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# TREATIES

# HEARING

BEFORE THE

## COMMITTEE ON FOREIGN RELATIONS
## UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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# TREATIES

**WEDNESDAY, APRIL 18, 2018**

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC.*

The committee met, pursuant to notice, at 10:35 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Bob Corker, chairman of the committee, presiding.

Present: Senators Corker [presiding], Risch, Gardner, Young, Menendez, Cardin, Shaheen, Murphy, Kaine, and Booker.

## OPENING STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

The CHAIRMAN. The Foreign Relations Committee will come to order.

We want to thank everyone for the hardship that many of you went through to be here from around the country and so many in the audience who care deeply about this issue, as we do on the committee.

We are going to consider today, as you already know, the Marrakesh Treaty. The World Health Organization estimates that there are 36 million blind people in the world today, with an additional 217 million who suffer from moderate to severe vision impairment. The Marrakesh Treaty will significantly expand the ability of blind and visually impaired people around the world to have access to books and other materials that the rest of us are able to take for granted.

The treaty itself is based in large part on a longstanding copyright exemption in U.S. law known as the Chafee Amendment. The Marrakesh Treaty closely follows the Chafee Amendment but will require a few changes to U.S. law. The Senate Foreign Relations Committee worked closely with the Judiciary Committee to develop the implementing legislation. There is broad support among the copyright stakeholders for Senate consent to the ratification of this treaty and for enactment of S. 2559, the corresponding implementing bill.

I have a number of letters of support from these organizations that I would like to introduce into the record, without objection.

[The information referred to above can be found at the end of this document.]

The CHAIRMAN. And finally, I would like to recognize James Brown, who is in the audience today. James is the immediate past president and a current board member of the National Federation of the Blind of Tennessee. We welcome him and all of you who have

come out of great interest for this treaty being enacted. We thank you for that.

And now I will turn to my friend, Ranking Member Senator Menendez.

**STATEMENT OF HON. ROBERT MENENDEZ, U.S. SENATOR FROM NEW JERSEY**

Senator MENENDEZ. Thank you, Mr. Chairman, and thank you for holding this important hearing.

Let me welcome our distinguished panelists and all of our guests who have taken the time to come here today for this important hearing. The consideration of treaties is among the most important responsibilities of this committee, and I wish we could do it more often.

I would like to welcome in particular one guest we have in the audience from the great State of New Jersey, Joe Ruffalo, Jr. He is a veteran who has served our country in Vietnam, earned a Bronze Star. He has been a businessman and a community leader in the Lions Club, the Knights of Columbus, and the Boy Scouts of America. Though retinitis pigmentosa has claimed his vision, Joe has done critical work to assure the full integration of people with disabilities into our society. He served as president of the special education parent and professional organization for 13 years, past chairman of the board of trustees of the New Jersey Commission for the Blind and Visually Impaired, and he currently serves as president of the New Jersey Federation for the Blind, a position he has held since 1993. So, Joe, thank you very much for being here, for your advocacy.

Also he has been joined by another New Jerseyan, Linda Melendez. That is "L" not an "N" so we could be cousins maybe. [Laughter.]

Senator MENENDEZ. We are one "N" apart. She has joined you and I welcome her here today as well.

I have long been a proud champion of the disabilities community because I believe that everyone should have the opportunity to achieve their dreams and fulfill their God-given potential. The pursuit of accessibility and reasonable accommodation for all embodies the greatest and best of American ideals, principles of equality and the protection of minorities, as well as the inalienable right to pursue happiness.

I was a strong supporter on the Convention for the Rights of Persons with Disabilities, which promoted the fairness and equality that people with disabilities enjoy here to countries around the world. As chairman of this committee at the time, I held two hearings in late 2013 to consider the convention and was proud to support the successful passage of the convention from the committee in 2014. I was disappointed that the full Senate did not take up the convention, but we have continued to work to advance the rights of those in the disabilities community.

Today we consider a narrow but still critically important treaty intended to break down barriers that have prevented those with disabilities from accessing and learning from books and published materials. Book famine, or lack of access to accessible texts, disproportionately impacts those with reading and visual disabilities.

The National Federation for the Blind estimates that only 5 percent of published books can be found in an accessible format in the developed world. That percentage is even smaller in the world's poorest countries.

Modern technology can be used to convert books into accessible format, braille, digital braille, or a navigable audio book. But restrictive national copyright laws have hampered these efforts, and even once produced, incompatible national copyright laws make it difficult for countries to share their formatted works.

In 2013, representatives of 51 countries met in Marrakesh to address this issue, and all eventually signed on to the treaty whose primary objective is to ensure that persons with visual impairments are able to exercise their right to freedom of expression, education, and the opportunity to conduct research.

The treaty requires signatories to create an exception in domestic copyright law that would allow authorized entities to create published works in a format accessible to visually impaired persons, allow for the import and export of these works so long as national law allows and the recipients are the intended beneficiaries, and ensure that all exceptions and limitations to copyright laws do not prejudice the legitimate interests of the work's right holders.

The United States signed the treaty on October 3rd of 2013. It entered into force in 2016, and it is about time that we ratify the treaty.

Let me just close by giving one example. This treaty would bring concrete benefits to visually impaired Americans like Veronica Gaspa, a young constituent of mine from South Orange, New Jersey. She is the president of the New Jersey Association of Blind Students and a junior at Seton Hall University who is studying English and journalism. When Veronica was in high school, she took Spanish but could not get the Spanish materials she needed to follow up with her fellow students. And by the time an accessible copy was made, the school year would be over.

Veronica was always interested in other cultures, but she and many other visually impaired students she networks with stay away from language classes in college out of fear they will not be able to keep up or get materials that would help them learn. She is friends with blind people around the world but cannot recommend books to them because there likely is not an accessible copy in their country. Ratifying this treaty would have a direct impact on the lives of Veronica and her friends.

For over 3 years, my staff has worked with the staff of Senator Corker, as well as the staff of the Judiciary Committee, in a bipartisan fashion to advance this treaty and its implementing legislation, which I understand has the strong support of each of the stakeholder groups represented here today, the visually impaired community, libraries, and the publishers association.

I am proud to serve as an original cosponsor of the implementing legislation, and I look forward to hearing from our panelists and, hopefully, Mr. Chairman, adopting the treaty, helping you pass it, and hopefully getting passage on the floor.

The CHAIRMAN. Thank you so much.

We will now turn to our first panel. Our first witness is Manisha Singh, Assistant Secretary of State for Economic and Business Af-

fairs. In this role, she is responsible for advancing American prosperity, entrepreneurship, and innovation worldwide. I would note that she also served as Deputy Chief Counsel to this committee. We thank her for her service here and with the administration today and for being here.

And with that, if you could summarize your comments in about 5 minutes, we would appreciate it.

**STATEMENT OF HON. MANISHA SINGH, ASSISTANT SECRETARY, BUREAU OF ECONOMIC AND BUSINESS AFFAIRS, UNITED STATES DEPARTMENT OF STATE, WASHINGTON, DC**

Ms. SINGH. Thank you, sir.

Chairman Corker, Ranking Member Menendez, and members of the committee, thank you for the opportunity to appear before you today to testify in support of the Marrakesh Treaty on behalf of the administration.

I would like to begin by saying a few words about the importance of this treaty. Today, there is a shortage of print materials formatted to be accessible for the many millions of people around the world, including Americans at home and abroad, who are visually impaired or have other disabilities which prevent them from reading standard formats.

Less than 10 percent of books published worldwide every year are available in braille, large print, or accessible digital files, according to figures compiled by the World Intellectual Property Organization, better known as WIPO. This lack of resources creates a deficit of information, culture, and education for persons with what are known as "print disabilities."

The Marrakesh Treaty addresses the gap in access to print materials for these persons by providing, with appropriate safeguards, that copyright restrictions should not impede the create and distribution of copies of published works in special formats accessible to individuals who are blind, visually impaired, or otherwise print disabled. It also fosters the cross-border exchange of such accessible format copies internationally, as Senator Menendez observed.

I would also like to discuss the important history of this treaty, as well as what U.S. accession would mean for the purposes of our domestic law.

The United States was actively involved in the preparatory work for this treaty over a number of years. We played a leadership role at the diplomatic conference in successful negotiation of the treaty, culminating with its adoption by consensus on June 27, 2013 in Marrakesh, Morocco, at a gathering of 600 representatives from WIPO member states.

This achievement is a tribute to the sustained commitment, effort, and engagement of a number of U.S. federal agencies, as well as devoted stakeholders from the private sector and NGOs. In particular, the United States Patent and Trademark Office led the negotiating team, assisted and joined by experts from the U.S. Copyright Office, the Office of the United States Trade Representative, the Department of State, the Departments of Justice and Education, and the Institute of Museum and Library Sciences. I list this group of agencies to fully impress upon the committee how extensive support is for this treaty throughout the administration.

Our negotiators consulted closely throughout the process with U.S. stakeholders representing intellectual property rights holders, print disabled individuals, libraries, and other organizations that play a vital role in distributing copies of accessible format materials. Many of them were in Marrakesh when the treaty was finalized, and it is great to see a number of them in the room here today.

The United States signed the Marrakesh Treaty in October 2013, and it was transmitted by the White House to the Senate for consideration in February 2016. The treaty entered into force in September 2016 when Canada became the 20th nation to ratify it. Today, 35 countries have ratified or acceded to the treaty. But none of these countries has the range of print materials as the United States.

The Marrakesh Treaty contains two principal obligations. First, it requires parties to provide exceptions in their national copyright laws for the creation and distribution of accessible format copies for print disabled persons. Second, it requires parties to allow the cross-border dissemination of accessible format copies, increasing the number of accessible works available in each country, including in the United States.

The provisions of the treaty keep the scope of the required exception within the parameters of existing international copyright agreements and are compatible with existing U.S. law. The treaty requires other countries to adopt exceptions modeled closely on those already found in U.S. law. Since 1996, section 121 of the Copyright Act, better known as the Chafee Amendment, has provided a copyright exception that permits authorized entities such as libraries to reproduce and distribute accessible format copies to persons who are blind or visually impaired.

