
THE MARRAKESH TREATY TO FACILITATE ACCESS TO
PUBLISHED WORKS FOR PERSONS WHO ARE BLIND,
VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED,
DONE AT MARRAKESH ON JUNE 27, 2013.

JUNE 19, 2018.—Ordered to be printed

Mr. CORKER, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 114-6]

The Committee on Foreign Relations, to which was referred the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh on June 27, 2013, having considered the same, reports favorably thereon with one declaration, as indicated in the resolution of advice and consent, and recommends that the Senate give its advice and consent to ratification thereof, as set forth in this report and the accompanying resolution of advice and consent.

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I. PURPOSE

According to the Secretary of State's Letter of Submittal to the President, the purpose of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled, Done at Marrakesh on June 27, 2013 (hereinafter, the "Marrakesh Treaty") is to reduce the global shortage of print materials in special accessible formats for the many millions of Americans and others throughout the world who are blind, visually impaired, or have other print disabilities, such as physical limitations that prevent holding a book. At present, ac-

According to the World Intellectual Property Organization (“WIPO”), only a small percentage of the more than one million books published worldwide every year are available in Braille, large print, or accessible digital files, resulting in diminished access to information, culture and education for persons with print disabilities. The Marrakesh Treaty addresses this gap by providing, with appropriate safeguards, that copyright restrictions should not impede the creation and distribution of such special format copies, and by fostering the exchange of such copies internationally.

II. BACKGROUND

The Marrakesh Treaty was negotiated and concluded under the auspices of WIPO to facilitate access to printed works for persons with print disabilities. It is widely agreed that there is a global shortage of print materials in accessible formats such as Braille, digital Braille, large print, and specialized audio files. The intent of the Marrakesh Treaty is to help address this “book famine” among the world’s print-disabled individuals. Further, the administration has informed the committee that, while the United States has the ability to make numerous accessible format copies available to print-disabled individuals in the United States under existing U.S. law, treaty beneficiaries in the United States who read and learn in languages other than English will particularly benefit from treaty provisions that facilitate sharing such copies across borders. Beneficiaries under the treaty who require access to specialized works, such as scholarly texts for graduate work in universities in the United States, will also benefit from improved access to accessible works.

The Marrakesh Treaty strikes a careful balance, providing that copyright protection should not impede the creation and distribution of such accessible format copies, including the exchange of such copies internationally to designated beneficiaries, while providing for appropriate safeguards to protect the interests of copyright holders.

Under the Marrakesh Treaty, parties are required to provide an appropriate exception or limitation in their national copyright law for the creation and distribution of accessible format copies for the exclusive use of blind and other print-disabled persons, subject to their existing international obligations. Further, parties are required, subject to various safeguards, to permit the exchange across borders of accessible format copies made under such national law exceptions for the use of blind and other print-disabled persons in other parties to the treaty. The Marrakesh Treaty provides assurances to authors and publishers that the system will not expose their published works to misuse or distribution to anyone other than the intended beneficiaries, and reiterates the requirement that the cross-border sharing of accessible format copies of works will be limited to certain special cases which do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

The United States signed the Marrakesh Treaty on October 2, 2013. The President transmitted the Treaty for the advice and consent of the Senate on February 10, 2016. The committee notes that a more detailed article-by-article analysis of this treaty may be found in the Letter of Submittal from the Secretary of State to the

President dated January 22, 2016, reprinted in Treaty Document 114–6.

III. IMPLEMENTING LEGISLATION

The committee has determined that implementing legislation to implement the treaty is required. The Resolution of Advice and Consent to Ratification includes a Declaration stating that the treaty is not self-executing.

On March 15, 2018, Senator Grassley introduced S. 2559, the Marrakesh Treaty Implementation Act. S. 2559 was considered by the Senate Judiciary Committee on May 10, 2018 and reported out favorably with no opposition. The Senate Foreign Relations Committee notes that a more detailed section-by-section analysis of the implementing legislation amending Title 17 of the United States Code may be found in the report of the Senate Judiciary Committee accompanying the legislation.

IV. COMMITTEE ACTION

The Committee on Foreign Relations held a hearing to consider the treaty on April 15, 2018. The hearing was chaired by Senator Corker. The committee considered the treaty on May 22, 2018, and ordered the treaty favorably reported by voice vote, with a quorum present and without objection, with the recommendation that the Senate give advice and consent to its ratification, as set forth in this report and the accompanying resolution of advice and consent to ratification.

V. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations believes that ratification of the Marrakesh Treaty will provide important new benefits to the print-disabled individuals in the United States and U.S. citizen beneficiaries living in other countries party to the Marrakesh Treaty and recommends the Senate give its consent to ratification of this Treaty. Ratification will also improve the lives of print disabled beneficiaries in other countries and could improve U.S. coordination on intellectual property policy development and enforcement with other nations.

The committee has included in its resolution of advice and consent one proposed declaration, which states that the Marrakesh Treaty is not self-executing. This declaration is consistent with the views of the executive branch. Historically, the Senate has not routinely included statements regarding the self-executing nature of treaties in resolutions of advice and consent, but in light of the Supreme Court decision, *Medellin v. Texas*, 552 U.S. 491 (2008), the committee has determined that a clear statement in the resolution continues to be warranted. A further discussion of the committee's views on this matter can be found in Section VIII of Executive Report 110–12.

VI. RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A DECLARATION.

The Senate advises and consents to the ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh on June 27, 2013 (Treaty Doc. 114–6), subject to the declaration of section 2.

SEC. 2. DECLARATION.

The Senate's advice and consent under section 1 is subject to the following declaration: The Treaty is not self-executing.

