

**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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**Tirana  
March 7, 2018**

# The Facts

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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. A horizontal blue line is positioned below the title.

**285  
million  
VIPs in the  
world**

At least 57  
national laws with  
exceptions

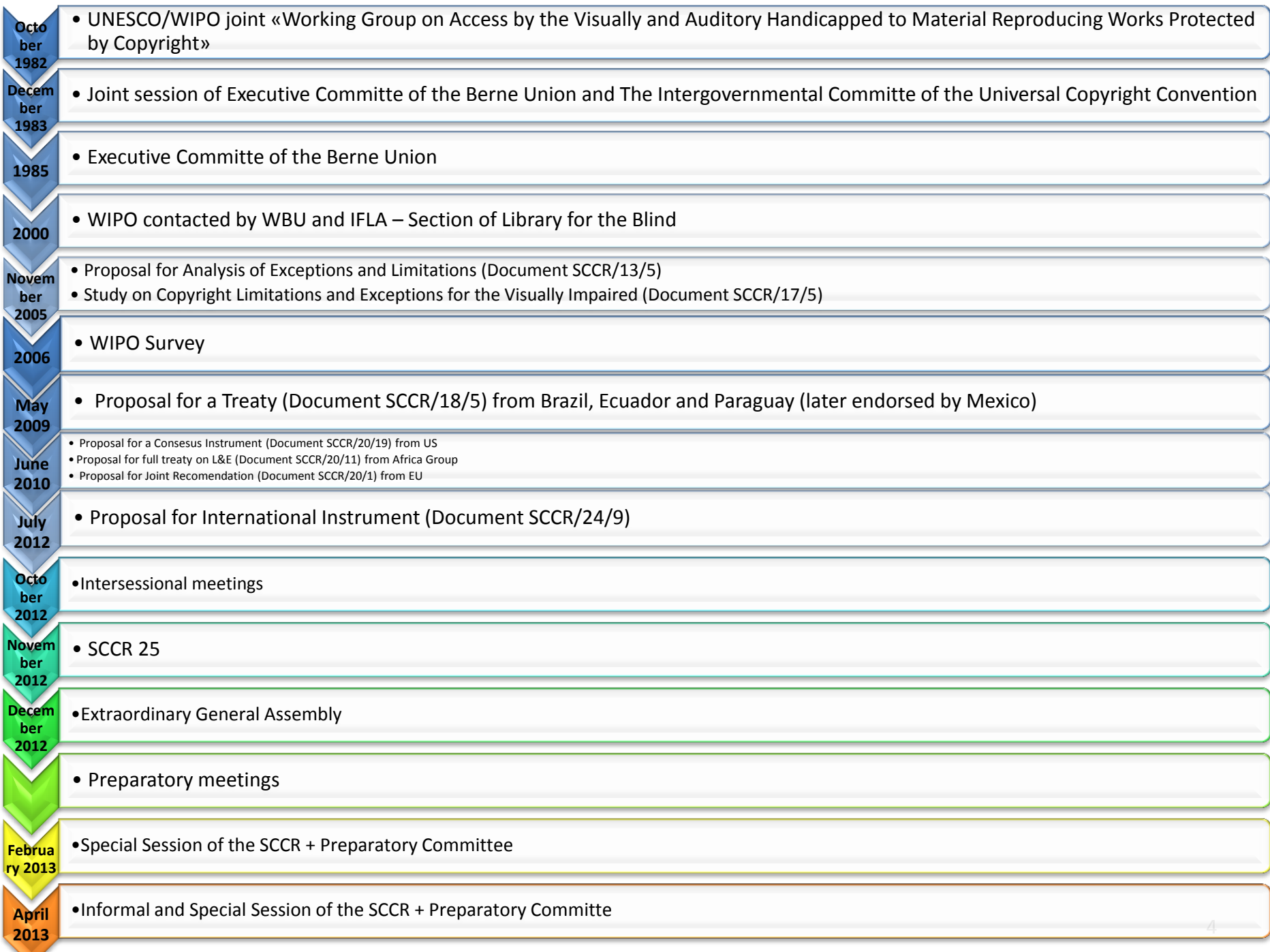
Around 1% to 10%  
of printed materials  
in accessible  
formats

