

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

Assembly

**Fifth (5th Ordinary) Session
Geneva, September 21 to 25, 2020**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/61/1): 1, 2, 4, 5, 6, 8, 10(ii), 11, 16, 21 and 22.
2. The reports on the said items, with the exception of item 16, are contained in the General Report (document A/61/10).
3. The report on item 16 is contained in the present document.
4. Mr. Santiago Cevallos (Ecuador), Chair of the Assembly, presided over the meeting.

ITEM 16 OF THE CONSOLIDATED AGENDA

MARRAKESH TREATY

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

6. The Chair thanked the Secretariat and the Vice-Chairs for their support in promoting the adoption of the Marrakesh Treaty. Despite the challenges of the COVID-19 pandemic the Assembly was able to meet in hybrid format. The Chair was pleased to see active discussions and progress made by Member States with respect to the Marrakesh Treaty. The Chair welcomed the 10 new Contracting Parties to the Marrakesh Treaty since the Assembly's previous meeting in October 2019. The new members were Belarus, Central African Republic, Indonesia, Nicaragua, Saint Lucia, San Marino, Serbia, Switzerland, United Republic of Tanzania, and Vanuatu. With them the number of Contracting Parties to the Marrakesh Treaty stood at 71, covering 98 countries. The Chair noted the need for analysis and information related to the Treaty both for countries that were already parties and for other countries that would join based on the successful examples. The Chair thanked all those whose efforts at international implementation had helped ensure that published works were available for persons who are blind, visually impaired, or otherwise print disabled.

7. In relation to document MVT/A/5/INF/1, the Director General explained that the Accessible Books Consortium (ABC) was established between relevant stakeholders as a public-private partnership to make the provisions of the Marrakesh Treaty operational. The Treaty creates the facility for the cross-border exchange of works in accessible formats without formalities between contracting parties, and the ABC actually moves the books. For that purpose, ABC was formed with all stakeholders in the value chain of publication, and with the World Blind Union (WBU) and a number of other associations representing visually impaired persons. He noted that through the commitment and dedication of the various stakeholders and the Secretariat, ABC had really made a big difference, and he cited it as a concrete example of supporting the Sustainable Development Goals (SDGs). ABC had three major functions, the first of which was the ABC Global Book Service which had grown over the course of the previous six years from having 11 authorized entities (authorized distribution points) to having 90 authorized entities across the world with another four in the process of confirmation. He added that the catalogue, which is at the disposal of the various authorized entities, had similarly grown and tripled in size, from about 225,000 accessible titles in 2014 to about 640,000 accessible titles in 80 languages in 2020. He noted it was quite extraordinary, a real treasure house, considering the average catalogue of a municipal library has about 30,000 titles. Of the 640,000 titles, some 585,000 were available for exchange, free of any formalities, because of the provisions of the Marrakesh Treaty. A second important feature of ABC he addressed was capacity building. Similarly, it had grown since 2015, from one project in Bangladesh that was funded by the Government of Australia for the production of educational titles in local languages, to 2020 when capacity building projects have produced about 13,400 accessible educational works for primary, secondary, and tertiary levels in local languages for visually impaired persons. Projects had been established in over 17 countries, and in response to a recent call for expressions of interest from countries that wished to benefit from the capacity building activity, there was an almost overwhelming response of some 44 applications from 33 countries. Capacity building has been a very successful element of the partnership. The Director General also addressed the third major ABC function, accessible publishing, which is based on the idea that from the start, publishers will publish in a format that is also accessible to visually impaired persons. He indicated that there was a charter to that effect with over 100 signatories from publishing houses throughout the world. The Director General noted that plans were underway to increase signatories to the charter to about 150 in the very near future. The ABC is a great example of having everyone on board, and it is based on the Marrakesh Treaty.

