



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary record of the plenary session of the European Parliament, held in
Strasbourg on 21 May 2013
**Draft WIPO Treaty on copyright exceptions for the visually impaired -
Council and Commission statements**

Ms Lucinda Creighton, Irish Minister of State for European Affairs, delivered the speech set out in the [Annex](#). She recalled the objective of the draft treaty as well as the steps taken so far with a view to the negotiations that would take place at the diplomatic conference in Marrakesh. She refrained from disclosing the content of the negotiating mandate and trusted the Commission to keep the Parliament fully and immediately informed, as the negotiations progressed.

Commissioner Barnier gave MEPs assurances on the full commitment of his institution to securing an effective treaty, insisting on the importance of non-discriminatory access by all to information and culture. He said that negotiations on the draft treaty were well advanced but some outstanding points remained open and had to be resolved in Marrakesh. He recalled that the Commission was favourable to dismantling any obstacles to full access by visually impaired people to special formats and to ensuring the import and export of those formats. But he also stressed that in Marrakesh the Commission had to negotiate on the basis of the mandate given to it by Member States, and of course would need to find compromises with other Members of WIPO.

He therefore considered it particularly important that the European Parliament use the debate to encourage governments to agree to a good treaty which was not unnecessary bureaucratic elements.

Representatives of political groups (Mr Zwiefka (EPP, PL), Mr Berlinguer (S&D, IT), Ms Wikström (ALDE, SE), Ms Lichtenberger (Greens/EFA, AT), Mr Mastalka (GUE/NGL, CZ) were largely in agreement. Noting that 5% of books - and only 1% in poor countries - were available in special formats for the visually impaired, they called for a treaty that would put an end to discrimination which was contrary to European values such as equality and freedom of access to information and culture. On this basis, they expressed the firm opposition of the Parliament to the "commercial availability" condition and to the distribution of special formats only through authorized organizations and not directly to beneficiaries. They considered these conditions as unduly bureaucratic which would dilute the draft treaty and undermine its objective. One Member recalled that the concept of copyright aimed at protecting creative works and not at hindering the right of equal access to literature.

Amongst Members speaking on an individual basis, Mr Bostinaru (S&D, RO) called on the Commission negotiating in Marrakesh not to look at rights of the visually impaired from the trade perspective. Some acknowledged that the rights of copyright holders had also to be taken into account, but Mr Romeva (Greens/EFA, ES) argued that looking for a precise balance between copyright law - i.e. industry - and the rights of visually impaired would lead to a treaty which was not viable. Mr Bostinaru, supported by others, recalled that a UN convention on the rights of disabled people was already into force and called for it to be fully respected when negotiating the WIPO treaty.

A number of Members criticised the lack of information on the precise content of the mandate and asked for clarity on it. Ms Regner (S&D, AT) went as far as to ask which Member States defended restrictive positions against the rights of the visually impaired community. Mr Cashman acknowledged that the problem was not the fault of the Commission but rather the Council.

Taking the floor again at the end of the debate, Commissioner Barnier explain the EU position on some key provisions of the draft treaty while distancing himself somewhat from the Council. He said that the commercial availability of special formats was a condition that had a certain logic and that the requirement to distribute the formats only through official intermediaries aimed at ensuring legal certainty without creating unnecessary bureaucratic obstacles.

He added that the inclusion of these two provisions in the treaty would pave the way to its conclusion. Mr Barnier - who expressed some understanding for the EP position - underlined that the Commission was itself in favour of a direct distribution of special formats to the visually impaired, but Member States had considered that having two intermediaries - one in the State of export and the other in the State of import - was a better solution because it was easier for an organization to check in its own country the eligibility of final beneficiaries. Concerning the mandate, Commissioner Barnier said that he had no problem with full transparency but that the mandate was a Council document.

Ms Creighton, on behalf of the Council, agreed with Members that granting equal access to books was a matter of right and not charity. She rejected any accusations that the Council was putting new and undue burdens on organizations representing the visually impaired and said that the legitimate concerns of copyright holders also had to be taken into account. On the mandate, she said that following a request from the JURI chair, the Council had decided to grant access to the JURI chair, the rapporteur and the coordinators of political groups subject to the usual conditions. She reassured the Parliament of the Council's support for the Commission to secure a positive outcome of the negotiations, following which it would obtain the EP's consent.

President,
Honourable Members,

My statement on this issue this afternoon will necessarily be brief.

As you know, discussions within the World Intellectual Property Organization (WIPO) on how to provide better access to information, culture and communication for the visually impaired and persons with print disabilities have been underway since 2009. The focus of these discussions has been to expand the number of copyrighted works in accessible formats and improve access to them.

In June last year the Commission submitted to the Council a recommendation requesting authorisation to open and conduct negotiations on behalf of the European Union on an international agreement in the context of WIPO. On 26 November 2012, the Council issued negotiating directives to the Commission and authorized it to participate in the negotiations on behalf of the Union.

The WIPO General Assembly decided on 18 December 2012 to convene a diplomatic conference in Marrakesh on 17-28 June 2013. A draft text of an international instrument was recently circulated by the WIPO Secretariat as a basis for discussions at that conference.

The Commission will represent the EU at the Marrakesh Conference, and will negotiate on its behalf in line with the negotiating directives which it has received from the Council. It would clearly not be appropriate for me here to enter into a public discussion on the content of the mandate which has been given to the Commission and which is internal to the EU.

I am sure that the Commission, as negotiator, will keep this Parliament fully and immediately informed as the negotiations progress.

I thank you for your attention, and I very much look forward to hearing the views of the Honourable Members here today.