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**





**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

**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 Non-Derogation 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.”*

The principle is repeated (e.g. agreed statements to Articles 4.3, 5.1, 5.4 b); Article 11)



# What can be transformed into an “accessible format”?

- “Works”
  - broad definition of the Berne Convention
  - limited in the form of **text, notation and/or related illustrations**, whether published or otherwise made publicly available in any media
  - includes such works in **audio form**, such as audiobooks (agreed statement)
- It also applies “mutatis mutandis” to object of Related Rights

## 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 provide many functions including education and information access;

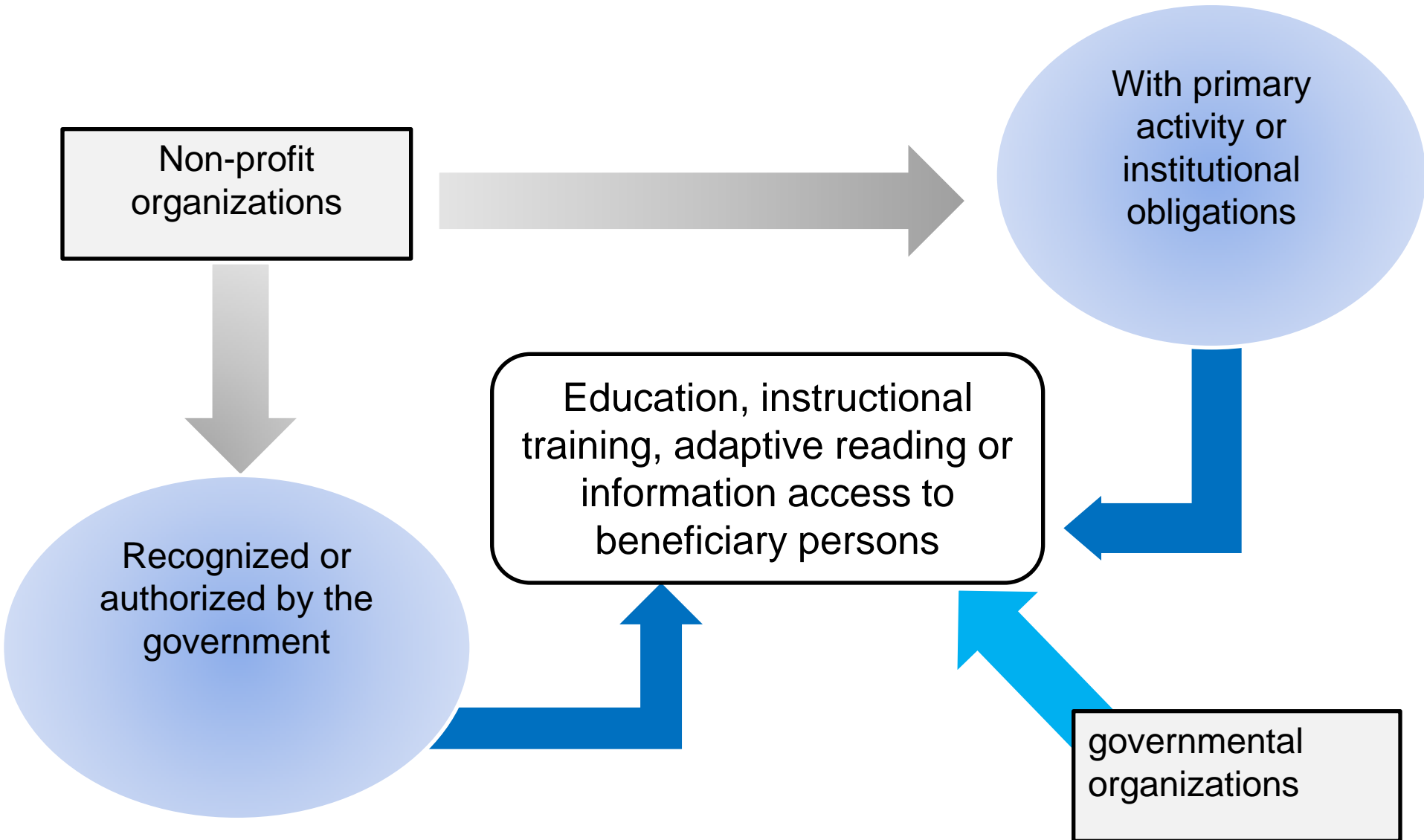
## Definition: Authorized entity (2)