This treaty is critical to providing access to learning by the blind community and individuals with other print disabilities worldwide. Ratification by the United States of the Marrakesh Treaty will have a significant positive effect. It will allow Americans with print disabilities to access an estimated 350,000 additional works that they cannot currently access.

Thank you for your consideration of the Marrakesh Treaty.

And with that, Mr. Chairman, I would be more than happy to answer any questions you may have.

[The prepared statement of Ms. Singh follows:]

PREPARED STATEMENT OF HON. MANISHA SINGH

Thank you, Chairman Corker, Ranking Member Menendez, and members of the Committee. I am pleased to appear before you today to testify in support of the Marrakesh Treaty.

I would like to begin today by saying a few words about the importance of the Marrakesh Treaty. Today, there is a shortage of print materials formatted to be accessible for the many millions of people around the world, including Americans at home and abroad, who are blind, visually impaired, or who have other disabilities that prevent them from reading standard formats.

Less than 10 percent of books published worldwide every year are available in braille, large print, or accessible digital files, according to figures compiled by the World Intellectual Property Organization. This lack of resources creates a deficit of information, culture, and education for persons with what are known as "print disabilities."

The Marrakesh Treaty addresses the gap in access to print materials for these persons by providing, with appropriate safeguards, that copyright restrictions

should not impede the creation and distribution of copies of published works in specialized formats accessible to individuals who are blind, visually impaired, or with other print disabilities. It also fosters the cross-border exchange of such accessible format copies internationally.

I would now like to say a bit about the history of the Treaty and what accession would mean in terms of U.S. law.

The United States was actively involved in the preparatory work for the treaty over a number of years and played a leadership role at the Diplomatic Conference in the successful negotiation of the treaty, culminating with its adoption by consensus, on June 27, 2013 in Marrakesh, Morocco, at a gathering of 600 representatives from World Intellectual Property Organization (WIPO) member states.

This achievement was a tribute to the sustained commitment, effort and engagement of a number of U.S. federal agencies as well as stakeholders from the private and non-profit sectors. In particular, the U.S. Patent and Trademark Office led the U.S. negotiating team, assisted and joined by experts from the U.S. Copyright Office, the Office of the United States Trade Representative, the Department of State, the Department of Justice, the Department of Education, and the Institute of Museum and Library Services.

Our negotiators consulted closely throughout with U.S. stakeholders representing intellectual property rights-holders, blind and other individuals with print disabilities, libraries, and other organizations that play a vital role in distributing copies of accessible format materials. Many of them were in Marrakesh when the Treaty was finalized, and it is a pleasure to see a number of them here in the room today.

The United States signed the Marrakesh Treaty in October 2013 and, in February 2016, it was transmitted by the White House to the Senate for its advice and consent to ratification. The Treaty entered into force on September 30, 2016 when Canada became the 20th nation to ratify. Today, 35 countries have ratified or acceded to the Treaty. But none has the range of print materials that the United States has.

The Marrakesh Treaty contains two principal obligations. First, it requires parties to provide exceptions in their national copyright laws for the creation and distribution of accessible format copies for persons with print disabilities. Second, it requires parties to allow the cross-border dissemination of accessible format copies, increasing the number of accessible works available in each country, including the United States.

The provisions of the Treaty keep the scope of the required exception within the parameters of existing international copyright agreements and are generally compatible with existing U.S. law. The Treaty requires other countries to adopt exceptions modeled closely on exceptions already found in U.S. law. Since 1996, section 121 of the Copyright Act (the Chafee amendment) has provided a copyright exception that permits authorized entities, such as libraries, to reproduce and distribute accessible format copies to persons who are blind or visually impaired.

This Treaty is seen as critical to providing access to learning by the blind community and individuals with other print disabilities worldwide. Ratification by the United States of the Marrakesh Treaty, together with enactment of implementing legislation that has been proposed, will have a significantly positive effect. It will allow Americans who are blind or visually impaired or with other print disabilities to access an estimated 350,000 additional works that they currently cannot read.

We are all happy to see this Treaty moving forward. Thank you for the opportunity to present the Administration's views on the Marrakesh Treaty to you today.

The CHAIRMAN. Thank you so much.

With that, as is the normal, I will turn to our ranking member.

Senator MENENDEZ. Thank you, Mr. Chairman.

Ms. Singh, thank you for being here and for your testimony.

I am pleased that we are holding this hearing today on a critical treaty. I wish we were doing it more often on other treaties. I think treaty consideration is a critical part of our job on this committee. They enhance and increase stability in an uncertain world. They can deliver material, tangible benefits to the United States, its citizens, and businesses. And I see treaties as extending American values and principles as international norms.

Would you agree with that?

Ms. SINGH. Yes, Senator, I do think treaties are important.

Senator MENENDEZ. Besides this treaty, do you know what pending treaties the State Department considers a priority for consideration by the committee?

Ms. SINGH. Senator, the administration is currently reviewing and finalizing its treaty list. I would be happy to get back to you.

Senator MENENDEZ. If you would do so, I would appreciate it for the record.

Have all aspects of the implementing legislation for the Marrakesh Treaty been resolved to the satisfaction of the State Department and the U.S. Patent and Trademark Office?

Ms. SINGH. Yes, Senator. I believe at this point we have closely consulted with stakeholders and throughout the interagency, and the implementing legislation is in a format that is feasible to move forward.

Senator MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. I will wait to come to you. I know you want to get settled. Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman. And I thank the chairman and ranking member for their leadership on bringing this treaty forward with a hearing in this committee and hopefully moving it quickly.

The chairman and ranking member proudly recognize the presence of constituents from Tennessee and New Jersey. I would just would like to note for the committee that the National Federation of the Blind is headquartered in Baltimore, Maryland.

[Laughter.]

Senator CARDIN. I know we have a lot of Marylanders who are in the room. It is the oldest and largest nationwide organization of blind Americans, and for over 60 years, the National Federation of the Blind has been a leading source for helping blind and those with low vision find the resources, support, and hope they need to lead the lives that they want.

I really want to applaud the National Federation of the Blind. They have not only been the leading voice on behalf of the visually impaired. They have been the leading voice on behalf of all people with disabilities and have been a constructive force in our community on just about every issue concerning quality of life for the people in Maryland.

I also want to just acknowledge what Senator Menendez said, and that is dealing with people with disabilities so they have full opportunity is a human rights issue and one in which the United States needs to be in the leadership. And that is why I think the ratification of this treaty is so important.

And, Mr. Chairman, again I want to thank you. I want to thank Senator Menendez. I want to thank the chairman and ranking member of the Judiciary Committee for leading the efforts on legislation so that we can, in fact, ratify this very important treaty.

And I think, if I am correct, in your testimony that our laws already would comply with the requirements under this treaty, and that basically it is the U.S. law that would be the model that is being used under the Marrakesh Treaty. Is that basically correct?

Ms. SINGH. Yes, Senator Cardin, that is correct.

Senator CARDIN. And if I could just add one more point here. Obviously, the treaty has gone into effect because they have reached

the threshold number of ratifying states. We still have a large number that have not ratified this treaty. The impact of the United States ratifying this treaty, being the largest source of material, has its obvious importance in the implementation of this treaty. But would it also help other countries to motivate them perhaps to join in the treaty?

Ms. SINGH. Yes, Senator, very much so. One of the reasons that we should quickly ratify this treaty is because we very much think that other nations will be incentivized to join this treaty for all of the reasons that you and the other members of the committee have stated, that the United States has some of the largest collections of print materials, and it would be of great benefit to the print disabled community around the world to have access to all of these.

Senator CARDIN. So, Mr. Chairman, I just really want to encourage this committee to act as promptly as we can and to work with our colleagues in the Senate to move the ratification process because I do believe it is not only important for our country but a signal to many other countries to ratify this agreement. Thank you.

The CHAIRMAN. Thank you so much.

Senator Risch.

Senator RISCH. Thank you very much, Mr. Chairman.

I really do not have any questions.

The community nationally and in Idaho has been very active in pursuing us to ratify this treaty. And I have had the opportunity to go over it in detail. I think this is something that really needs to be done quickly, as has been indicated, and it certainly has benefits not only for Americans but will, I think, benefit people who are sight impaired all over the world.

So thank you very much for holding this hearing, and let us see if we cannot move it along.

The CHAIRMAN. Absolutely.

Senator Shaheen.

Senator SHAHEEN. Thank you, Mr. Chairman.

And thank you, Assistant Secretary Singh, for your testimony.

I share the views of my colleagues that we need to get this done as quickly as possible, that it is very important for the visually impaired not only in the United States but around the world.

And I just have one question, and that is do you know any groups or individuals who are opposed to this treaty?

Ms. SINGH. No, Senator, I am not aware of any opposition to the treaty.

Senator SHAHEEN. Well, thank you.

I think, Mr. Chairman, that speaks to the importance of expediting this as quickly as possible.

The CHAIRMAN. Thank you.

I know that it is our norm to have an administration witness today, and we thank you for coming up. The fact is the administration supports the treaty. We do not know of anybody that opposes it. We have worked very, very closely with you all the way through and the other members of the administration. I thank you for the way that you and others have worked with our staff on both sides of the aisle.

And so, unfortunately, we are not going to grill you today. We are not going to give you a hard time.

[Laughter.]

The CHAIRMAN. I know that you are disappointed and your family watching this will be very disappointed.

[Laughter.]

The CHAIRMAN. But it is just a happy occasion. So thank you.

Senator MENENDEZ. Mr. Chairman, if the Secretary is that disappointed, we can change that.

[Laughter.]

The CHAIRMAN. Director Pompeo wishes his hearing was the same.

[Laughter.]

The CHAIRMAN. But with that, if you would, thank you, and we will probably move to the second panel who we have not heard from directly. Thank you so much.

Ms. SINGH. Thank you, Chairman Corker. It has been my honor to represent the administration on this treaty, and I do agree with all the members of the committee that we think this is a win for everyone.

