



**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. A horizontal blue line is positioned below the title.

**285
million
VIPs in the
world**

At least 57
national laws with
exceptions

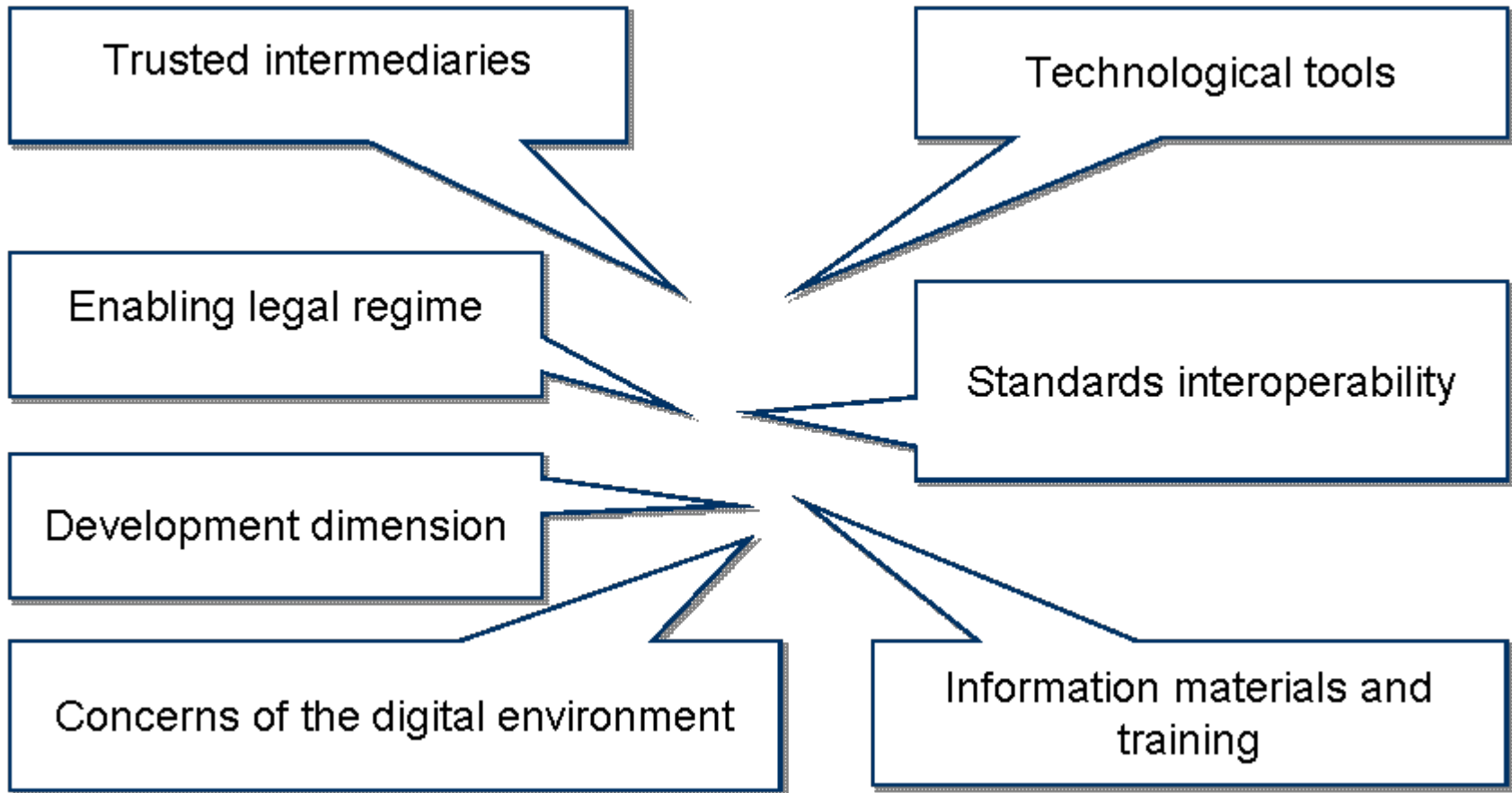
Around 1% to 10%
of printed materials
in accessible
formats