8. Introducing document MVT/A/5/1, the “Status of the Marrakesh Treaty.” the Secretariat stated that the number of Contracting Parties to the Marrakesh Treaty had continued to rise significantly, confirming the trend seen since the Treaty had entered into force in September 2016. The Secretariat was delighted to announce that 71 Contracting Parties had joined the Treaty, covering 98 Member States. Responding to the expectations of a number of Member States, the Secretariat had organized 14 international and regional events for the promotion of the Marrakesh Treaty since July 2019. Due to the COVID-19 pandemic, a number of virtual meetings and webinars had also taken place since March 2020. The events had been organized in collaboration with the governments of Member States and representatives of beneficiaries, such as the World Blind Union (WBU), and a number of local and regional stakeholders. The Secretariat recalled that an information access point was available on the WIPO website in accordance with Article 9 of the Marrakesh Treaty. The access point was designed to provide information to support the implementation of the Marrakesh Treaty and to encourage voluntary sharing of information among Member States on topics like the exchange of works in accessible formats and national authorized entities. The Secretariat invited Members of the Marrakesh Assembly to add information to the site, which played an important role in the cooperation framework.

9. The Delegation of Serbia reported that on January 24, 2020, the Serbian Parliament had passed a law on ratification of the Marrakesh Treaty, becoming a part of the Marrakesh family. That legislation was designed to improve the living conditions and human rights of blind and visually impaired persons. The Delegation noted that the Serbian government and intellectual property office were working closely with the Union of Blind Serbia and other stakeholders, who were actively involved in drafting the law, giving comments and valuable suggestions. The Delegation indicated that that was an important step towards the modernization of the Serbian copyright law. The Government of the Republic of Serbia was ready to make the necessary amendments to the copyright law regarding the limitation of copyright for the benefit of blind and other visually impaired persons.

10. The Delegation of Indonesia reported that on January 28, 2020, Indonesia deposited its instrument of ratification of the Marrakesh Treaty. The ratification reflected Indonesia’s commitment to a balanced and effective international IP system. The ratification also reflected Indonesia’s commitment to the principles of non-discrimination, equal opportunity, and accessibility, as well as full and effective participation in society, as proclaimed in the Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities. Through the Marrakesh Treaty ratification, the government of Indonesia was committed to ensuring the right to read and protection at the international level of individuals with disabilities against discrimination. The Marrakesh Treaty was important as one of the first multilateral copyright treaties focused on limitations and exceptions. The Delegation stated that the success of the implementation of the Treaty showed that despite the differences in national copyright laws, international society could have a copyright exceptions and limitations regime that was uniform, effective and provided legal certainty. Indonesia hoped that work in WIPO in the field of copyright would produce more international frameworks on copyright exceptions and limitations for education and research purposes.

11. The Delegation of United Kingdom, speaking on behalf of Group B, welcomed the progress made on the Marrakesh Treaty and encouraged the Secretariat to continue its activities, including legislative assistance to support the implementation of the Marrakesh Treaty as well as other WIPO international copyright and related rights treaties.

12. The Delegation of Saudi Arabia welcomed the growing number of Contracting Parties to the Marrakesh Treaty, which would continue to facilitate access to accessible works. The Delegation noted the importance of the Treaty in the context of achieving certain national objectives, especially after acceding to the Treaty in 2018. In addition to improving legislation,

in 2019 the Government of Saudi Arabia had signed a treaty with civil society representing persons with visual impairments, and the government had also worked with the Minister of Culture to ensure translations and effective dissemination of accessible works. The Delegation noted that they would continue to work with WIPO to facilitate the principles of that very important Treaty.

13. The Delegation of Chile highlighted that the efforts made by WIPO on the Marrakesh Treaty and the creation of the ABC were examples of work that WIPO does to achieve the SDGs, and were also a demonstration of how intellectual property could be used to promote inclusivity. The Delegation welcomed the new Contracting Parties to the Treaty. The Delegation also recognized the work of ABC in promoting partnerships and alliances to ensure that persons who are blind, visually impaired, or otherwise print disabled could access published works. The Delegation hoped that the work of ABC could continue in the context of the pandemic despite the disruptive measures that might have been implemented and that might have affected access to those works.

