



**African Library &
Information Associations
& Institutions**



**International
Federation of
Library
Associations and Institutions**

HE Mr Wamkele Mene,
Secretary General, African Continental Free-Trade Area, (AfCFTA)
Africa Trade House
Accra, Ghana

28 September 2020

Your Excellency,

We are writing to you on behalf of African Library and Information Associations and Institutions (AFLIA) and the International Federation of Library Associations and Institutions (IFLA).

AFLIA is an independent international not-for-profit pan-African organization which pursues the interests of library and information associations, library and information services, librarians and information workers and the communities they serve in Africa. We have an observer status at WIPO where we represent the interests of our members.

IFLA is the global organisation for libraries, representing library associations and libraries of all types around the world. In addition to work to strengthen library services, we engage closely at the World Intellectual Property Organization in order to promote international legal action to promote access to knowledge, research and culture, as well as at the United Nations around the Sustainable Development Goals.

We observe that the African Continental Free Trade Agreement (AfCFTA) has already made major progress towards better integration of Africa's economies. In its work, it has the potential to power exchange and growth across the region. As it moves into its next phase, the subject of a protocol on Intellectual Property is coming onto the agenda.

Getting this right will not only support Africa's economic integration, but also give a boost to its ability to carry out research, promote education, preserve and celebrate heritage, and generally realise the rights of all to participate in cultural life.

There are powerful models that have been negotiated elsewhere that demonstrate what can be achieved, in complement to the provisions already clearly set out in international law such as the Berne Convention, to which many, if not all, African countries are signatories.

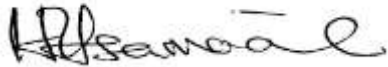
Below, we set out ten points that we believe should be reflected in any protocol of AfCFTA in order for it to realise its potential to drive growth, equality, and creativity in Africa. We hope that in your work on the future protocol, you will be able to work to ensure that these are reflected:

1. Establish a minimum set of provisions allowing for non-harmful uses of copyrighted works for the purposes of preservation, education, research, quotation, satire and news reporting. These should include a clear possibility for libraries to lend works to their users without payment, given the need to support the development of a reading culture in Africa.
2. Ensure that the list of purposes for which non-harmful reproduction of works is not unnecessarily limited, making it possible to update practices in line with changing needs and technologies. This echoes in part the ARIPO model law's stance on fair dealing exceptions, as well as the approaches adopted in some of the most innovative countries in the world.
3. Make sure all such provisions are digital-ready. Permitted uses of works should be technology-neutral, in order not to leave some parts of Africa behind.
4. Give cross border effect to such provisions within Africa, as a stepping-stone to a global legal instrument on limitations and exceptions for libraries, archives and museums at the World Intellectual Property Organization. This is essential if Africa is to develop as a single area for education, research and culture. The European Union, for example, has recently passed provisions enabling cross-border text-and-data mining and preservation, for example.
5. Protect uses under copyright exceptions against override by contracts or technological protection measures. If it is worth supporting education, research, and access to culture, it cannot be acceptable that the right to carry out such activities can be taken away so easily.
6. Provide a solution to the orphan and out-of-commerce works problem. The length of current copyright terms condemns a vast majority of works to being hidden away for many years after they come off the market. Libraries and cultural heritage institutions should be given simple ways to make use of such works. Ensure that these provisions work across borders, given how much African archival heritage lies in collections of former colonial powers.
7. Protect libraries and cultural heritage institutions against liability when acting responsibly and in good faith. Libraries should not have to fear huge fines or prison terms for carrying out their missions diligently, or for the actions of users (in reality and online) who have been properly informed of the law, including on online platforms hosted by libraries.
8. Clarify where works are not subject to copyright protection (because of their nature as government documents or standards with legal effect, or where their creator has decided to licence them openly), and ensure that this status is respected.
9. Encourage the development of collecting societies that are independent from government, and which reflect the good practices set out in the WIPO Good Practice Toolkit, in particular around transparency, good governance, and respect for exceptions and limitations.
10. Implement the Marrakesh Treaty at a continental level, without any unnecessary administrative burdens or cost barriers to the activities of libraries working to serve people with print disabilities

It is our firm belief that these points listed above if considered will without any doubt bring about the much needed and talked about growth, equality and creativity in Africa. We would

of course be happy to set up a (virtual) meeting in order to discuss our hopes for the IP Protocol in more depth.

Yours faithfully,



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