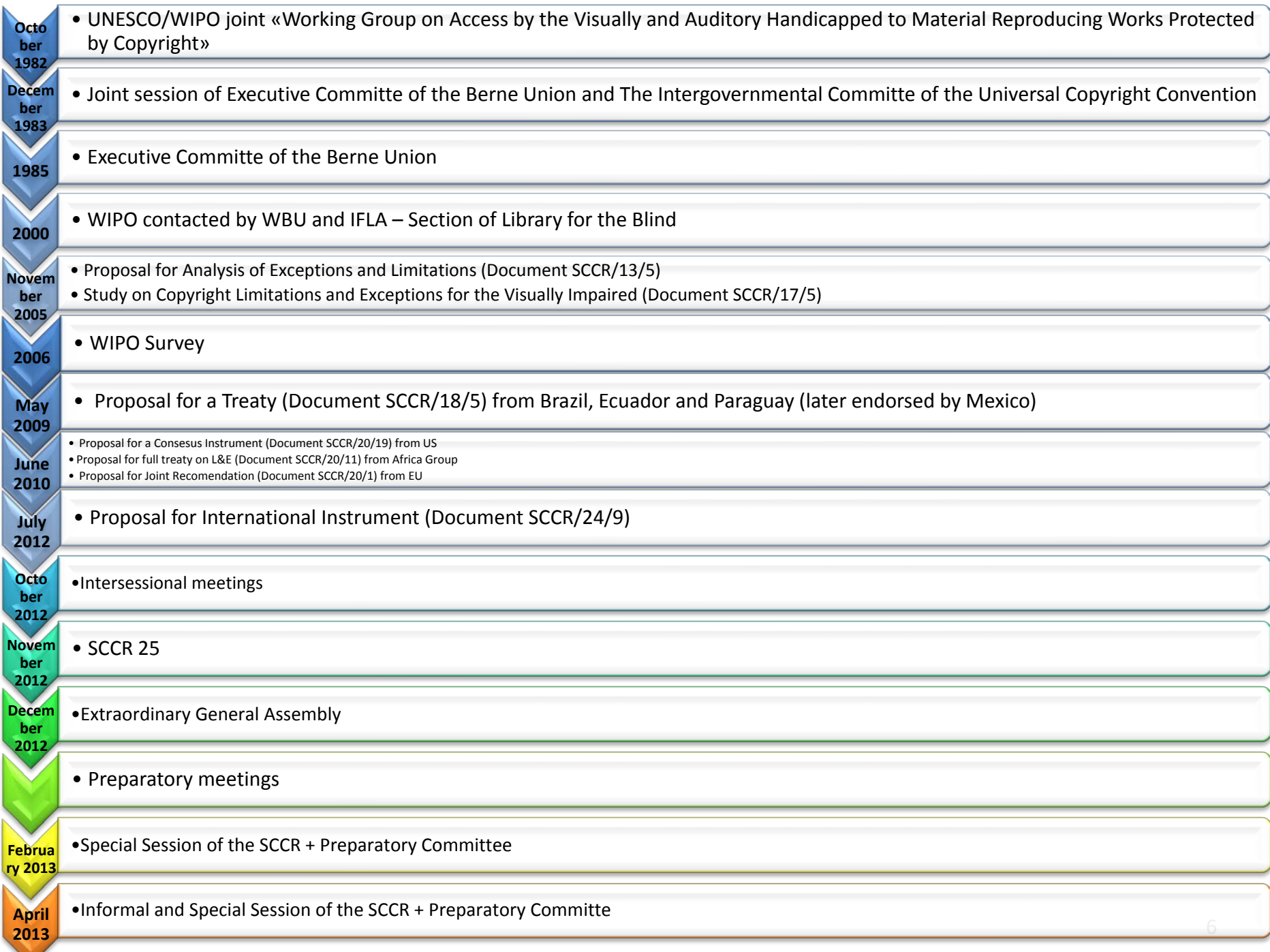
90% of VIPs in
developing
countries

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.
- Cost of production
- Instead of having 5 countries producing accessible versions of the same book, the target should be to produce an accessible version of a different work

It's not only a matter of legislation!