The CHAIRMAN. Thank you. Thank you so much.

With the second panel, our first witness is Scott Labarre, Counsel to the National Federation of the Blind. A specialist in laws affecting the blind and disabled, Mr. Labarre has served as the chair of the American Bar Association's Commission on Mental and Physical Disability Law.

Our second witness is Allan Adler, Executive Vice President and General Counsel, Association of American Publishers. In his capacity, Mr. Adler leads the AAP's advocacy efforts with respect to copyright protection.

Our third witness is Jonathan Band, an expert on intellectual property law. Mr. Band serves as Counsel to the Library Copyright Alliance whose members include the American Library Association, the Association of Research Libraries, and the Association of College and Research Libraries.

We thank you all for taking the time to be with us today. We look forward to your testimony. If you would begin and move through in the order introduced, we would appreciate it. And if you could limit your comments to 5 minutes or less, we would appreciate it. If you have any written materials that you would like to provide to us, we are glad to accept those, without objection.

Mr. Labarre.

## STATEMENT OF SCOTT LABARRE, LEGAL COUNSEL, NATIONAL FEDERATION OF THE BLIND, BALTIMORE, MD

Mr. LABARRE. Thank you, Senator Corker, Ranking Member Menendez, and members of this committee. I want to bring the greetings of our president, Mark Riccobono, and our 50,000-plus members across the United States. Also sitting behind me here is our immediate past president, Marc Maurer, who I can either congratulate or blame for me sitting here today because it was nearly a decade ago that he asked me to start working on this thing that was sort of a treaty idea about advancing the rights of blind people throughout the world to access information.

I have prepared some extensive written remarks and submitted those to your staff, and I do appreciate them being part of the record.

When we talk about this issue, for those of us who are blind and otherwise print disabled, this is much more than a copyright issue. It is truly a human rights issue. We have said in the National Federation of the Blind—in fact, our founder, Dr. Jacobus tenBroek, argued that the blind and other people with disabilities have a right to live in the world. Fundamental to that right is the right to access information. Blindness is a physical disability that restricts our ability to read the printed word, but as this committee knows, there are ways to provide that same information in alternative formats. The problem has been that the regular marketplace has not provided those accessible formats, and copyright law has stood as a barrier to producing those formats in a timely fashion.

Additionally, international copyright law led us to a situation where even if we had created an accessible work here in the United States, we could not share that with others in the world. This has created what we have been calling the book famine for the blind.

A moment about my personal story. I went blind at age 10. I loved to read. It was one of my favorite things to do. I thought that ability had been taken away from me forever. Soon, though, I realized I could learn braille and use books in an audio format. And actually at that time, these books came on vinyl records, believe it or not.

[Laughter.]

Mr. LABARRE. And this was amazing. This was wonderful because once again I could read. But the problem was I was getting books months—at a minimum, months—after my sighted colleagues had received them and oftentimes years.

Later I ran into another barrier when in college I was pursuing a double major in political science and Spanish. I had to drop that Spanish major because I could no longer get access to the kinds of materials I needed in Spanish. What is sad is those materials existed. I just could not get my hands on them.

So we have worked for many years to come to this point where this treaty is ready to be ratified by the United States and send to the world a signal that the right to access information is indeed a human right, a priority of the United States of America.

I want to thank the U.S. Government and its delegation who worked very hard over the years to help us achieve the treaty, in particular, Professor Justin Hughes who led the U.S. delegation at that time. I also want to thank the other copyright stakeholders, the Association of American Publishers and the Library Copyright Alliance, for their support over these many years.

This has been a hard and arduous process because we have been talking about copyright, and even though I was not originally all that familiar with copyright law, I soon learned that copyright law is rather hotly contested let us say. And for the key stakeholders to put aside their long-held differences and views about copyright and make the Marrakesh Treaty become real, we thank them very much.

So at this point, Senator Corker, I will stop and turn it over to my colleague, Allan Adler, and I will be happy to answer questions when that is appropriate.

[The prepared statement of Mr. Labarre follows:]

PREPARED STATEMENT OF SCOTT C. LABARRE

INTRODUCTION

Good Morning Chairman Corker, Senator Menendez, and Members of the Foreign Relations Committee: Today, I bring you greetings on behalf of President Mark Riccobono and the over 50,000 members of the National Federation of the Blind, our nation's oldest and largest organization of the blind. I am Scott LaBarre and I serve as Legal Counsel to the Federation, and specific to the topic of today's hearing, I have also been serving as NFB's delegate to the World Intellectual Property Organization (WIPO) since 2009 when Dr. Marc Maurer, our Immediate Past President, appointed me to do so. Over the last 9 years, I have attended all of the relevant negotiating sessions that occurred mostly in Geneva and concluded in Marrakesh. After the Treaty's adoption, WIPO created the Accessible Books Consortium (ABC) to help implement the Treaty and I serve as a member of ABC's board representing the World Blind Union of which the Federation is a member.

I thank you for today's opportunity to provide testimony regarding the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty). This Treaty will dramatically improve the lives of blind and print disabled Americans as well as help our blind brothers and sisters around the world by opening up access to countless accessible works that we cannot currently acquire. We urge you to ratify the Marrakesh Treaty without delay and also adopt S. 2559, the Marrakesh Treaty Implementation Act.

Before addressing the substance of my remarks, I must first thank you, Senator Corker, for your hard work, and that of your staff for laying the groundwork necessary to bring about today's important hearing. I also thank you, Senator Menendez, for your efforts in this regard. We additionally want to express our gratitude to Senator Grassley of Iowa and Senator Feinstein of California for introducing S. 2559 which will amend our copyright law to implement this life changing treaty.

GENERAL BACKGROUND

For us, the Marrakesh Treaty represents far more than a copyright treaty that creates exceptions and limitations to reproduce materials into accessible formats and exchange those formats across international borders. The Treaty embraces a fundamental human right. The Federation's founder, Dr. Jacobus tenBroek, said, "The blind have a right to live in the world. That right is as deep as human nature; as pervasive as the need for social existence; as ubiquitous as the human race; as invincible as the human spirit." Fundamental to the right to live in the world is the right to access information.

Accessing information, especially in a timely fashion, has been one of the significant barriers posed by blindness and print disabilities. Those without such disabilities take for granted the ability to pick up a book or other printed material and simply read it. For us, it is necessary to convert the printed word into some type of accessible format such as Braille, audio, or accessible electronic text. It is true that modern technology has allowed electronic text to be turned into speech. Conceptually, that would allow anything produced electronically to be read with assistive technology. However, much of the material produced in electronic text is designed in such a way to be incompatible with the assistive technology used by the blind, thus requiring conversion into a format that is accessible for the blind and print disabled.

PERSONAL STORY

Allow me a moment to explain how these barriers have affected me directly. Prior to losing my vision to a childhood virus at age ten, I absolutely loved reading. One of my greatest joys as a young child was going to my elementary school's library and perusing the thousands of books available there. To this day, my memories of the library at Royal Oaks Elementary School located in Woodbury, Minnesota are vivid and ones I recall with great fondness.

When I lost my vision, I thought that the treasure trove of information available to me had been stolen and lost to me permanently. After a while, I realized that all was not lost. By learning Braille, I recovered the ability to read for myself and

once again go to sleep at night with a book in my hands. These books came to me through the Library of Congress National Library Service for the Blind and Physically Handicapped. In addition to the Braille texts, I had access to books in an audio form. At first, these books came to me on vinyl records, later replaced by cassette tapes.

Although my ability to read Braille and audio books allowed me to regain some of my independence, it was not a complete solution. Even though I grew up in a wealthy nation with substantial resources, I had access to a negligible percentage of what my sighted peers took for granted.

Even when I could get my hands on accessible books, it often occurred long after my sighted friends had read the same information. I was always trying to catch up and struggling to keep pace. Many times, my Braille or audio school books came to me months after my sighted colleagues had plowed through the information. Later I ran into another significant information barrier while attending college at St. John's University in Minnesota. Originally, I had planned on a double major in Government and Spanish. Ultimately, I dropped that Spanish major precisely because I could not get access to Spanish novels and other materials.

Despite the barriers I faced, I regard myself as a fortunate and successful person. I am an attorney who runs and operates his own law firm. I have argued before courts all over the United States and had the privilege of engaging in international projects like the Marrakesh Treaty. I own my home in Denver, Colorado and I have a beautiful wife and two terrific children.

I attribute my success largely to my family. My mom and dad pushed the local school system hard to insure that I learned the alternative techniques of blindness like Braille and independent cane travel and to provide books in alternative formats.

The National Federation of the Blind's positive philosophy on blindness has also been absolutely critical in helping me achieve success. Our official and heart felt message is: "The National Federation of the Blind knows that blindness is not the characteristic that defines you or your future. Every day we raise the expectations of blind people, because low expectations create obstacles between blind people and our dreams. You can live the life you want; blindness is not what holds you back."

I have been fortunate because I managed to gain access to a wide array of accessible information, but it has always been a struggle to keep up. Tragically, the vast majority of blind and visually impaired individuals do not have access to enough information to put them on a path to success.

NEED FOR THIS COPYRIGHT TREATY

In addition to the traditional barriers limiting our right to read, namely the barriers of our inability to read the printed word and that of inaccessible information technology, there is another significant barrier to our full enjoyment of the right to access information, and it is copyright law. Without an exception or limitation, international law makes it abundantly clear that reproducing a copyrighted work without the permission of the rights holder, any kind of reproduction, violates the exclusive right that the copyright holder possesses to control distribution of the work. The only way around this exclusive right has been to ask permission of the rights holder, permission that either is denied or takes a long time to acquire. That is why the National Federation of the Blind joined the Association of American Publishers in 1996 and urged and ultimately convinced Congress to amend the United States Copyright Act to include an exception permitting reproduction of published works into accessible formats such as Braille, audio, and accessible electronic text, the so-called Chafee Amendment.

