

# Background Brief

## Limitations and Exceptions – Access to Books for the Visually Impaired

“We must declare a state of emergency, and end the information deprivation that continues to keep the visually impaired in the dark.” – Stevie Wonder, US singer-songwriter.

**What’s Happening:** Between June 18-28, hundreds of negotiators from nations around the world will gather in Morocco to discuss finalizing an international treaty designed to ease access to published material by visually impaired people. The meeting in Marrakesh, hosted by the World Intellectual Property Organization (WIPO), is the culmination of over a decade of discussions on how to bring more accessible works in formats like Braille, large print and audio books to the blind, many of whom live in lower-income countries. The beneficiaries will have better access to novels, textbooks and other material that they can use for education and enjoyment.

**The Issue:** Hundreds of millions of blind, visually impaired and print-disabled people (VIPs) around the world lack access to books. Access to printed material for these people is affected by an international copyright environment that features variable rules among many nations.

We live in a world connected through new technological advances, where digitized versions of books, magazine articles, music and other creative products can be transferred nearly instantaneously worldwide via the Internet. Even as new technologies ease knowledge transfers online, the educational and entertainment needs of the visually impaired are not being adequately met with printed materials adjusted to their special circumstances. The visually impaired are among the world’s most-marginalized citizens and the absence of international rules hampers their ability to access published works.

**The Proposal:** WIPO member states are coming together in pursuit of a new agreement to ease access to printed material for the visually impaired. This “diplomatic conference”- the final leg of treaty negotiations - is scheduled for June 18-28 in Marrakesh, Morocco. Hundreds of delegates from WIPO’s 186 member states and observers are expected to attend.

**Why:** According to the World Health Organization, there are more than 314 million VIPs in the world, 90 per cent of whom live in developing countries. A WIPO survey in 2006 found that fewer than 60 countries have limitations and exceptions clauses in their copyright laws that make special provision for VIPs, for example, for Braille, large print or digitized audio versions<sup>1</sup> of copyrighted texts. Furthermore, because copyright law is “territorial”, these exemptions usually do not cover the import or export of works

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<sup>1</sup> The Digital Accessible Information System (Daisy) converts original texts to audio books that can be easily navigated by VIPs. Based on open standards, Daisy is run by a non-profit international consortium of talking book libraries and others.

converted into accessible formats, even between countries with similar rules. Organizations in each country must negotiate licenses with the right-holders to exchange special formats across borders, or produce their own materials, a costly undertaking that severely limits access by VIPs to printed works of all kinds.

According to the [World Blind Union](#), of the million or so books published each year in the world, less than 5 per cent are made available in formats accessible to VIPs. And, for example, while the ONCE library in Spain has more than 100,000 titles in accessible formats and Argentina has over 50,000, these titles cannot be shared with the 19 Spanish-speaking countries across Latin America. Similarly, some years ago, charities working in five English-speaking countries, including the Royal National Institute for the Blind in the UK and Vision Australia, were obliged to produce five identical Braille master files for the same Harry Potter book, costing them valuable time and money.

According to the latest draft, the proposed treaty would make it obligatory for countries to introduce a standard set of limitations and exceptions to copyright rules for formats designed for VIPs and to permit exchange of these formats across borders.

**Some Background:** International copyright law has always recognized the need to balance the rights of authors of creative works and the public interest, by allowing some uses of copyrighted material to be exempted from the requirement to seek authorization from the right-holder or to pay royalties. The foundation of international copyright law, the [Berne Convention](#) for the Protection of Literary and Artistic Works of 1886, and its subsequent revisions, have all included provision for “limitations and exceptions”. The Berne Convention specifically mentions exemptions for short quotations, news reporting and illustrative use for teaching purposes. Otherwise, it is left to national governments to define what limitations and exceptions are permitted “in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author”.

In practice, limitations and exceptions contained in national laws vary widely. In many countries copying for private use is free, but only a few make exceptions for, say, distance learning. Moreover, the exemptions apply only in the country concerned. This hodge-podge of national rules is seen as making little sense in the digital age, in which copies of copyrighted works can be made and transmitted across borders with a few mouse clicks. Thus, since 2004, WIPO’s [Standing Committee on Copyright and Related Rights](#) (SCCR) has been considering whether certain exemptions should be harmonized internationally.

Further impetus to the WIPO talks for copyright limitations and exceptions to benefit VIPs has come from adoption of the 2006 [United Nations Convention on the Rights of Persons with Disabilities](#), which states (Article 30) that laws protecting intellectual property must not pose a discriminatory or unreasonable barrier limiting access to cultural materials.

In December 2012, member states, meeting in an extraordinary session of the General Assembly, agreed that negotiations had sufficiently advanced to warrant the convening of a diplomatic conference. Two further negotiating sessions were held in Geneva in February and April 2013 to advance discussions.

Provisional agreement has already been reached on several essential elements of the proposal, including its beneficiaries, namely visually impaired persons, other print-

disabled people or those unable because of physical disability to read a standard text. Member states have also provisionally agreed on key definitions for the works covered by the text and the “authorized entities<sup>2</sup>” that would provide accessible versions of published works to persons with visual impairment or print disabilities.

The proposal would include a requirement for countries to introduce exceptions and limitations in their copyright laws to permit the international sharing of accessible format copies for VIPs. But the draft text that is the basis of the Marrakesh negotiations still contains a number of issues which require agreement.

To complement negotiations on a multilateral legal framework, in January 2009 WIPO established a stakeholders’ platform as part of its [Visually Impaired Persons Initiative](#), intended to facilitate practical steps by blind organizations, publishers, libraries and others to develop operational arrangements to improve international availability of accessible formats for VIPs.

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<sup>2</sup> Non-profit organizations recognized by both the right-holders and those with print disabilities.