14. The Delegation of Colombia congratulated the Chair and Vice-Chairs on their election and welcomed the presentation by the Director General, Mr. Francis Gurry, on the ABC. It also thanked Ms. Sylvie Forbin and the Secretariat for drafting the report (MVT/A/5/1) on the Status of the Marrakesh Treaty, its entry into force and ratification of and accession to it by certain Member States. It noted that the visually impaired, or otherwise print disabled faced significant difficulties in accessing reading material and information because of the limited number of works published in accessible formats. That had a major impact on their level of education and general knowledge and, in turn, hindered their social integration and access to the labor market. As a result, a large proportion of the visually impaired in Latin America continued to experience adverse socioeconomic conditions. In that regard, in 2013 the Congress of Colombia had adopted Act No. 1680, the aim of which was to guarantee independent access by the visually impaired to information, the means of communication, knowledge, and information and communications technology and thereby ensure their inclusion and full participation in society. The Act provided for an exception regarding the economic rights of authors of literary, scientific, artistic and audiovisual works produced in any format, medium or process, whereby they might be reproduced, distributed or adapted in Braille and other accessible modes, means and formats of communication chosen by visually impaired persons without the authorization of their authors. Similarly, under the more recent Act No. 1915 of 2018, provision was made for exceptions to technological protection measures, to facilitate access to and the use of copyright-protected works by visually impaired persons. The law in Colombia thus already contained some provisions that implement part of the Treaty, even though the Treaty itself had not yet been ratified. Its ratification was a priority for Colombia, not only because the Treaty sought to benefit the visually impaired by placing limits on and establishing exceptions to national laws, but also because its provisions allowed for and encouraged cross-border exchange among its States parties. Colombia remained firmly committed to ratifying the Treaty and the domestic procedures were proceeding to that end. The Government had submitted it to Congress in 2019 and it had been approved in the first of four parliamentary readings. Colombia hoped to become a party to the Treaty in the near future and the Government was eager to facilitate access for the visually impaired or otherwise print disabled to works, all the while upholding respect for and recognition of authors' rights.

15. The Delegation of the Russian Federation, speaking on behalf of the Group of Central Asian, Caucasus, and Eastern European Countries (CACEEC), noted that the Marrakesh Treaty was essential for ensuring that people with print disabilities had access to books, journals, material, and publications. The ongoing increase in the number of Member States included in the Treaty ensured that that category of persons could be integrated in social and cultural life and could get access to publications in accessible formats. The Group expressed appreciation to the Secretariat for national, regional, and subregional trainings on the possibilities for

implementation of the Marrakesh Treaty, and noted the importance of continuing the work even if that had to be done remotely. The Group hoped for ongoing growth of the Marrakesh Assembly and further development of the cross-border exchange of accessible format publications.

16. The Delegation of the Republic of Korea expressed support for the implementation of the Treaty and welcomed the expansion of the Marrakesh Treaty membership. The Delegation underscored the contributions of the Ministry of Culture, Sports and Tourism to enhance access to published works for persons who are blind, visually impaired, or otherwise print disabled by providing support for the ABC project through the Republic of Korea Funds-in-Trust (FIT) for the past several years. In cooperation with WIPO, the Ministry would further implement the ABC project as part of that year's FIT program, through the development of capacity-building programs, as well as the production and distribution of works in accessible formats. The Delegation expressed support for the efforts of the Secretariat in expanding Treaty membership and promoting activities and projects in support of Treaty implementation.

17. The Delegation of Ecuador congratulated the new Marrakesh Treaty Contracting Parties for joining the Treaty and for taking steps toward implementation. The Delegation reported that Ecuador had taken steps to promote the implementation of the Treaty by launching a website to disseminate information about the content and aims of the Treaty, and through strategic measures to facilitate information and access to the tools required for a successful implementation. The Delegation reiterated the importance of the Treaty in attaining the SDGs. The Delegation noted that the SDG framework would facilitate access to knowledge and education, and ensure inclusive development for persons in vulnerable situations. The Delegation urged other Member States to join the Treaty and to visit the website in order to facilitate knowledge sharing in the implementation of the Treaty and to support obtaining benefits for people. Technological tools were great ways to generate inclusion and facilitate communication, as could be seen through their use in the Marrakesh Assembly to allow remote participation. They could be useful in guaranteeing access to published works for persons who were blind, visually impaired, or otherwise print disabled. The Delegation noted that intellectual property should not be a barrier to social cohesion, but rather a tool to enable it. The Marrakesh Treaty could help expand access to knowledge.