Our domestic exception, however, did not address the great dearth of accessible works throughout the world. It has been estimated that well over 95 percent of the world's works have not been made available in accessible formats. Unfortunately international copyright law either out right banned the practice or made it incredibly difficult to exchange accessible works across international borders. These circumstances also led to the needless duplication of accessible works in nations that shared a common language. This phenomenon later became known as the book famine for the blind.

BRIEF HISTORY ON TREATY'S ADOPTION

That is why we engaged with our partners in the World Blind Union to put forward an international agreement that would amend international copyright law proactively to permit exceptions and limitations allowing reproduction of works into accessible formats and to allow such accessible works to flow across international borders. Reproduction of these works will be carried out by what are known as au-

thorized entities that create the accessible material on a nonprofit basis for the exclusive use by the blind or those with print disabilities. Ultimately, these efforts culminated in the Marrakesh Treaty adopted by the member states of WIPO in June of 2013, signed by the United States in October of 2013, and forwarded to the United States Senate in February of 2016.

The treaty proposal was first tabled before WIPO in 2009, and the Diplomatic Convention successfully concluded negotiations in 2013. In the international agreement context, this is a relatively quick time period, but the process was arduous and, at times, hotly contested. The Marrakesh Treaty represents the first time that the international community has adopted an agreement exclusively expanding exceptions and limitation to copyright law without granting further rights to intellectual property holders. Naturally, traditional copyright stakeholders vigorously debated with one another about the scope and reach of what would become the Marrakesh Treaty. Additionally, concerns of developing and least developed nations were pitted against the interests of the first world. All of these factors played into the circumstances we encountered while entering the first days of the Marrakesh Diplomatic Conference. At the time, 37 issues remained unresolved as that Conference began. Most were skeptical about whether the treaty text could be successfully concluded.

To achieve the birth of the Marrakesh Treaty, it took the hard work and tireless advocacy of key stakeholders. The Federation led the effort here in the United States to advocate for a strong and practical treaty, and we enjoyed the support of the American Council of the Blind, American Foundation for the Blind, and Benetech (operator of Bookshare), the largest private authorized entity in the world. It also took the good will and ability to compromise by traditional copyright stakeholders such as publishers and libraries represented here in the U.S. by the Association of American Publishers and the Library Copyright Alliance. Strong leadership from key WIPO member states was required to reach consensus and ultimate success.

In the United States, we have a great deal for which to be proud. The U.S. government delegation exercised tremendous leadership and skill and brought unwilling nations to the table. I particularly wish to thank Professor Justin Hughes of the Loyola Law School at Loyola Marymount University in Los Angeles who led the U.S. delegation for his tireless work, creative drafting, and negotiating skills. Without our U.S. based stakeholders, it would not have been possible to bring the Marrakesh Treaty into existence. It has been the same group of organizations and individuals who have helped Senate staff draft the implementation language now in consideration by this chamber in S. 2559.

SUPPORT FOR THE TREATY

Ratification and implementation of the Marrakesh Treaty is being supported by a broad coalition of stakeholders. The American Council of the Blind, American Foundation for the Blind, American Library Association, American Printing House for the Blind, Association of American Publishers, Association of College and Research Libraries, Association of Research Libraries, Association of University Centers on Disabilities, Authors Alliance, Authors Guild, Benetech (operator of Bookshare), National Center for Learning Disabilities, National Federation of the Blind, National Industries for the Blind, National Music Publishers Association, Open Society Policy Center, and Perkins School for the Blind, all urge you to ratify Marrakesh and pass S. 2559 without delay! I should also mention that I happen to sit on the American Bar Association Board of Governors and as a Member of our House of Delegates. In 2014, we passed Annual Resolution 100 urging ratification and implementation of the Marrakesh Treaty.

TREMENDOUS BENEFITS OF THE TREATY FOR THE BLIND AND PRINT DISABLED

As I alluded to earlier, there is a great dearth of accessible material available to the world's 285 million blind and visually impaired individuals. Millions more undoubtedly have a print disability that is also covered by the Treaty. In dozens of nations throughout the world, there are exactly zero texts available in an accessible format for blind individuals in their native language. Although it must be admitted that no one knows precisely the exact number of published works currently available in accessible formats, the World Blind Union has estimated that approximately 95 percent of published works are not accessible to the blind and visually impaired.

The situation is slightly better here in the U.S. If you combine the collections of the National Library Service for the Blind and Physically Handicapped and that of Bookshare, our two largest authorized entities, you will find approximately 800,000

accessible titles. Even this falls far short of the tens of millions of works available to those who are not blind or otherwise have a print disability.

The benefits of ratifying and implementing the Marrakesh Treaty are clear for blind and print disabled Americans as well as for those throughout the world. For Americans, we would almost immediately have access to hundreds of thousands of accessible works in English from the United Kingdom, Canada, and Australia as well as the dozens of other English speaking nations. Nearly 200,000 accessible works in Spanish will be available from Spain and Latin America, something that would have been incredibly helpful to me when I was in college. There are hundreds of thousands of accessible titles available in dozens of additional foreign languages which will also be available to those of us here in the United States. Meanwhile, the hundreds of millions of blind and visually impaired individuals living elsewhere in the world will gain the ability to access the accessible titles we have produced here in America.

There are tremendous benefits to ratifying and implementing the Marrakesh Treaty, and we are aware of no disincentives. The amount of money we are requesting Congress to appropriate to bring Marrakesh into reality in the U.S. is exactly zero. The Treaty and the implementing legislation before Congress have been crafted carefully to protect the rights of creators and publishers while meeting the accessibility needs of the blind and print disabled. No one is opposing ratification and implementation of the Marrakesh Treaty.

CONCLUSION

On behalf of blind and print disabled Americans and my friends throughout the world, I thank you for the opportunity to testify here today. In 1969, I am sure that Crosby, Stills, and Nash never imagined that their express to Marrakesh might be hijacked by the blind, but as Crosby, Stills, and Nash sing, "all aboard that train!" It is time for the United States to join the 37, and growing, nations of the world and board the Marrakesh Express! We in the National Federation of the Blind urge you to ratify the Marrakesh Treaty and pass S. 2559 to implement it. In so doing, you will throw open the door to a wealth of information available to the blind and print disabled. Access to that information will significantly further our ability to live the lives we want by obtaining better education and increased employment. Through bold legislative action now, you will help us gain much greater inclusion into mainstream life and access to all of the promise our great nation holds. Please help us shatter the information barrier that for far too long has stood in our way!

The CHAIRMAN. Thank you so much.

Mr. Adler.

## STATEMENT OF ALLAN ADLER, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, ASSOCIATION OF AMERICAN PUBLISHERS, WASHINGTON, DC

Mr. ADLER. Thank you, Chairman Corker, Ranking Member Menendez, and members of the committee.

AAP is a national trade association that represents leading U.S. book, journal, and education publishers on law and public policy issues. In the written statement I submitted, you can see the highlights of many different projects we have done to advance the cause of accessibility for the products of the industry.

Before the digital age, laborious conversions of publishers' single format production files were required to achieve limited accessibility for people with print disabilities. Born accessible copies were unavailable in consumer markets and most accessible copies had to be made by a few nonprofit suppliers with technical skills but limited resources, working with publishers or with publishers' consent so their copies would be considered legal.

Today digital applications enable many accessibility features to be built into publishers' production processes, publications, and content platforms, moving them closer to serving the extraordinary needs of people with print disabilities through ordinary consumer markets.

At its core, the Marrakesh Treaty internationally adopts key concepts of the Chafee Amendment, as was explained by Ms. Singh.

AAP's support for the Marrakesh Treaty is a unique exception to our opposition to the WIPO's consideration of multilateral treaties comprised only of limitations and exceptions to the rights of copyright owners. And the reason for that is that the treaty is a special case, just as my friend Scott said, because it helps tackle the fundamental human rights issue of discrimination against individuals based on their personal disabilities, and it does so in a manner that directly echoes one of the key elements in U.S. copyright law.

Given its multilateral nature and particular importance for people with print disabilities in less developed countries, AAP understood that the treaty would have to follow and allow optimal flexibility for compliance with its obligations in order to function across a diverse spectrum of national legal systems, cultural perspectives, and economic and technological resources and capabilities. We also knew the need to accommodate such diversity created special challenges for building predictability and accountability into its structure, particularly for the authorized entities that would be pivotal players in achieving its goals.

The Obama administration's proposed implementing legislation fell short on this important issue, failing to incorporate the modest but nonetheless significant practices that authorized entities must establish and follow under article 2(c) of the treaty. But S. 2559, the proposed Marrakesh Treaty Implementation Act, that notes the bipartisan leadership of this committee along with that of the Senate Judiciary Committee as original cosponsors, corrects this omission in a manner that is endorsed by AAP and other stakeholder advocacy groups.

In conclusion, let me emphasize that AAP views the ratification and implementation of the Marrakesh Treaty as important transitional steps that are currently needed while publishers and their technology partners continue to make progress toward the shared goal of all stakeholders on this issue: a common marketplace where people with print disabilities can at the same time, in the same manner, and at the same price as other consumers purchase copies of published literary works and enjoy them without having to demonstrate special qualifications or depend on regulatory privileges for their availability.

As born accessibility becomes increasingly common, a critical for publishers and authors will be the need for a commercially available exclusion in the Chafee Amendment and similar foreign copyright laws to acknowledge the transformed consumer landscape. Clearly, it would be unfair to allow regulatory measures like the Chafee Amendment to privilege competing free production and distribution of the same works in accessible copies.

While copyright exemptions may be needed to serve a continuing safety net function until the availability of born accessible publications reaches its tipping point or even afterwards for works that are extremely difficult to make accessible, Congress should anticipate an eventual need to add a commercially available exclusion to the Chafee Amendment when the marketplace indicates it is appropriate to do so. But that is not this day.

And today AAP looks forward to working with this committee and the Senate to ratify the Marrakesh Treaty, as well as working with the Senate and House Judiciary Committees and the rest of Congress to enact S. 2559, the proposed Marrakesh Treaty Implementation Act. Thank you.