New start WIPO SCCR

- **From 2005**, the issue of limitations and exceptions for the VIPs was **again on the agenda of the WIPO Standing Committee on Copyright and Related Rights** (SCCR) along with other limitations and exceptions (in particular for educational purposes and for library services).
- **Two documents facilitated the work** on the issue in the SCCR:
 - **Draft Treaty** prepared and submitted **by the World Blind Union** (WBU); the key NGO representing VIPs;
 - **The Sullivan Report** commissioned by WIPO and presented at the February 2007 session of the SCCR analyzing how the 1982 Model Provisions had been implemented and applied in the various countries (Judith Sullivan: “*Study on Limitations and Exceptions for the Visually Impaired*,” WIPO document SCCR/15/7, February 20, 2007).

The WIPO Development Agenda (1)

- In 2007, the General Assembly of WIPO adopted the WIPO Development Agenda containing 45 recommendations; many of which stressed the importance of establishing and maintaining due balance of interests through adequate limitations of and exceptions to IP rights from the viewpoint economic, social and cultural development. This has offered a favorable legal-political background for the preparation of an instrument on exceptions and limitations for VIPs.

The WIPO Development Agenda (2)

- The 45 recommendations are presented in six clusters:
 - Cluster A: Technical Assistance and Capacity Building
 - Cluster B. Norm-setting, flexibilities, public policy and public domain
 - Cluster C: Technology Transfer, Information and Communication Technologies (ICT) and Access to Knowledge
 - Cluster D: Assessment, Evaluation and Impact Studies
 - Cluster E: Institutional Matters including Mandate and Governance.
 - Cluster F: Other issues

UN Convention on the Rights of Persons with Disabilities

- The Convention on the Rights of Persons with Disabilities adopted by the UN General Assembly in 2006 (and entered into force in 2008) also offered favorable legal-political background for the preparation of a specific WIPO instrument to facilitate availability for VIP to accessible format copies.
- As of today the Convention has parties; including the European Union and its Member States. The implementation and application of the Convention is monitored by the Committee on the Rights of Persons with Disabilities.
- The Contracting Parties are required to ensure the full enjoyment of human rights by such persons taking into account two basic principles: non-discrimination and equal opportunity



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



WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

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 (1)

The Contracting Parties,

Recalling the principles of non-discrimination, equal opportunity, accessibility and full and effective participation and inclusion in society, proclaimed in the Universal Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities,

Emphasizing the importance of copyright protection as an incentive and reward for literary and artistic creations and of enhancing opportunities for everyone, including persons with visual impairments or with other print disabilities, to participate in the cultural life of the community, to enjoy the arts and to share scientific progress and its benefits

Preamble (2)

,
Aware of the barriers of persons with visual impairments or with other print disabilities to access published works in achieving equal opportunities in society, **and the need to both expand the number of works in accessible formats and to improve the circulation of such works**

Recognizing that, despite the differences in national copyright laws, **the positive impact of new information and communication technologies** on the lives of persons with visual impairments or with other print disabilities **may be reinforced by an enhanced legal framework at the international level,**

Preamble (4)

Recognizing that many Member States have established limitations and exceptions in their national copyright laws for persons with visual impairments or with other print disabilities, **yet there is a continuing shortage of available works in accessible format copies** for such persons, **and that considerable resources are required** for their effort of making works accessible to these persons, and that the **lack of possibilities of cross-border exchange of accessible format copies** has necessitated duplication of these efforts,

Preamble (5)

Recognizing the need to maintain a balance between the effective protection of the rights of authors and the larger public interest, particularly education, research and access to information, and that such a balance must facilitate effective and timely access to works for the benefit of persons with visual impairments or with other print disabilities,

- **A principle** that has been **always followed in the copyright treaties**

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.”

The Marrakesh Treaty

- Beneficiaries
 - Persons who are blind, visually impaired, or otherwise print disabled.

- Rights Related
 - Limitations or exceptions in order to facilitate access to published works for the beneficiaries.

 - Limitations and exceptions allowing the cross-border transfer of such works under defined circumstances.

Marrakesh Treaty (2013)

- Key Provisions

Article 2 (b) “Definition; accessible format copy”

Article 3 – “Definition; beneficiary persons”

Article 4 – “National Law Limitations and Exceptions Regarding Accessible Format Copies”

Article 5 – “Cross-Border Exchange of Accessible Format Copies”

Beneficiary Person

“...A beneficiary person is a person who

(a) is **blind**;

(b) has a **visual impairment or a perceptual or reading disability** which cannot be improved 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.