18. The Delegation of Canada noted significant growth in membership of the Marrakesh Treaty on the fourth anniversary of the coming into force of the Marrakesh Treaty, and looked forward to welcoming more partners. The Delegation noted that the ABC had over half a million books available for cross-border exchange to benefit people who were blind, visually impaired, or otherwise print disabled. The Delegation informed the Assembly of a new five-year initiative to support the sustainable production and distribution of accessible digital books by Canadian independent publishers through the Canada Book Fund. The objective was to promote accessibility of digital publications within Canadian industry so persons with print disabilities would be able to use the publications. The strategy aimed to increase availability of accessible digital books within the Canadian market. The initial financing through 2021 would serve to consider the needs of the industry, develop knowledge, look at best practices, and implement norms and certification for the industry. The next stages were aimed at production in digital formats, and distributing accessible formats through public libraries and other channels. The Delegation acknowledged the recent achievements of several Canadian organizations, namely the BC Libraries Cooperative, the National Network for Equitable Library Service, and the Centre for Equitable Library Access, which were named as finalists for the Accessible Book Consortium International Excellence Award in 2019, and the House of Anansi Press which was named as a finalist for the award in 2020. The Delegation congratulated the award winners for 2019 and 2020. The Delegation also noted the efforts of the National Network for Equitable Library Access and the Centre for Equitable Library Access during the COVID-19 pandemic. Library closures had limited access to materials for people with print disabilities. The services of

those organizations helped to support the print disability community in accessing accessible materials about the pandemic, resources for home schooling, and reading materials to decrease the sense of isolation exacerbated by COVID-19. The Delegation also acknowledged the efforts of the Secretariat in establishing an information access point for the Marrakesh Treaty on the WIPO website and invited members and entities to read Canada's responses to the Secretariat's 2017 survey which were available online. The Delegation was proud that Canadian not-for-profit associations were among the world leaders in leveraging the Treaty and providing accessible versions of books worldwide to people who are blind or visually impaired. Since entry into force, four organizations representing hundreds of libraries across the country had joined the WIPO ABC and provided thousands of titles to partner organizations in other countries. The Delegation urged non-profit organizations within Canada that engaged in the production of accessible materials to share with WIPO their contact information as well as information concerning the number of accessible titles in their collections and the languages covered. With the global challenges posed by COVID-19, the Delegation highlighted the barriers that persons with print disabilities faced in terms of access to information. The Delegation looked forward to continuing the work within the Assembly in furtherance of the goals of the Marrakesh Treaty.

19. The Delegation of the Russian Federation expressed support for the statement of the CACEEC Group. The Delegation commended the excellent work considering the limitations in 2020, and commended the growing number of Contracting Parties to the Marrakesh Treaty to facilitate access to books, journals, study material, *et cetera* for persons with print disabilities. The Delegation noted that the ABC played a major role in achieving this with half a million titles in 76 languages available and accessible in different formats. The Delegation stated that that would enable Members of the Assembly to closely integrate persons with print disabilities into cultural and social life, and thus improve their quality of life. The Delegation hoped the membership would continue to expand.

20. The Delegation of China noted the forthcoming fourth anniversary of the coming into force of the Marrakesh Treaty and acknowledged the increasing number of countries that had ratified or acceded to the Treaty since that date. The Delegation noted that that would provide a new opportunity for countries to work together to benefit persons who are visually impaired. China was one of the first countries to sign the Marrakesh Treaty and had begun the ratification process. The Delegation hoped that the ratification process and subsequent implementation would be supported by WIPO and the Member States.

21. The Delegation of Japan noted the steady increase in the number of partners in the Marrakesh Assembly. The Delegation recognized the importance of the Treaty to facilitate access to published works for persons who are visually impaired, with due consideration for the balance between the interests of rightsholders and the public interest. Since the Treaty went into force in Japan on January 1, 2019, a series of cross-border exchanges of accessible format copies between authorized entities of Japan and foreign countries had taken place. The Delegation hoped that more Member States would join the Marrakesh Treaty in order to expand the cross-border exchange network.