[The prepared statement of Mr. Adler follows:]

PREPARED STATEMENT OF ALLAN ROBERT ADLER

Chairman Corker, Ranking Member Menendez and Members of the Committee: On behalf of the Association of American Publishers ("AAP"), thank you for this opportunity to publicly support the ratification and implementation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled ("Marrakesh Treaty").

AAP represents the leading book, journal, and education publishers in the United States on matters of law and public policy. Our principle mission is a rational legal framework that incentivizes and protects the publication of creative expression, professional content, and learning solutions. AAP members participate in both local markets and the global economy to the betterment of the world we live in.

AAP and its member publishers have a strong history of working with government agencies and legislatures, disabilities advocacy groups, technology developers, and educational and library communities to make accessible versions of literary works more available for those who need them. Publishers regularly export the works of American authors to global audiences while introducing U.S. readers to wide varieties of foreign literature; they know firsthand the disparity that readers with print disabilities face around the world. For these reasons, AAP was pleased to work with the U.S. Government and the World Intellectual Property Organization ("WIPO") to draft, adopt and implement the multilateral Marrakesh Treaty. (Brief highlights of AAP's accessibility efforts with relevant links appear in an Appendix following this statement.)

The path of AAP's efforts follows a chronological evolution in improving accessibility primarily on the basis of developments in digital technologies and their applications. Before the advent of the digital age, accessibility for hard-copy printed materials generally required the laborious individual conversion of publishers' single-format production files to make accessible versions used with assistive technology. The inability to produce "born accessible" copies of commercial works meant that, as a practical matter, consumer markets for accessible publications did not exist, and dependence on regulatory approaches centered on copyright exemptions were necessary to ensure the availability of accessible versions of print literary works.

Overtime, however, digital applications have enabled many publishers to build accessibility features into their production systems, helping many readers with print disabilities to have immediate access to various literary works. As innovative means for enhancing digital formats continue to be developed and integrated into their products and platforms, publishers are moving closer to the ability to fully serve the extraordinary accessibility needs of individuals with print disabilities through ordinary consumer markets.

At its core, the Marrakesh Treaty adopts for international application the key concepts of the Chafee Amendment, an exemption enacted in the U.S. Copyright Act (17 U.S.C. Section 121) in 1996 to permit certain "authorized entities" to reproduce and distribute non-dramatic literary works in accessible formats exclusively for use by individuals with print disabilities without the need for permission from or payment to the owner of those rights for such works.

Countries that are Contracting Parties consenting to be bound by the terms and obligations set forth in the Marrakesh Treaty must enact standard provisions like the Chafee Amendment in their national copyright laws for the privileged creation and distribution of accessible format copies of covered works, and allow the import and export of such copies through cross-border exchanges with "authorized entities" or "eligible person" beneficiaries in other countries that are also Contracting Parties.

AAP's support for the Marrakesh Treaty is a unique exception to our continuing opposition to WIPO's consideration of multilateral treaties comprised only of limitations and exceptions to the rights of copyright owners. Like other representatives of copyright owners, AAP believes the marketplace functions best when international instruments reflect baseline protections, and do not interfere with private sector innovation or dictate the national legal norms of the United States and other countries.

The Marrakesh Treaty is a special case because it addresses the fundamental human rights concern of discrimination against individuals based on their personal

disabilities, and does so in a manner that directly echoes the elements of the Chafee Amendment in U.S. copyright law. AAP, however, strongly opposes any additional international efforts to create new "limitations and exceptions only" treaties at the expense of the exclusive rights afforded to authors and publishers. For example, two such pending proposals at WIPO to create broad new copyright privileges for educational and research institutions, libraries and archives are unnecessary and inappropriate in the context of the well-established international legal regimes that delineate basic global standards for copyright rights, limitations and exceptions under the Berne Convention, the WTO-administered Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS"), and the 1998 WIPO Copyright Treaty. The proposed legal instruments could devastate important existing publishing markets both in the U.S. and abroad.

Given the multilateral nature of the Marrakesh Treaty and its particular importance for efforts to expand the availability of accessible copies of literary works in lesser- and least-developed countries, AAP and its members understood the need for Treaty obligations to be set forth in ways that allowed optimal flexibility for compliance across a diverse spectrum of national legal systems, cultural perspectives, and economic and technological resources and capabilities. The need to accommodate such diversity created special challenges for building reasonable levels of predictability and accountability into the Treaty, particularly for the "authorized entities" that would be the pivotal players in globally implementing the Treaty to achieve its goals.

The Obama Administration's proposed implementing legislation fell short on this important issue, failing to incorporate the relatively modest but nonetheless significant "practices" that authorized entities are expected to "establish and follow" under Art. 2(c) of the Marrakesh Treaty. But S.2559, the proposed "Marrakesh Treaty Implementation Act" introduced last month by the Chairman and Ranking Member of this Committee, along with the Chairman and Ranking Member of the Senate Judiciary Committee, and their colleagues Senator Leahy, Senator Harris and Senator Hatch—the original sponsor of the legislation subsequently known as the Chafee Amendment—corrects this omission in a manner endorsed by AAP and other stakeholder advocacy groups, and similar to the approach adopted by the European Union in the Directive and Regulations that will guide its 28 Member States in implementing the Treaty.

In conclusion, let me emphasize that AAP views the ratification and implementation of the Marrakesh Treaty as important transitional steps that are currently needed to expand the availability of accessible format copies of literary works for individuals with print disabilities as publishers and their partners in the technology community continue to make progress toward the routine marketplace availability that is the shared goal of all stakeholders on this issue.

In this continuing transitional environment, it is important to ensure that still-necessary regulatory measures like the copyright exemptions boosted by the Treaty do not diminish incentives for the investments that publishers and others are making to reach the point where individuals with print disabilities can—at the same time, in the same manner and at the same price as other consumers without such disabilities—acquire in commercial markets published literary works reflecting the full spectrum of human interests, and enjoy them without having to demonstrate any special qualifications or depend upon special privileges for their availability.

As marketplace accessibility becomes increasingly common, a critical issue for publishers and authors will be the need for a "commercially available" exclusion in the Chafee Amendment and similar foreign copyright laws to acknowledge the transformed accessibility landscape.

The key economic premise underlying enactment of the Chafee Amendment in 1996, as noted in contemporaneous Congressional testimony by the Register of Copyrights (which was cited in Senator Chafee's floor remarks), was that "blind and physically handicapped readers" did not constitute a "viable commercial market" for publishers. Under those circumstances, it simply was assumed that publishers were not likely to publish for that defined market and thus would not experience economic harm if the law allowed a select group of governmental agencies and nonprofit organizations to serve that specifically-defined population by reproducing and distributing copies of copyrighted works in "specialized formats."

The validity of that premise, however, continues to diminish as ebooks and audiobooks, online digital platforms, and standardized publishing formats like EPUB3 have made literary works more accessible and easily available through downloads, streaming and online display. AAP's EPUB3* Implementation Project and parallel efforts like the EDUPUB Initiative will continue to significantly advance accessibility in the marketplace as publishers work with retailers, digital content distributors, device makers, reading systems providers, assistive technology ex-

perts and standards organizations to advance EPUB3 as the global distribution format for publications on the World Wide Web.

As these developments produce accessible offerings in the market, it will be unfair to allow regulatory measures like the Chafee Amendment to privilege competing free reproduction and distribution of the same works in accessible copies. The Marrakesh Treaty treats adoption of a "commercially available" exclusion as an option, rather than a requirement, for Contracting Parties, but publishers in the UK, Canada and Australia can already take advantage of such provisions in their national laws. While copyright exemptions may need to serve a continuing "safety net" function until marketplace accessibility reaches its tipping point (and even afterwards for certain works that are extremely difficult to make accessible), Congress should anticipate the need to consider adding a "commercially available" exclusion to the Chafee Amendment when the marketplace indicates it is appropriate to do so.

AAP looks forward to working with this Committee and the Senate to ratify the Marrakesh Treaty, as well as with the Senate and House Judiciary Committees and the rest of Congress to enact S.2559, the proposed Marrakesh Treaty Implementation Act. And, again, we thank you for this opportunity to state our support for ratification and implementation of the Treaty on the public record.

APPENDIX: HIGHLIGHTS OF AAP WORK ON ACCESSIBILITY ISSUES

*Chafee Amendment (17 U.S.C. Section 121)*—In 1996, AAP worked with Senator Hatch and advocacy groups for blind and visually-impaired individuals to draft and enact legislation establishing an exemption under U.S. copyright law to permit certain "authorized entities" to reproduce and distribute copies of previously published, non-dramatic literary works in "specialized formats" exclusively for use by "blind or other individuals with disabilities," without the need to obtain permission from the copyright owners of such works.[1]

Known today as "the Chafee Amendment" because of its subsequent enactment through the efforts of another Senate sponsor, the exemption has greatly aided the work of non-profit and governmental entities, including State and local educational agencies and university disability student services (DSS) offices (among others), in enabling them to convert certain literary works into accessible formats to meet the reading needs of persons with print disabilities.

*State Accessibility Legislation*—State legislatures periodically consider proposals to improve the timely availability of accessible instructional materials for students with print disabilities. Typically, these proposals involve statutory or regulatory requirements, usually implemented through contractual provisions regarding the adoption or procurement of textbooks and other instructional materials, which obligate publishers to provide electronic files in one of several specified file formats for use as source files from which accessible versions of the instructional materials may be produced and provided to students who are qualified to obtain them.

State legislative processes, however, are not always responsive to input from the publishing community, including on federal preemption issues, resulting in proposed legislation that publishers cannot support because of practical problems with their provisions and concerns that multiple new State laws of that type present a complicated patchwork of diverse and often inconsistent compliance requirements for publishers whose markets extend across State lines and national borders. Despite these drawbacks, AAP and its member publishers have engaged in good faith efforts to help State legislators develop workable initiatives to address certain accessibility needs of students.

