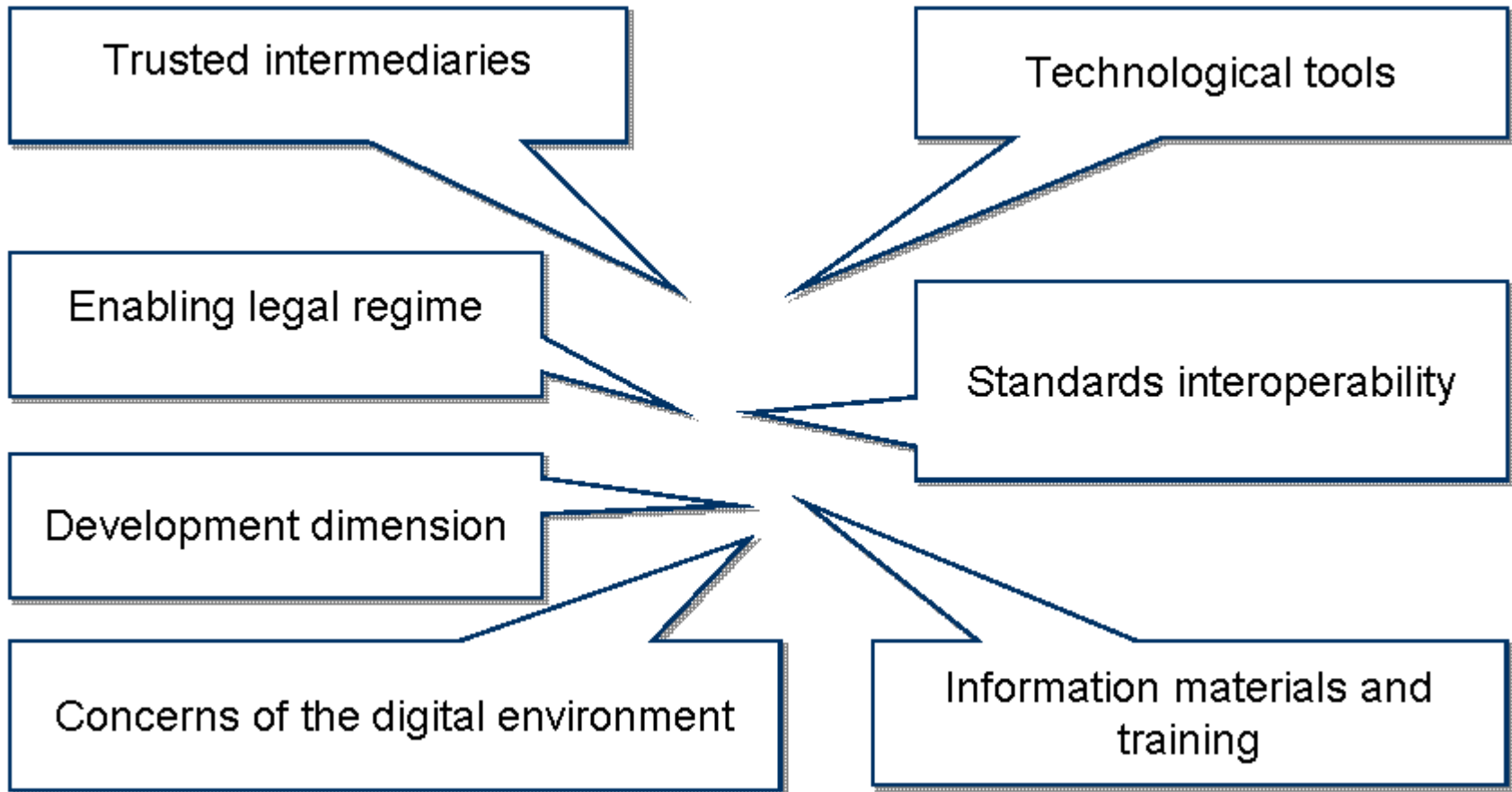
**285
million
VIPs in the
world**

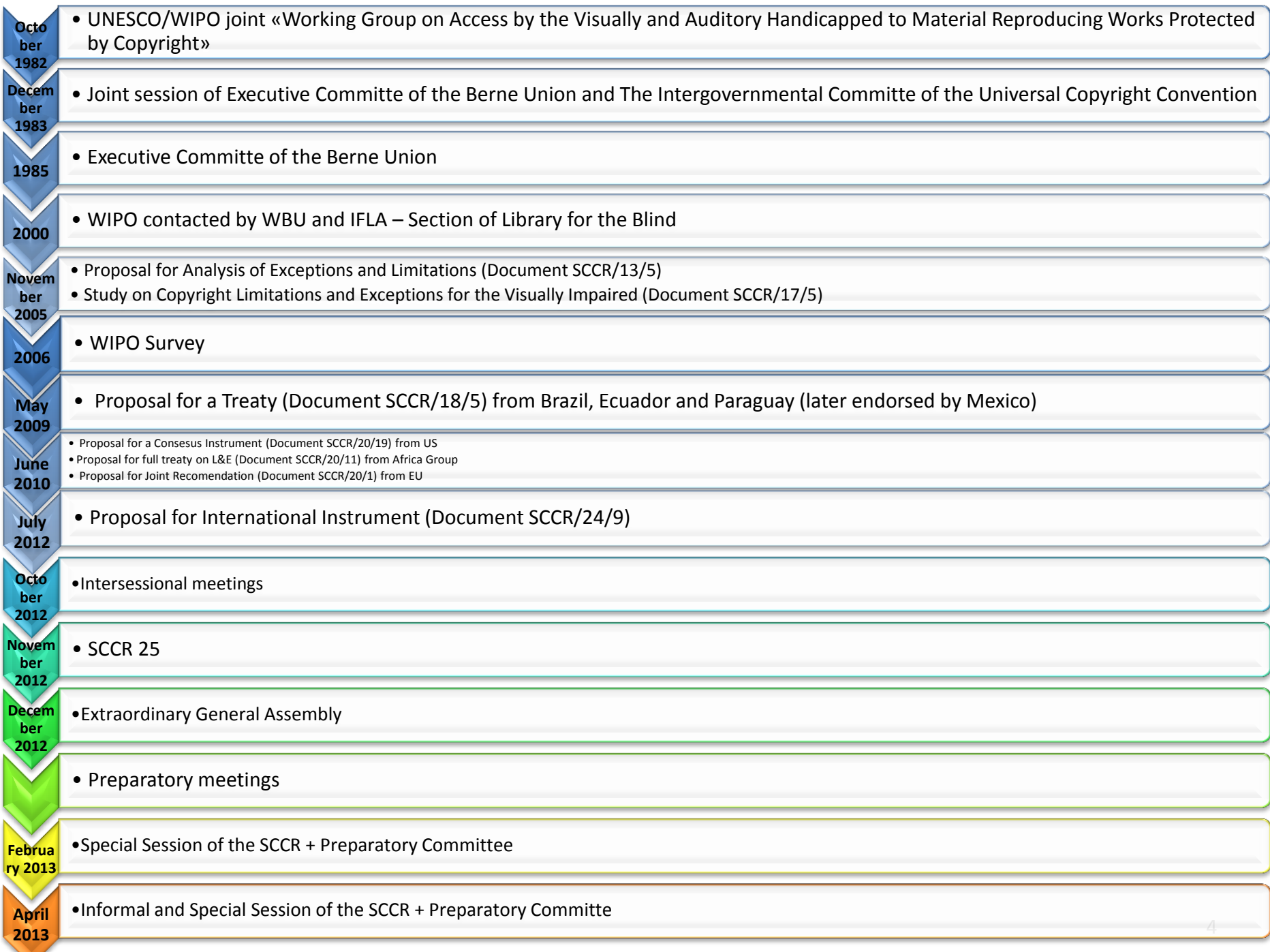
At least 57
national laws with
exceptions

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

90% of VIPs in
developing
countries

It's not only a matter of legislation!





October
1982

- UNESCO/WIPO joint «Working Group on Access by the Visually and Auditory Handicapped to Material Reproducing Works Protected by Copyright»

December
1983

- Joint session of Executive Committee of the Berne Union and The Intergovernmental Committee of the Universal Copyright Convention

1985

- Executive Committee of the Berne Union

2000

- WIPO contacted by WBU and IFLA – Section of Library for the Blind

November
2005

- Proposal for Analysis of Exceptions and Limitations (Document SCCR/13/5)
- Study on Copyright Limitations and Exceptions for the Visually Impaired (Document SCCR/17/5)

2006

- WIPO Survey

May
2009

- Proposal for a Treaty (Document SCCR/18/5) from Brazil, Ecuador and Paraguay (later endorsed by Mexico)

June
2010

- Proposal for a Consensus Instrument (Document SCCR/20/19) from US
- Proposal for full treaty on L&E (Document SCCR/20/11) from Africa Group
- Proposal for Joint Recommendation (Document SCCR/20/1) from EU

July
2012

- Proposal for International Instrument (Document SCCR/24/9)

October
2012

- Intersessional meetings

November
2012

- SCCR 25

December
2012

- Extraordinary General Assembly

Preparatory meetings

- Preparatory meetings

February
2013

- Special Session of the SCCR + Preparatory Committee

April
2013

- Informal and Special Session of the SCCR + Preparatory Committee



Diplomatic Conference to conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities

Marrakesh, June 17 to 28, 2013



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
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

Preamble

I- Universal Declaration of Human Rights; United Nations Convention on the Rights of Persons with Disabilities (see Article 30.3 “States parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural material”)

VII- principle of territoriality creates barriers to cross-border exchange

VIII- preference for rights holders initiative

X- 3-step test

XI- Development Agenda

General Clause

“Nothing in this treaty shall derogate from any obligations that Contracting Parties have to each other under any other treaties, nor shall it prejudice any rights that a Contracting Party has under any other treaties.”