Agreed statement concerning Article 3(b): Nothing in this language implies that “cannot be improved” requires the use of all possible medical diagnostic procedures and treatments.

Definition: Work

- **works” means literary and artistic works** within the meaning of Article 2(1) of the Berne Convention for the Protection of Literary and Artistic Works, **in the form of text, notation and/or related illustrations,** whether published or otherwise made publicly available in any media;
- 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

- **authorized entity**” means an entity that is **authorized or recognized by the government** to provide education, instructional training, adaptive reading or information **access to beneficiary persons on a non-profit basis.** It also includes a government institution or non-profit organization that provides the same services to beneficiary persons as one of its primary activities or institutional obligations

Definitions - authorized entities

(Continuation of the text of point (c)) **An authorized entity establishes and follows its own practices:**

- (i) **to establish that the persons it serves are beneficiary persons;**
- (ii) **to limit to beneficiary persons and/or authorized entities its distribution and making available** of accessible format copies;
- (iii) **to discourage** the reproduction, distribution and making available of **unauthorized copies**; and
- (iii) **to maintain due care in, and records of, its handling of copies** of works, while respecting the privacy of beneficiary persons

Limitations and exceptions at the National level

Article 4

- Requires contracting parties to have an exception to domestic copyright laws for VIP's. The Mandatory rights subject to such exception are :
- Right of reproduction,
- Right of distribution,
- and right of making available to the public;
- optional: public performance.
- Translation is not included

Limitations and exceptions at the National level (II)

“(..)authorized entities may : (1) make accessible format, (2) obtain it from another entity and (3) supply to beneficiary (including persons acting on her behalf, caretaker or caregiver).

Which can be distributed (...) by any means, including by non-commercial lending or by electronic communication by wire or wireless means

The conditions for this activity include:

- (i) Having 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)

- At the domestic level, Countries can confine limitations and exceptions to those works that cant be obtained commercially under reasonable terms
- Commercial availability
- requirement is optional.
- Use of this possibility requires notification to the WIPO director general 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

- MVT requires Contracting parties to allow the import and export of accessible format copies to other authorized entities in other Member States under certain conditions:
- Regarding importation when an accessible format copy can be made pursuant to national law, a copy may also be imported without the rightholder authorization
- Regarding exportation, accessible format copies made under a limitation or other law can be distributed by an authorized entity to a beneficiary person or authorized entity in another contracting party.

Technological Protection Measures

- “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.”

International cooperation

Article 9. 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.

Implementation

Article 10. General Principles on Implementation

1. Contracting Parties **undertake to adopt the measures necessary to ensure the application of this Treaty.**

2. Nothing shall prevent Contracting Parties from **determining the appropriate method of implementing the provisions of this Treaty within their own legal system and practice.**

- **Usual provisions in WIPO treaties** on copyright and related rights..
- Paragraph 2 allows **freedom** concerning the way of implementation **provided that the Treaty is appropriately implemented.**

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.

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 at DC

Afghanistan, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, El Salvador, Ethiopia, Ghana, Guinea, Haiti, Holy See, Indonesia, Jordan, Kenya, Lebanon, Lithuania, Luxembourg, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nigeria, Panama, Paraguay, Peru, Republic of Moldova, Sao Tome and Principe, Senegal, Sierra Leone, Sudan, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Uruguay, Zimbabwe (60)

The ABC consortium

- Launched in June 2014
- Complementary practical initiative to the MVT
- Seeks to increase the number of books in accessible formats through
 - Training in the production and distribution of accessible books
 - Promotion of inclusive publishing
 - International book exchange (**Trusted Intermediary Global Accessible Resources project (TIGAR project)** service).
- Alliance of WBU, IPA, IFFRO, IAF, IFLA, Daisy consortium



MVT advantages

- MVT Increases the reach of works in accessible formats to developing countries
MVT supports the goal of global equality of access to knowledge, inclusive education, inclusive societies, opens the door to good education, successful employment and independent personal lives
- Further the goals of the CRPD
- WIPO ready to assist any government in the implementation process.

The way forward

- **«While the signing of this treaty is a historic step, i am respectfully and urgently asking all governments and states to prioritize ratification of this treaty so that it will become the law of the land in your respective countries and states»**

- Stevie Wonder, Marrakesh 2013



Thank you!

www.wipo.int/copyright