*Bookshare, Inc.*—AAP has helped Bookshare, the first online library subscription service for people with print disabilities, establish its credibility within author and publisher communities from its inception as an "authorized entity" under the Chafee Amendment, and has encouraged publishers and authors to accept and support Bookshare's policies and practices for "scanning" or acquiring digital files of print books that qualifying subscribers to the Bookshare service can download in accessible DAISY and BRF digital formats. AAP's support has reflected Bookshare's sensitivity to the legitimate concerns of copyright owners, including its willingness to work with AAP on matters such as its Seven Point Digital Rights Management Plan and the terms of its legal agreements with qualifying members, volunteers and contributing publishers and authors.[2]

*IDEA Amendments of 2004*—AAP worked with disabilities advocacy groups to try to improve the timeliness of the provision of accessible textbooks and other core instructional materials to elementary and secondary school students with print disabilities. Problems thwarting timely provision included the need to contact the publisher of a particular work to obtain electronic files in different formats for each of their materials in order to comply with individual requests received from different

States or different localities within a single State. File formats widely used by publishers for ordinary publications were unsuitable for use in reproducing those materials in specialized formats for individuals with print disabilities, and the process of converting them into more suitable formats was costly and labor-intensive, requiring "tagging" in order to structure the file to reflect the actual visual characteristics of the printed materials.

Delays also occurred in the handling process through which the electronic file provided by the publisher eventually reached the people who actually use it to reproduce and distribute the embodied content in accessible specialized formats.

In response to these problems, AAP and the disabilities advocacy groups crafted the proposed "Instructional Materials Accessibility Act" which was designed to address the causes of these delays and inefficiencies by requiring that publishers' electronic files be uniformly provided to a central national repository where they could be requested for use by State and local agencies in an XML-based format that would offer the capability for more flexible tagging to reproduce print materials in specialized formats with greater efficiency, quality and interoperability. Since their enactment as provisions of the Individuals with Disabilities Education Improvement Act of 2004, P.L.108–446, the legislation's key "national file format" and "central national repository" features have been implemented as the National Instructional Materials Information Standard ("NIMAS") and the National Instructional Materials Access Center ("NIMAC") through federal appropriations to the American Printing House for the Blind.[3]

*AIM Commission*—AAP efforts to address the accessibility needs of students with print disabilities at institutions of higher education have been no less determined or ongoing than its efforts to meet the needs of such students at the elementary and secondary school level. But, these efforts have had to take into account essential differences in both the nature of the instructional materials at issue and the manner in which these instructional materials are selected and acquired for use by students at these different levels of educational instruction.

For elementary and secondary school students, textbooks and other core instructional materials for different subjects at different grade levels are generally selected by State or local education agencies according to a standardized curriculum, and the State or local educational agencies purchase these materials in bulk for students to use on loan but then return to school officials after the academic term so they can be redistributed for use by students at the same class level during the next academic term.

At colleges and universities, however, instructional materials are selected by faculty for each section of a course in much greater variety than is found at the elementary and secondary school level. They typically differ from section to section within the same course, and have to be purchased or otherwise acquired by individual students who expect to either keep the materials as their own property or seek to recoup part of the purchase costs by selling the materials to other students or to a bookstore at the close of the academic term.

In pursuit of solutions, AAP supported enactment of provisions in the Higher Education Opportunity Act of 2008 creating the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities ("AIM Commission"), which was charged with making recommendations to Congress after "conducting a comprehensive study to assess the barriers and systemic issues that may affect, and available technical solutions that may improve, the timely delivery and quality of accessible instructional materials for postsecondary students with print disabilities." AAP representatives participated in the Commission's work and endorsed its Report and recommendations in December 2011.[4]

*AccessText Network*—While working with Congress, AAP and its members focused on higher education continued to seek opportunities to work with institutions of higher education, disabilities advocacy groups and technology experts to devise ways to make it quicker and easier for college and university students with print disabilities to obtain the accessible textbooks and other instructional materials they need. Initially, these efforts produced the Publisher Look-Up Service, a website interface providing a place where DSS offices could search for electronic text and permissions contacts at higher education publishing companies.

Subsequently, in 2009, AAP announced a major leap forward in the form of its agreement with the Alternative Media Access Center (an initiative of the Georgia Board of Regents and the University of Georgia) to develop and launch a comprehensive, national online system which would expand the timely delivery of print materials to campus-based DSS offices by many more publishers, and streamline the permission process for scanning copies of print textbooks when publisher files are unavailable.

Funded through donations by AAP member higher education publishers, the AccessText Network was established without legislation or taxpayer dollars, and has leveraged an online database to enable publishers and institutions of higher education to effectively combine and share their resources and expertise to ensure that those institutions can more easily obtain information about publishers' course materials, request electronic text files, and use more efficient acquisition and distribution channels.[5]

*WIPO Marrakesh Treaty*—AAP worked with the U.S. Government and disabilities advocacy groups from 2008–2013 at the U.N.'s World Intellectual Property Organization ("WIPO") to adopt the WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. AAP worked both in Geneva and Marrakesh to ensure that the provisions of the intensely-negotiated final text of the Treaty remained focused on the twin objectives of (1) promoting enactment of limitations and exceptions for print disabilities in national copyright laws and (2) facilitating the cross-border exchange of accessible format copies of copyrighted textual works through Authorized Entities, and were consistent with the established framework of international copyright treaties and agreements. AAP was the only non-government organization, besides three advocacy groups for the blind, explicitly thanked for its assistance in the formal closing statement of the United States delegation.[6] AAP supported the U.S. signing of the Treaty in October 2013 and looks forward to supporting Senate ratification of the Treaty and Congressional enactment of implementing legislation.[7]

*Accessible Book Consortium*—During the drafting of the Marrakesh Treaty, AAP—directly and through the International Publishers Association ("IPA")—worked with WIPO's "Stakeholders' Platform" on several accessibility pilot programs, including the November 2010 launch of the Trusted Intermediary Global Accessibility Resources ("TIGAR") project, to explore how licensing could facilitate cross-border exchange of accessible titles to individuals with print disabilities. In 2011, AAP endorsed the TIGAR project at the Frankfurt Book Fair and worked with participating members to authorize the availability of published works in accessible formats discoverable via database searches across distributed networks. In 2014, the pilot ended and TIGAR's database of nearly a quarter million works in 57 languages merged into the Platform's establishment of the Accessible Books Consortium("ABC") , a WIPO-led public-private partnership to promote capacity building and Inclusive Publishing ("born accessible" training) programs based on the EPUB3 standard. The Consortium remains an active complement to the entry in force of the Marrakesh Treaty.[8]

*AIM–HIGH Act*—With publication of the previously-discussed AIM Commission Report at the end of 2011, AAP began considering action on its leading recommendation, i.e., that "Congress should authorize the Access Board to establish guidelines for accessible instructional materials that will be used by government, in the private sector and in postsecondary academic settings." By the end of 2013, AAP had worked jointly with the National Federation of the Blind ("NFB") to craft and secure bipartisan introduction of a proposed "Technology, Education and Accessibility in College and Higher Education ("TEACH") Act" to obtain Congressional authorization and funding to support the U.S. Access Board's development of voluntary accessibility guidelines for postsecondary education instructional systems as urged by the Commission. Since that time, AAP and NFB have been joined by the American Council on Education ("ACE") and other higher education advocacy groups, along with the Software and Information Industry Association ("SIIA"), in redrafting and renaming the legislation as the "Accessible Instructional Materials in Higher Education ("AIM–HIGH") Act." Introduced last year in the House by Reps. Phil Roe (R–TN) and Joe Courtney (D–CT), the bill (H.R.1772) currently has 77 cosponsors. Introduced in the Senate by Senators Orrin Hatch (R–UT) and Elizabeth Warren (D–MA), the bill (S.2138) has garnered additional bipartisan support from Senators Joni Ernst (R–IA) and Jon Tester (D–MT).[9]

*EPUB 3* Implementation Project*—This AAP-led initiative was developed in a partnership with retailers, digital content distributors, device makers, reading systems providers, assistive technology experts and standards organizations, and with the support and engagement of leading advocates for people with disabilities. Its goal was to accelerate the across-the-board adoption of the EPUB 3 format in the consumer market by identifying and implementing what stakeholders consider to be the core set of baseline features critical to the format's acceptance. In October 2014, the Project issued a White Paper to help advance implementation of the EPUB 3 standard in the marketplace for the purpose of achieving greater interactivity for users, multimedia-enhanced content, and expanded accessibility for people who are blind or have other print disabilities.[10]

In a separate effort, the EDUPUB Initiative has pursued the goal of advancing EPUB 3 for K–20 educational materials. Pearson Education, as one of the leaders of this initiative, is sharing one of its own specifications for generating EPUB files for the education market specifically (known as an "EPUB 3 Profile," in other words, a particular implementation of EPUB 3 for educational markets), which the EDUPUB participants can use toward developing EDUPUB's open-source EPUB 3 profile for the industry. The overall stated goal of the EDUPUB initiative is "to advance the effective adoption and use of e-textbooks and other digital learning materials by improving interoperability, accessibility, and baseline capabilities via broad adoption of enabling technical standards." Other AAP members, working through the Book Industry Study Group ("BISG")'s Content Structure Committee's EDUPUB Working Group, published "Getting Started with EDUPUB: A Guide for Understanding the EDUPUB Profile of EPUB 3" in July 2015.[11]

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Notes

[1] See Senator John Chafee's floor statements upon offering amendment to the Legislative Branch Appropriations Act, 1997 (H.R.3754) at 142 Cong. Rec. S9066 (daily ed. July 29, 1996), and upon Senate passage of the Conference Report to the Act, at 142 Cong. Rec. S9763–9765 (daily ed. September 3, 1996).

[2] See https://www.bookshare.org/cms/legal-information (AAP cooperation and support) and https://www.bookshare.org/cms/partners/publishers (how publishers support and partner with Bookshare).

[3] See http://www.nimac.us/. AAP is a member of the NIMAC Advisory Council. See http://www.nimac.us/advisory-council/.