- 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



# 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 (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));
- 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 (II)

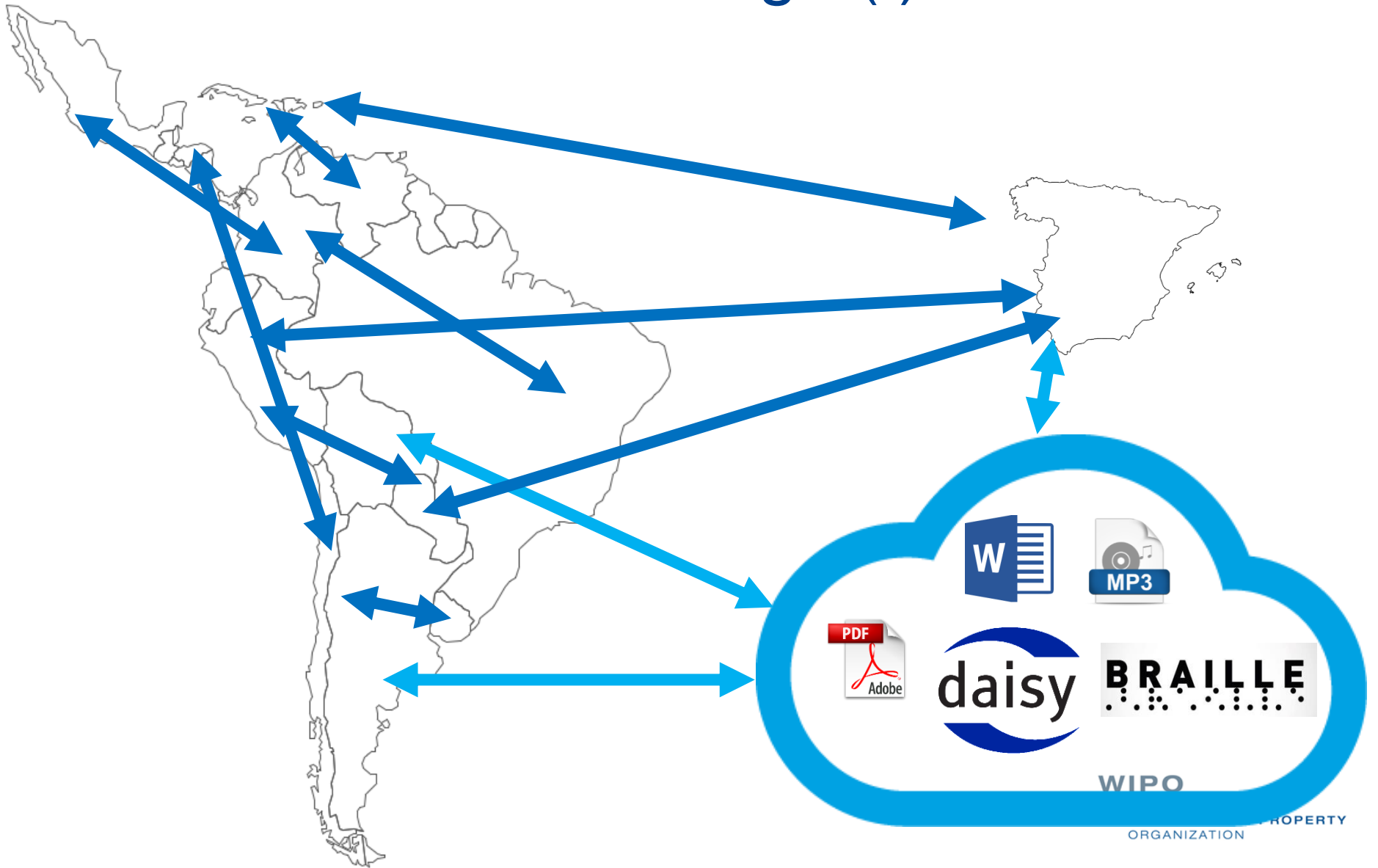
“(..) by any means, including by non-commercial lending or by electronic communication by wire or wireless means, and undertake any intermediate steps to achieve those objectives, when all the following conditions are met:”

