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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

**Fourth (4th Ordinary) Session
Geneva, September 30 to October 9, 2019**

DRAFT REPORT

prepared by the Secretariat

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/59/1: 1, 2, 3, 4, 5, 6, 8, 11(ii), 13, 14, 29, 32 and 33).
2. The report on the said items, with the exception of item 29, are contained in the draft General Report (document A/59/14 Prov.).
3. The report on item 29 is contained in the present document.
4. Mr. Santiago Cevallos (Ecuador) was elected Chair of the Assembly;
Mr. Khalid Dahbi (Morocco) was elected Vice-Chair.

ITEM 29 OF THE CONSOLIDATED AGENDA

MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED (MVT)

5. Discussions were based on document MVT/A/4/1. Reference was made to document MVT/A/4/INF/1 Rev.

6. The Marrakesh Assembly Chair welcomed 16 new Contracting Parties to the Marrakesh Treaty since the last session of the Assembly in October 2018, namely Afghanistan, Azerbaijan, Belize, the Bolivia (Plurinational State of), Cabo Verde, Cook Islands, Japan, Marshall Islands, Morocco, Philippines, Qatar, Saudi Arabia, Tajikistan, Thailand, United States of America, and the European Union. Furthermore, Kiribati, the Venezuela (Bolivarian Republic of), and Zimbabwe had recently deposited their instruments and would soon join the Treaty, and the deposits of New Zealand and Trinidad and Tobago would take place during the Assemblies. This brought the total number of Marrakesh Treaty Contracting Parties to 61, covering 88 countries.

7. The Secretariat stated that the number of contracting parties to the Marrakesh Treaty continued to rise steadily since the Treaty had entered into force in September 2016. The Treaty had 61 contracting parties and, with the ratification of the European Union, 88 Member States were covered by the provisions of the Treaty. The Secretariat was doing its best to respond to all requests from Member States for promotional activities or legislative support in order to make both joining the Treaty and its effective implementation easier. The activities supporting the Marrakesh Treaty during the past year were organized with government officials, associations representing the treaty beneficiaries, and other interested parties, such as representatives of libraries and publishers. The information access point on WIPO's website was provided in accordance with Article 9 of the Marrakesh Treaty to provide information on the implementation of the Treaty and to encourage the sharing of information among Member States, particularly in order to simplify contacts with authorized entities. The purpose of the information access point was to encourage and increase cross-border exchanges of works in accessible formats. The Secretariat noted that questionnaires had been sent to the Members of the Marrakesh Treaty Assembly and hoped that the responses would improve the information access point, which had already been acknowledged as useful by all parties involved with the Treaty.

8. The Delegation of El Salvador indicated satisfaction with the number of ratifications and accessions, as all of the countries of the Central American region had joined the Treaty. The Delegation believed that having more contracting parties presented new opportunities for countries to take joint measures to ensure effective implementation and cross-border exchange of accessible format works to benefit communities of persons with visual impairments. The Delegation noted that El Salvador was at a very important time in its history as it was taking effective steps across the board to make substantial changes to benefit the entire population, including visually impaired persons. The Delegation invited all members of the Organization to continue with efforts to become party to the Treaty and urged the Secretariat to continue to support Member States in the Treaty's implementation.

9. The Delegation of Australia welcomed the increase in ratifications and accessions to the Marrakesh Treaty. The Delegation reported that Vision Australia had been able to import 2074 accessible titles generating over 30,000 loans for blind, visually impaired or otherwise print disabled persons. The Delegation encouraged Member States to implement the Treaty so that people would be able to fully realize its benefits, especially through the cross-border exchange of accessible format books.