[4] See 20 U.S.C. Section 1140/, enacted by Section 709 of Public Law 110–315; see also links to the AIM Commission Report at http://www2.ed.gov/about/bdscomm/list/aim/publications.html.

[5] See http://accesstext.org/about.php.

[6] See http://geneva.usmission.gov/2013/06/27/wipo-marrakesh/.

[7] See the full text of the WIPO Marrakesh Treaty at http://www.wipo.int/treaties/en/text.jsp?file—id=301016.

[8] See http://www.accessiblebooksconsortium.org/portal/en/index.html.

[9] See https://www.congress.gov/bill/115th-congress/house-bill/1772/related-bills.

[10] See http://publishers.org/news/epub-3-implementation-project-white-paper-now-online.

[11] See http://epub3.ch/wp-content/uploads/2015/08/EDUPUB-Guide.pdf.

The CHAIRMAN. Thank you, sir.

Mr. Band.

## STATEMENT OF JONATHAN BAND, COUNSEL, LIBRARY COPYRIGHT ALLIANCE, WASHINGTON, DC

Mr. BAND. Mr. Corker, Ranking Member Menendez, members of the committee, I am honored to testify today in support of Senate ratification of the Marrakesh Treaty.

I represent the Library Copyright Alliance, which consists of the major American library associations.

I would like to make three points.

First, ratification of the Marrakesh Treaty will greatly enhance the ability of U.S. libraries to provide services to Americans with print disabilities.

Second, the treaty, as we have heard, is based on existing exceptions in U.S. copyright law.

And third, the treaty and implementing legislation have broad support among U.S. stakeholders.

So, first, the treaty will help U.S. libraries provide more accessible materials to Americans with print disabilities. Libraries in the United States currently serve the needs of people with print disabilities either by lending accessible copies made by the publishers or by making accessible copies themselves when accessible copies are unavailable. There is a specific exception in the U.S. Copyright Act known as the Chafee Amendment, which permits entities that provide services to print disabled people to make and distribute accessible copies without infringing copyright. These entities, which Chafee calls authorized entities, include libraries. The

fair use doctrine supplements Chafee and enhances libraries' ability to make and distribute accessible copies.

The problem is that many books published overseas are not available in U.S. libraries in accessible forms, not even the Hathi Trust Digital Library, which contains over 16 million volumes. This is particularly the case with books in languages other than the major European languages, which U.S. libraries have not collected in great numbers.

This is where the Marrakesh Treaty comes in. The existing copyright laws of countries where these books are published usually permit domestic authorized entities to make and distribute accessible copies in those countries. These copyright laws, however, often do not authorize the export of the accessible copies to other countries. The treaty creates a legal system that enables the cross-border exchange of accessible copies among authorized entities of the countries that have joined the treaty. A country that joins Marrakesh must permit a domestic authorized entity to export accessible copies to an authorized entity in another Marrakesh country, and a Marrakesh country must allow its authorized entities to import accessible copies from authorized entities in other Marrakesh countries. With digital formats such as renewable braille, Americans with print disabilities could receive access to foreign books within minutes of requesting them.

Significantly, the treaty makes this happen only if both the exporting country and the importing country have joined the Marrakesh Treaty. 35 countries have ratified the treaty, including major foreign language publishing centers such as Argentina, Brazil, Israel, Russia, and South Korea. Moreover the European Union has announced that it will ratify the treaty this July. Once we ratify the treaty, U.S. libraries will have access to the accessible copies in over 60 countries. This will greatly benefit Americans with print disabilities who are interested in reading books for research or pleasure.

Second, the treaty is based on a provision of the U.S. Copyright Act. Earlier I mentioned the Chafee Amendment, the provision in our law that allows authorized entities to make and distribute accessible copies. The Marrakesh Treaty is based on Chafee. Like Chafee, the treaty operates by permitting authorized entities to make and distribute accessible copies. Indeed, the treaty uses the same term as Chafee, "authorized entity." This is no accident. The first draft of the treaty was developed by the U.S. delegation to WIPO. Because of the similarity between Chafee and the treaty, the implementing legislation, introduced by Chairman Corker and Ranking Member Menendez, makes only modest changes to U.S. law.

Finally, the treaty has broad support among all U.S. stakeholders. A broad spectrum of U.S. stakeholders, including rights holders, authorized entities, and the disabilities community, supported the treaty when WIPO member states adopted it in 2013. The same spectrum of stakeholders worked together to develop the implementing legislation and is sitting here today at this table. Indeed, the three of us have been involved throughout the process from Washington to Geneva to Marrakesh and back to Washington.

I personally want to express my gratitude to Mr. Adler and Mr. Labarre for all their labors to get us to this point. I would also like to thank the committee for holding this hearing today.

Members of the committee, we urge the Senate to ratify the treaty expeditiously to ensure that Americans with print disabilities can benefit from it as soon as possible. Thank you.

[The prepared statement of Mr. Band follows:]

PREPARED STATEMENT OF JONATHAN BAND

Chairman Corker, Ranking Member Menendez, Members of the Committee, I am honored to testify here today in support of Senate ratification of the World Intellectual Property Organization ("WIPO") Marrakesh Treaty to Facilitate Access to Published Works For Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled ("Marrakesh Treaty").

I represent the Library Copyright Alliance ("LCA"). LCA consists of three major library associations in the United States: the American Library Association, the Association of College and Research Libraries, and the Association of Research Libraries. These associations represent over 100,000 libraries in the United States employing more than 350,000 librarians and other personnel. An estimated 200 million Americans use these libraries over 2 billion times each year.

I would like to make three points. First, ratification of the Marrakesh Treaty will greatly enhance the ability of U.S. libraries to provide services to Americans with print disabilities. Second, the Treaty is based on an existing exception in U.S. copyright law. Third, the Treaty and implementing legislation has broad support among U.S. stakeholders.

I. THE TREATY WILL HELP U.S. LIBRARIES PROVIDE MORE ACCESSIBLE MATERIALS TO AMERICANS WITH PRINT DISABILITIES

Many of the 200 million Americans who use our libraries have print disabilities. They may be blind, dyslexic, or simply elderly and in need of large print. Libraries in the United States currently serve the needs of these people either by lending copies in accessible formats when publishers make accessible format copies; or by making the accessible format copies themselves when an accessible format is not available. There is a specific exception in the U.S. Copyright Act known as the Chafee amendment, 17 U.S.C. § 121, which permits entities that provide services to print disabled people to make and distribute accessible format copies without infringing copyright. These entities, which the Chafee amendment calls "authorized entities," include libraries. The fair use doctrine, 17 U.S.C. § 107, supplements the Chafee amendment and enhances libraries' ability to make and distribute accessible copies.[1]

The problem is that many books published overseas are not available in any U.S. library in accessible formats—not even in the HathiTrust Digital Library, which contains over 8 million titles in 16 million volumes. This is particularly the case with books in languages other than English or the other major European languages, which are not found in U.S. libraries in great numbers. If a book isn't in one of our collections, we can't make an accessible format copy. Our libraries report that they frequently cannot supply users with print disabilities with the foreign titles they request.

This is where the Marrakesh Treaty comes in. The existing copyright laws of the countries in which these books are published usually permit domestic authorized entities to make and distribute accessible formats in those countries. These copyright laws, however, often do not authorize the export of the accessible copies to other countries, including the United States. The Marrakesh Treaty creates a system that allows the cross-border exchange of accessible format copies among authorized entities of the countries that have joined the Treaty. Countries that join Marrakesh must permit an authorized entity in their country to export accessible format copies to an authorized entity in another Marrakesh country. Similarly, Marrakesh countries must allow authorized entities to import accessible format copies from authorized entities in other Marrakesh countries. With digital formats such as renewable braille or audio books, Americans with print disabilities would receive access to foreign books within minutes of requesting them.[2]

Significantly, the Treaty makes this happen only if both the exporting country and the importing country have joined the Marrakesh Treaty. Thirty-five countries have already acceded to or ratified the Treaty, including major publishing centers such as Argentina, Australia, Brazil, Canada, Israel, India, Mexico, Russia and South Korea.[3] Moreover, the European Union has announced that it will ratify the

Treaty this July. All European Union member states must implement the Treaty in national law by October. Thus, once we ratify the Treaty, libraries in the United States will have access to the accessible format copies in over 60 countries.[4] This will greatly benefit Americans with print disabilities who are interested in reading foreign books for research or pleasure.

II. THE TREATY IS BASED ON A PROVISION OF THE U.S. COPYRIGHT ACT

Before I mentioned the Chafee Amendment, the provision in the U.S. Copyright Act that allows authorized entities to make and distribute accessible format copies. The Marrakesh Treaty is based on the Chafee amendment. Like the Chafee amendment, the Treaty operates by permitting authorized entities to make and distribute accessible format copies. Indeed, the Treaty uses the same term as Chafee: authorized entity. This is no accident. The first draft of the Treaty was developed by the U.S. delegation to WIPO. Because of the similarity between Chafee and the Treaty, the Marrakesh Treaty Implementation Act, S. 2559, co-sponsored by Chairman Corker and Ranking Member Menendez, makes only modest changes to U.S. copyright law.

III. THE TREATY HAS BROAD SUPPORT AMONG ALL U.S. STAKEHOLDERS

When WIPO adopted the Treaty in 2013, it was supported by a broad spectrum of U.S. stakeholders, including rightsholders, authorized entities, and organizations that support people with print disabilities. This same spectrum of stakeholders worked together to develop the implementing legislation and is sitting at this table today. Indeed, the three of us have been involved throughout the entire process: working here in Washington to influence the U.S. government position on the Treaty; meeting with the delegations of other member states in Geneva; cheering as the member states crossed the finish line at the diplomatic conference in Marrakesh; and then reaching consensus back in the U.S. on the implementing legislation. I personally want to express my gratitude to Mr. Adler and Mr. LaBarre for all their labors to get us to this point.

I also would like to acknowledge the efforts of the many U.S. government officials involved in the WIPO negotiations and the development of the implementing legislation, as well as the staffs of this Committee and the Senate Judiciary Committee.