22. The Delegation of Australia welcomed the increase in members of the Treaty and acknowledged the efforts of the Secretariat in promoting the Treaty. The Delegation urged all Member States to ratify and implement the Treaty so that all people could fully realize its benefits, especially in the cross-border exchange of accessible format books.

23. The Delegation of Switzerland expressed its support for the statement made by the United Kingdom on behalf of Group B. Switzerland ratified the Marrakesh Treaty on February 11, 2020. The Delegation stated that Switzerland attaches great importance to this topic and was strongly committed to the negotiation of this Treaty. The Delegation explained

that at the domestic level, since 2007, Swiss copyright law has provided for regulations in favor of persons with disabilities in order to facilitate their access to protected works. With the entry into force of the Marrakesh Treaty in Switzerland on May 11, 2020, this regulation is extended to allow the importation into Switzerland of copies of works in accessible formats made in a Contracting State under a legal restriction. The Delegation urged other Member States to ratify the Treaty as soon as possible.

24. The Delegation of El Salvador expressed satisfaction with having over 80 member States under the Marrakesh Treaty and recognized the extremely useful efforts of the ABC towards capacity building. The Delegation encouraged the continuation of capacity building activities including those that had to be continued remotely, through the Internet. The Delegation noted that its government was working to improve the state of its economy for the use of patents. However, there had been a series of challenges over the previous few months due to COVID-19. Nonetheless, the Delegation noted the government's effort to support the entire population in activities, including cooperation activities with WIPO and activities for implementation of the Marrakesh Treaty for the benefit of persons who were print disabled within El Salvador. The Delegation urged all Members of WIPO to continue efforts for ratification of the Treaty.

25. The Delegation of Trinidad and Tobago reported that its Government had deposited the instrument of accession to the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled on October 4, 2019. The Parliament of Trinidad and Tobago had incorporated the provisions to implement the Treaty into its Copyright Act Chap. 82:80 through the Copyright (Amendment) Act No. 14 of 2020, which had been assented to on June 15, 2020. The authorized entity appointed under the Copyright Act of Trinidad and Tobago for the purposes of giving effect to the Treaty and the dissemination of accessible format copies was the National Library and Information System Authority. The Delegation looked forward to the signing of a Memorandum of Understanding (MoU) between the ABC and the National Library and Information System Authority so that the visually impaired persons in its country could access the extensive library of works and curb the book famine. The Delegation expressed its gratitude to WIPO for its assistance in the drafting of Copyright Act No. 14 of 2020 and looked forward to continuing its work with WIPO and other Member States to administer the Marrakesh Treaty.

26. The Representative of the International Federation of Library Associations and Institutions (IFLA) was glad that so many members in the ABC were helping to provide access around the world. The Representative congratulated WIPO on the recent ratifications and accessions as well as the work of the ABC in providing a model of cross-border exchange. The Representative noted that the work was a great indication of what WIPO could do to correct the market failures copyright could create, and deliver the SDGs. It also showed the demand that existed for the work amongst governments. Looking forward, the Representative said that building understanding of the Treaty continues to be essential to address misunderstandings and confusion, which were weakening the impact. The Representative noted that work was needed to analyze the impact and the results of the Treaty on access and markets, which continued to be powerful, as well as considering expansion to people with other disabilities and the institutions that served them.

27. The Representative of Electronic Information for Libraries (EIFL) congratulated the Member States that had joined the Marrakesh Treaty and reported that libraries across the world had long experience in serving people with print disabilities as one of the primary sources of accessible reading material. The Representative urged Member States to ensure that the library community was consulted as a key stakeholder in national Marrakesh Treaty implementation and urged them to avoid any unnecessary restrictions that would have a chilling effect on the Treaty's use. In 2019, EIFL co-organized the first international workshop

dedicated to implementing the Treaty among a regional group of libraries in Europe. With its international partners, EIFL has produced a practical getting-started guide available online in multiple languages. The Representative stated that EIFL was proud to play its part to ensure the continued success of the Marrakesh Treaty and to help to end the book famine.

28. The Chair thanked all delegations for their statements and the progress made with regard to implementation of the Marrakesh Treaty.

29. The Marrakesh Treaty Assembly took note of the “Status of the Marrakesh Treaty” (document MVT/A/5/1).

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