10. The Delegation of Botswana noted that the number of contracting parties to the Marrakesh Treaty had increased. The Delegation noted that Botswana continued to grow in its realization of the benefits of the Treaty, focusing on promoting access to published works for print disabled persons. The Delegation acknowledged the Accessible Books Consortium (ABC), the Republic of Korea, and WIPO for supporting its recent project. Through the support of the Republic of Korea, the Botswana Association of the Blind and Partially Sighted had worked with publishers and converted sixty educational books into accessible formats, which had been uploaded on the association's library web page on its website. In order to continue to protect the copyright interests of rightholders, the association was assessing the eligibility of people requesting access. The project had been rolled out to educators of print disabled learners. The Delegation believed that the project demonstrated that a lot could be achieved through partnership between rightholders and authorized entities. Though the Delegation noted that the domestication of the law was a lengthy process, Botswana was poised to work with stakeholders like the publishers to build a collaborative system that would ensure successful implementation of the Treaty. The Delegation urged WIPO Member States to continue ratifying and acceding to the Treaty.

11. The Delegation of Brazil informed the Assembly about the domestication of the Marrakesh Treaty through Decree 9,522 of October 8, 2018. Brazil played a key role in the agreement on the Treaty text obtained in June 2013. The Delegation shared some current initiatives, such as the Dorina Nowill Foundation, which had prepared more than 1,000 works in Braille, and about 7,900 works in audio format. This and other initiatives should reinforce and open international cooperation, in particular with other Portuguese speaking countries. In view of that, the Delegation called for the sharing of information on other national experiences in order to enrich its national perspective and to ensure that the Treaty was as beneficial as possible to the blind and visually impaired. The Marrakesh Treaty started the cross-border exchange of literary works adapted to those who are blind or visually impaired, reducing barrier to access to knowledge. The Treaty was the outcome of a proposal submitted in 2009 by the Delegations of Brazil, Ecuador, and Paraguay, and the first meeting of the Marrakesh Assembly was chaired by the Minister of Culture for Brazil. The Delegation welcomed the new members who had ratified and acceded to the Treaty, bringing the total number of members thanks to the inclusion of the European Union to more than 80.

12. The Delegation of Japan welcomed the fact that the number of contracting parties to the Marrakesh Treaty had been steadily increasing. The Delegation had deposited its instrument of accession the previous year and the Marrakesh Treaty had come into force in Japan on January 1, 2019. In Japan, two organizations, the National Diet Library and the National Association of Institutions of Information Service for Visually Impaired Persons (NAIIV) had joined the ABC and were preparing for the service at that time. The Delegation recognized that the Marrakesh Treaty was important to facilitate access to published works for visually impaired persons with due consideration to the balance between the interests of rightholders and the public interest. The Delegation hoped that more Member States would ratify or accede to the Marrakesh Treaty so that it would expand further.

13. The Delegation of the United Arab Emirates expressed its pleasure to see the ratification and accession of the Treaty by a large number of countries in a short period of time. There had been an increased awareness of the Treaty's humanitarian importance. The copyright sector had hosted a regional seminar to examine means of implementation considering the interests of all stakeholders. The Delegation noted that it had examined exceptions and limitations for the visually impaired and added that the ABC was seeking to implement activities in the region. The Delegation was seeking to increase the content of Arabic works in the ABC and wished to thank WIPO for its efforts.

14. The Delegation of Nigeria stated that it had deposited its instrument of ratification to the Marrakesh Treaty in October 2017 and the draft implementing legislation was at an advanced stage. The Delegation welcomed the establishment of the Marrakesh Treaty access point by WIPO as well as the nine events that had been hosted by the WIPO Secretariat to promote the Marrakesh Treaty across the world. Earlier that year, Nigeria had signed up to the WIPO ABC project and beneficiaries of the project included members of the Nigerian Association of the Blind. The Delegation hoped that there would be increased capacity building by WIPO to ensure that the full benefits of the Marrakesh Treaty are available to all member countries.

15. The Delegation of Guatemala was pleased to see an increase in the number of ratifications and accessions, which would increase the opportunities available for the Treaty beneficiaries. The Delegation had always attached great importance to the human rights aspects of the Treaty. The Delegation reported that Guatemala had managed to complete its national legal reform process for Treaty implementation. The Delegation was grateful for the assistance provided by WIPO in that process and hoped to continue to see technical assistance mechanisms established and resources provided to enable members to meet effectively the objectives of the Treaty. The Delegation urged WIPO Member States who had yet to ratify or accede to the Treaty to do so in order to increase even further the network for the exchange of works.

