



WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

Parallel Importation

32nd Session, May 12, 2016

Thank you Mr. Chairman. I speak on behalf of IFLA, the International Federation of Library Associations and Institutions, the international body representing over 650,000 library and information professionals in 150 countries.

The principle that a library should be able to import lawfully made items from another country without the permission of the copyright holder is fundamental in enabling many libraries to fulfill their mission. To give one example: a book might be published in South Africa, the publisher grants distribution rights in that book to a specific publisher in Venezuela; but a library in Venezuela imports a copy of the book from its regular vendor based in another country. This work is a parallel import.

Parallel importation is permitted under the TRIPS agreement (Article 6, "Exhaustion"), as well as by the WIPO Copyright treaty (Article 6, "Right of Distribution") whereby member states can enact a provision allowing for international exhaustion of the distribution right. Not all countries have taken advantage of this option and those that do take different approaches. In some countries works from outside the country cannot be imported without the permission of the holder of distribution rights in that country (national exhaustion). Some countries adopt a regional exhaustion principle whereby once an item is made available in one country in their region (e.g. the EU), then libraries in all countries of the region are able to acquire the item from within that region (regional exhaustion). Some countries, like Switzerland, have provided in their law that once a book is made available for sale anywhere in the world, it may be imported into Switzerland (international exhaustion). Such complex variations are inconsistent with the needs and realities of a global information society.

Without a right of parallel importation or international exhaustion many libraries will be unable to fulfill their core service mission. For example, the national libraries of many countries are mandated to collect works by their nationals, in their national language and/or about their country, that include works published elsewhere. Academic libraries must build foreign language collections that satisfy the scholarly pursuits of academics – for example, literary scholars often require access to all versions of a text; whereas public libraries with growing immigrant populations need to import works in the languages of all their patrons. In the United States alone library collections contain at least 200 million books published abroad; and in research libraries in Brazil, more than 20% of the books required by undergraduate programs are not available in that country's market.

IFLA observes the common ground articulated by many NGOs speaking here on the topic of parallel importation. One point of clarification however can be made. We agree with those delegations that some unique "goods" have indeed both a trade as well as intellectual property aspect. A book is such an item. It is bought, sold and otherwise distributed as are other goods yet its text can embody a protected literary work under the copyright law. The common ground we do observe and applaud is that we are not discussing traditional grey market concepts of non-counterfeit, price-differentiated goods that are imported and enter the broad marketplace of a particular country. This is NOT the way a library undertakes collection development, that is, not all books are collected by all libraries nor are libraries interested in importing mass numbers of copies of a particular work for further distribution across the commercial marketplace within their country. IFLA is not seeking a broad right to import consumer goods such as Swiss watches or cosmetic products, rather the exception we seek and as stated earlier is for a library to be able to acquire a lawfully made copy or copies for its collection from any source consistent with its existing acquisition

standards and to make use of that copy or copies likewise consistent with its existing use standards. Thank you again Mr. Chairman.