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.

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

Definition: Authorized entity (I)

- 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 provide many functions including education and information access;

Definition: Authorized entity (II)

- 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.

Beneficiary Person

- (a) is blind;
- (b) has a visual impairment or a perceptual or reading disability which cannot be improved (agreed statement to clarify doesn't include all possible medical diagnostic or treatment) to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or
- (c) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading, regardless of any other disabilities”.

Limitations and exceptions at the National level (Article 4) (I)

- Should permit changes needed to make a work accessible (by default);
- Mandatory: rights of reproduction, distribution, and making available to the public; optional: public performance. Translation is not included (Agreed statement 4(3));
- *(Possible implementation Article 4.2(a):)* Authorized entities can: (1) make accessible format, (2) obtain it from another entity and (3) supply to beneficiary (including persons acting on her behalf, caretaker or caregiver).

Limitations and exceptions at the National level (Article 4) (II)

“(..) by any means, including by non-commercial lending or by electronic communication by wire or wireless means, and undertake any intermediate steps to achieve those objectives, when all the following conditions are met:”

- (i) Lawful access to the work;
- (ii) No changes other than those needed to make the work accessible;
- (iii) Supply exclusively to be used by beneficiary;
- (iv) Non-profit basis.

Limitations and exceptions at the National level (Article 4) (III)

- Commercial availability (under reasonable terms) requirement is optional. Through a notification Member States can set the absence of availability of accessible format as a pre-condition for the limitations and exception;
- A system for remuneration is also optional.

Cross-border exchange (Article 5)

- When accessible format copy is created in accordance with national law;
- Authorized entities can:
 - a) distribute or make available accessible formats to other authorized entities in other Member States;
 - b) distribute or make available accessible formats directly to beneficiary persons; (“did not know or reasonable ground to know that..”; Agreed Statement on “further measures to confirm the person it is serving is a beneficiary person”).

Importation (Article 6)

- 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.

Technological Measures (Article 7)

- “Contracting Parties shall take appropriate measures, as necessary, to ensure that when they provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures, this legal protection does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty.”
- “Agreed statement concerning Article 7: It is understood that authorized entities, in various circumstances, choose to apply technological measures in the making, distribution and making available of accessible format copies and nothing herein disturbs such practices when in accordance with national law.”

General Principles on Implementation (Article 10)

(2) Freedom in implementation within their own legal system and practice.

Agreed statement: *“It is understood that when a work qualifies as a work under Article 2(a), including such works in audio form, the L&Es provided for by this Treaty apply mutatis mutandis to related rights as necessary to make the accessible format copy, to distribute it and to make it available to beneficiary persons”*

(3) “...may fulfill (..) through exceptions or limitations specifically for the benefit of beneficiary persons, other exceptions or limitations, or a combination there of within their national legal traditions/systems.

General Obligations on Limitations and Exceptions (Article 11)

Article 11 provides that in adopting measures necessary to ensure the application of the Treaty, a Contracting Party may exercise its rights and must comply with its obligations under the Berne Convention, TRIPS, and the WIPO Copyright Treaty (WCT).

This in essence repeats Article 1, which provides that “[n]othing in this Treaty shall derogate from any obligations that Contracting Parties have to each other under any other treaties, nor shall it prejudice any rights that a Contracting Party has under any other treaties.” Article 11 continues, by repeating four times over the Three-Step Test (TST) that is a part of all modern international copyright agreements, reciting the different formulations of the TST in the Berne Convention, TRIPS, and Articles 10(1) and 10(2) of the WCT.

If a Country is not member to any copyright international instrument, can it become member to the VIP Treaty?

Yes! MVT is a stand alone Treaty;

but Article 5.4(a) and (b) limit the possibility of the cross-border exchange in cases where the receiving country is not bound by Article 9 of Berne (5(a)) or is not party to WCT nor applies the 3-step test to limitations to rights of distribution and making available

It shall enter into force three months after 20 eligible parties referred to in Article 15 have deposited their instruments of ratification or accession.

Signatories

Afghanistan, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Ethiopia, European Union, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, India, Indonesia, Iran (Islamic Republic of), Ireland, Jordan, Kenya, Lebanon, Lithuania, Luxembourg, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Republic of Korea, Republic of Moldova, Sao Tome and Principe, Senegal, Sierra Leone, Slovenia, Sudan, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Uruguay, Zimbabwe (80)



Ratifications and Accessions

Argentina, El Salvador, India, Mali, Paraguay, Singapore,
United Arab Emirates, Uruguay (8)



Thank you!

www.wipo.int/copyright

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