16. The Delegation of Ecuador thanked Member States for its election as Chair of that important Assembly and congratulated the Vice-Chairs. It commended Member States on their willingness to accede to the Marrakesh Treaty in recognition of the importance of access to information for those groups. Ecuador considered the Treaty an achievement towards fulfilling the Sustainable Development Goals (SDGs), not only for the country but also for the world, strengthening inclusive access to knowledge. As a developing country, Ecuador placed special importance on tools that helped to foster innovation and access to knowledge, the Marrakesh Treaty being a prime example of a supporting tool that benefited society. WIPO could be the platform for showing best practice in the implementation of the Treaty, and for measuring year on year the impact of its application, to develop policies and tools to improve the implementation. It would therefore be important to promote, within the framework of the Treaty, existing or developing open-code software for catalogue management that came with free installation, technical support and updates and ensured the protection of the beneficiaries' data. Regarding action by Ecuador, the National Intellectual Rights Service (SENADI) had implemented initiatives such as the National Network of Authorized Entities and other activities in relation to the implementation of the Treaty, such as: (a) the publication of Executive Decree No. 258, by means of which the President of Ecuador had designated SENADI as the competent authority on intellectual rights and the coordination and implementation of the Marrakesh Treaty; (b) the conclusion of agreements with universities, including training for postgraduate students and lecturers, as well as the adaptation of degree programs in communication to create accessible communication material; (c) coordination with the Eugenio Espejo National Library of the House of Ecuadorian Culture to provide works for the national catalogue of works converted into accessible formats, and to add the National Library to the National Network of Authorized Entities; (d) coordination with the National Council on Disability Equality (CONADIS) to achieve the strategies and indicators of the strands "Awareness-raising" and "Inclusive communication" of the National Agenda for Disability Equality 2017-2021; (e) the holding of roundtable discussions, promoted by CONADIS, on mainstreaming and monitoring public policy on disability; (f) the updating of the catalogue of works converted into accessible formats; (g) the signing of an agreement with the Regional Center for the Promotion of Books in Latin America and Caribbean on the use of free software to create the national catalogue of works converted into accessible formats and the validation of base forms with technical criteria for said information system, which were developed with persons from libraries who had visual impairments; (h) the creation of a free web application for access to services for searching accessible catalogues; (i) the graphical implementation of data for the National Disability Register and the National Disability System; (j) the drafting of an authorized entity

agreement between WIPO and SENADI; (k) the preparation of legal instruments as a legal basis for the signing of agreements with national Authorized Entities; (l) the initiation of national roundtable discussions with civil society in seven cities (Babahoyo, Cuenca, Esmeraldas, Guayaquil, Portoviejo, Puyo and Quito) to diagnose the needs validated and legitimized by the beneficiaries of the Treaty; (m) the creation of a national digital catalogue of works in accessible formats, which is currently undergoing validation for web accessibility; (n) the institutionalization of the Treaty with the cantonal councils for rights protection of Cuenca, Esmeraldas and Manta; (o) the advising of universities on developing physical service spaces for persons with visual impairments and their linkage with the National Network of Authorized Entities; (p) the continuous updating of the information in the National Catalogue of Works in Accessible Formats, established in 2018, to upload the immense number of works converted into accessible formats; (q) the nomination of the catalogue for the 2019 Exemplary Practices award; and (r) the process currently being undertaken by the National Directorate of Copyright and Related Rights to acquire a digital tool developed by WIPO, which would allow works to be converted into accessible formats and stored. Lastly, the Delegation urged Member States that had not acceded to the Treaty to do so and thereby affirm their commitment to facilitating access to information and published works for persons who were blind, visually impaired or otherwise print disabled. They should accede not only for the knowledge that would be made available to said groups, but also for the impact on their relationship and interaction with the world and the other associated social implications.