- (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 (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 (I)



# Cross-border Exchange (II)

When an accessible format can be created at the national level, authorized entities can also:

- Distribute or make available accessible formats to other authorized entities in other Member States;
- Distribute or make available accessible formats directly to beneficiary persons in other Member States;

# Cross-border Exchange (III) conditions:

- Both countries (exporting and importing) are members of the Marrakesh Treaty;
- Accessible format copy is created legally, for instance according to a limitation and exception;
- Exported by an authorized entity;
- Imported by an authorized entity or a beneficiary;
- The work in accessible format is used by a beneficiary.

# Cross-border Exchange (IV)

## Limits to Exportation (Article 5.4):

- If authorized entity not in a Contracting Part of the Berne Convention or TRIPS;
- If Contracting Party is not member of WCT and has no obligations to limit its national limitations and exceptions (applicable to the right of distribution and of making available) to the three-step test.

# Cooperation to Facilitate Cross-Border Exchange

- *1. 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.***
- *3. The International Bureau of WIPO is invited to share information, where available, about the functioning of this Treaty.*

# 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.



# Technological Protection Measures (Art. 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.”

# Information Access Point (Art. 9) – questionnaire sent to MS

*(1) 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.*

*(2) The International Bureau of WIPO is invited to share information, where available, about the functioning of this Treaty.*

# Implementation Provisions (Art. 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.

# 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)

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# Vibrant Lauding Of “Historic” Marrakesh Treaty For The Blind At WIPO

06/10/2016 BY CATHERINE SAEZ, INTELLECTUAL PROPERTY WATCH — 1 COMMENT

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“Great victory”, “life-changing”, “historic milestone” – no adjectives were strong enough yesterday to celebrate the entry into force of the Marrakesh treaty at the World Intellectual Property Organization. The treaty, which went into effect on 30 September, “opens the door to the world’s knowledge,” to visually impaired people, but will need many more countries to join,

# Ratifications and Accessions (35)

Argentina, Australia, Botswana, Brazil, Burkina Faso, Canada, Chile, Costa Rica, Democratic People's Republic of Korea, Ecuador, El Salvador, Guatemala, Honduras, India, Israel, Kenya, Kyrgyzstan, Liberia, Malawi, Mali, Mexico, Mongolia, Nigeria, Panama, Paraguay, Peru, Republic of Korea, Republic of Moldova, Russian Federation, Saint Vincent and the Grenadines, Singapore, Sri Lanka, Tunisia, United Arab Emirates, Uruguay (35).



# 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

# Improved awareness of the challenges faced by the print disabled community and persons with disabilities

The Marrakesh Treaty is an instrument that fosters discussion and raises awareness about the need for policies that benefit persons with disabilities.

The implementation of the Marrakesh Treaty could trigger other initiatives such as the implementation of the UNCRPD



# 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. By improving access to both educational and leisure materials, the Marrakesh Treaty will facilitate greater inclusiveness and participation by persons with print disabilities in the cultural and social life of their communities.

Leisure materials such as books, newspapers and magazines have a clear entertainment and information function in society, as well as an important role in the expression and dissemination of local culture. It is equally important that persons with print disabilities in the community have access to these materials, which afford persons with print disabilities the opportunity to fully participate in cultural developments as consumers or as creators

# Increased contributions to the national economy

Individual professional development is highly dependent on educational attainment. By providing access to learning materials in accessible formats, the implementation of the MVT will also provide persons with print disabilities with opportunities for professional growth, allowing them to contribute to their local economies and become economically self-sufficient.



Thank you!

[www.wipo.int/copyright](http://www.wipo.int/copyright)

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