17. The Delegation of Tunisia recalled that its country participated actively in the Marrakesh Treaty Diplomatic Conference and was among the first countries to complete accession to that important Treaty, which facilitated the access of visually impaired persons to knowledge in accessible formats as part of its efforts to facilitate access to knowledge and culture. The Delegation had twice chaired meetings about the Marrakesh Treaty, joined the ABC project, and cooperated with the National Tunisian Library and the Association for Copyright and Related Rights. The Delegation stated its intention to continue to work with WIPO and all those organizations concerned with that important subject. The Delegation urged countries that had not completed the procedure for joining the Treaty to do so considering its social and cultural importance and as a means to provide access to knowledge for all who were visually impaired.

18. The Representative of the International Federation of Library Associations and Institutions (IFLA) commended all countries that had ratified or acceded to the Treaty. That not only underlined the appetite for that particular WIPO instrument, which helped to deliver public goods and overcome market failure, but also made clear WIPO's unique power through its normative work to provide the legal clarity and impetus necessary for change and to enable cross-border exchanges. The Representative encouraged all countries undergoing the ratification or accession process to take the necessary steps to update and implement their national legislation, noting that the Chair's country was exemplary in this regard. IFLA observed that a crushing majority of those countries that were passing legislation were not taking advantage of certain provisions in Articles 4.4 and 4.5 of the Treaty that were against its spirit, and were extending its benefits to people with other disabilities as much as possible. The Representative hoped that throughout the Organization's work to promote the Treaty, it would be vigilant in countering efforts to misrepresent the Treaty's content and would continue to engage with libraries and the other authorized entities, as IFLA believed that would be essential for its success. The Representative noted that legal reform was a necessary but not sufficient condition for change. IFLA thus commended the work of the ABC and its Global Book Service, which was setting the pace for broader efforts to promote the sharing of books for the benefit of people with print disabilities across borders.

19. The Assembly of the Marrakesh Treaty took note of the "Status of the Marrakesh Treaty" (document MVT/A/4/1).

20. The Director General noted that details of the work of the ABC were included in the general report contained in information document MVT/A/4/INF/1 Rev. The existence of the ABC was extremely important for the implementation of the Marrakesh Treaty. The Marrakesh Treaty provided the framework for the exchange of books and publications in accessible formats, but it did not actually transfer them. That required a vehicle of action, and ABC was that vehicle. As a successful public private partnership, the ABC includes relevant stakeholders such as persons who are blind, visually impaired or otherwise print disabled, authors, publishers, collective management organizations, libraries, other authorized entities, and standards bodies. The Director General noted that the work of the ABC was consistent with the spirit of the SDGs and promoted several of them. Many delegations had mentioned the importance of the Organization's contribution to the SDGs. The Director General highlighted ABC's three main areas of activity. The Global Book Service had a catalog of 540,000 works available in 76 languages, out of which 425,000 works were available for free cross-border exchange under the Marrakesh Treaty. The Director General noted the importance to States of joining the Marrakesh Treaty, because the repertoire of 425,000 works could be exchanged without formalities. The other 100,000 or so works were still subject to formalities for exchange because the relevant countries were not yet party to the Marrakesh Treaty. The arrangement was complementary. The Director General added that there were 61 authorized entities in the Global Book Service from around the world who facilitated the exchanges of books, with 22 from developing countries. The second main activity was accessible publishing, which is the promotion amongst publishers of born-accessible publications. The production of accessible formats at publication had been endorsed by the publishing industry. There were 100 signatories to the ABC Publishers Charter with the recent signing by a major publisher around the world, Hachette Livre. The third focus was capacity building. This involved building capacity in a country to be able to take advantage of the service offered by the ABC and also to take advantage of the provisions of the Marrakesh Treaty. The Director General highlighted various ongoing projects in 13 countries. ABC also focused on capacity building activities to support publication in accessible formats of educational books in local languages. Some 9,300 accessible educational materials had been made available to students at all levels since the launch of the ABC five years before. The Director General thanked the Government of Australia for its donations to facilitate the work of producing accessible educational materials in local languages. The ABC was a very good partnership to bring together all relevant parties and supported the work of the Marrakesh Treaty in an admirable way.

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