And of course, I would like to thank the Committee for holding this hearing today.

Members of the Committee, we urge the Senate to ratify the Treaty expeditiously to ensure that print disabled Americans can benefit from it as soon as possible.

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Notes

[1] The complete tapestry of services libraries provide to Americans with print disabilities is complex. Libraries at all levels purchase and circulate copies in accessible formats such as audio books and large print books. The National Library Service for the Blind and Physically Handicapped, a unit of the Library of Congress, makes accessible copies of books and magazines in braille and audio formats. It circulates these accessible copies through a network of cooperating libraries, by mail, or by digital download. Some state libraries and local public libraries also make and distribute accessible format copies. Many research libraries collaborate in the HathiTrust Digital Library, which among other services provides full-text online access to people with print disabilities. Libraries at post-secondary institutions assist students and faculty with research by making accessible copies of needed materials. And libraries in K–12 institutions help those schools meet their obligations under the Individuals with Disabilities Education Act to students with print disabilities.

[2] Under Article 4(2)(a) of the Treaty, an authorized entity may supply accessible copies "by electronic communication by wire or wireless means." The Treaty provides that accessible format copies distributed by an authorized entity must be "supplied exclusively to be used by beneficiary persons."

[3] A compilation of the implementations of the Treaty by countries that have ratified or acceded to it can be found at http://www.arl.org/storage/documents/2018.04.11—MarrakeshTreaty.pdf.

[4] The authorized entities organized in the Accessible Book Consortium ("ABC"), sponsored by WIPO, possess approximately 325,000 titles that would become available to American with print disabilities once the United States joins the Marrakesh Treaty. Americans with print disabilities would also get access to titles held by authorized entities that have not yet joined ABC, such as ONCE in Spain and TifloLibros in Argentina, each of which has collections of approximately 50,000 titles in accessible digital formats.

The CHAIRMAN. Thank you all three for great testimony.

And with that, Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Thank you all for your testimony. It is nice when we get a harmonious panel here. It is not always the case.

So as I understand it from your testimony, all three of you have been working on the Marrakesh Treaty and the implementing legislation since its inception. And I understand that you were in Marrakesh when the treaty was negotiated as well.

So I think you have shared some of these, but what insights can you share from the negotiation process and what do you see as the concrete benefits, obviously the most significant one being that individuals who are reading impaired because of their vision will have now access to a world of books that they did not have? But are there others as well?

Mr. LABARRE. Well, indeed, there are many benefits to this treaty, and we have touched on many of them. I would argue that nearly a half a million books will become available to Americans in accessible formats when we ratify this treaty and when the EU comes on board. That is one of the benefits.

Another is sending a message throughout the world that the right to access information is truly a human right.

And I guess one of the insights that I have learned is that when people come together and work hard and share the same end goal, you can get across the finish line. You say today that we are a harmonious panel. We have not always been harmonious let me assure you.

[Laughter.]

Mr. LABARRE. When we went to Marrakesh in 2013, 37 issues remained unresolved in the treaty text. To give you some perspective on that, the Beijing treaty for performers of audiovisual works started its diplomatic conference in 2012 with only two issues left to be sorted out. It took a tremendous amount of work and compromise in Marrakesh to get the deal done. In fact, the king of Morocco sent a message to the diplomatic conference that if we could not come to a consensus, he would close the airports.

[Laughter.]

Mr. LABARRE. So that incentivized us and we got the deal done.

Senator MENENDEZ. Okay.

[Laughter.]

The CHAIRMAN. For those of you who are here today, this is not the norm in our committee.

[Laughter.]

Senator MENENDEZ. You have given me, Mr. Labarre, some ideas of how we might get things done in Washington.

[Laughter.]

Senator MENENDEZ. Just very quickly, I gather this from your testimony, but I just for the record want to make sure it is pinpoint accurate. Mr. Adler and Mr. Band, have all the aspects of the implementing legislation been resolved to the satisfaction of the stakeholders in the publishing and library industries?

Mr. ADLER. Yes, Senator. As I said, we had the difficulty of working not only with many different nations that have different legal systems and cultural perspectives, but remember, we were working with developed countries, less developed countries, and the least developed countries who need this treaty perhaps more than anyone else does. And given that broad spectrum of interests, the ability to accommodate the diversity through a process that would ensure some predictability and accountability for the manner in

which works would be exchanged across borders, no longer just within the United States, as was the case under the Chafee Amendment during the first 20 years of its existence, but now pursuant to an international agreement, that means all of these member states that become contracting parties will now be able to reproduce and distribute copies of works and exchange them across borders with other countries. So the idea of predictability and accountability was important. As you might imagine, in an international group of member states, there are different ideas about what constitutes predictability and accountability.

The last issue for us was the need to address the inclusion in a revised Chafee Amendment of the provisions of the treaty that addressed the practices of authorized entities because it is going to be those government agencies and nonprofit organizations in each of the contracting parties who will be engaged in the cross-border exchange of copyrighted works, and we wanted to make sure that they followed their practices. The practices that were agreed upon in the treaty are relatively modest. What an authorized entity is supposed to do is establish and follow its own practices to establish that persons its serves are beneficiary persons, eligible under the treaty to be able to receive these types of accessible format copies, limit to beneficiary persons and authorized entities distribution and making available of accessible format copies, discourage the reproduction, distribution, and making available of unauthorized copies, and finally to maintain due care in and records of its handling of copies of works while respecting the privacy of beneficiary persons in accordance with the treaty.

We wanted to make sure that U.S. law implementing the treaty reflected those aspects of the treaty because those aspects of the treaty had not been part of the original provision in the U.S. Copyright Act. And that is why we think that the legislation that the chairman and ranking member have cosponsored, with the bipartisan leadership of the Senate Judiciary Committee, takes care of that problem.

Senator MENENDEZ. Well, I will close just saying that unanimity here is important to the successful passage in the Senate, which requires a super majority vote for a treaty.

And I thank all of you for the hard work that has made this moment possible. And, Mr. Labarre, I just would say that you are an extraordinary example of, when we give individuals the tools, the incredible capacity and ability they have to succeed. And I salute you. And thank you all for your testimony.

The CHAIRMAN. Senator Kaine.

Senator KAINE. Thank you to the chair and ranking, and thank you to all who are here on behalf of this. I think it is a wonderful achievement. I love it when our committee grapples with treaty questions. It is an important role that the Senate has. And like anything else, it is sort of a muscle memory thing. The more you do it, the stronger you get, and the less you do it, the weaker you get. And I am glad we are doing it on this important cause.

Neil Yap wrote a piece in the New York University Journal of Intellectual Property and Entertainment Law just recently about the treaty. And he says this, "Marrakesh lights a beacon into the minds of a part of society that copyright law has left behind. A

treaty that upholds rights merely reestablishes human decency and equal opportunity. Morality cannot be measured in opportunity costs. The true costs of neglecting this segment of society, however, are the contributions that never came to be during decades of stifled potential. Rights enable creation. Creations become contributions. Marrakesh is not merely about moral progress but cultural and scientific progress as well." I echo that sentiment.

And similar sentiments have been expressed to me from my librarians in Virginia, and I just want to read one wonderful story.

In Virginia Beach, there is a library that has about 18,000 items that are accessible to folks with visual disabilities, and most of them are disabled veterans. Even with 18,000 items—and that would make this library one of the probably most comprehensive in Virginia—they do not have enough to meet the demand because they are not only serving their patrons, but they are lending materials out to schools, to book clubs, to assisted living homes, and other places. They are just short on resources.

Susan Paddock, the director of this library, the Bayside Special Services Library in Virginia Beach, which is Virginia's largest city, says this, "For many of my patrons, this is their lifeline. They are voracious readers, and it is not uncommon for them to read 5 to 10 books per week but they eventually run out. Can you imagine what it would be like to have no more books to read?" That made a very big impression upon me.

And I just do not have questions for you because I do not want to upset the apple cart when it looks like things are going well and my questions often do that.

But I will just say I join the chair and ranking first in thanking them for their advocacy but really for the hard work of bringing together disparate points of view to, as Mr. Labarre said in his written, get aboard the train, using the Marrakesh Express line. I like that a lot. I echo it. I think we should do it, and I am glad to be here at the hearing.

Thanks, Mr. Chair.

The CHAIRMAN. Thank you.

We thank all of you for being here. I could ask questions, but we have worked so well together in advance of this. This is a very unusual process where this has all been vetted. You all have worked very closely with our staff and others. We know that. The fact that there is no controversy around this today with differing interests being represented speaks to that.

So what we will do is leave the record open for written questions through the close of business tomorrow—excuse me—on Friday. If you could answer those fairly promptly—we know you have other responsibilities—we would appreciate it.

Again, we thank you not only for your efforts to help Americans but to help people all around the world. The United States has been a leader. You have helped us in this particular case continue to be so. We appreciate that very much.

And without further ado or any other strong controversy, none of which exists today, we will adjourn the meeting and thank you for your efforts.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

## Additional Material Submitted for the Record

### Letters of Support Submitted by Senator Bob Corker for Senate Consent to the Ratification of the Marrakesh Treaty and for Enactment of S. 2559

March 5, 2018

Chairman Bob Corker
United States Senate Committee
on Foreign Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Bob Menendez
United States Senate Committee
on Foreign Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Chairman Chuck Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Ranking Member Dianne Feinstein
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Chairman Corker, Ranking Member Menendez, Chairman Grassley, and Ranking Member Feinstein:

The undersigned organizations support the immediate ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, as well as the immediate passage of a 'Marrakesh Treaty Implementation Act of 2018' to make modest adjustments to United States copyright law. The proposed legislation and proposed legislative history provisions under consideration represent a consensus approach developed by publishers, libraries, and the print disabilities community to provide clear and balanced implementation of the treaty. We urge the United States Senate to swiftly provide its advice and consent for the Marrakesh Treaty. Furthermore, we urge both the United States Senate and House of Representatives to promptly pass the treaty's implementing legislation, so blind and print disabled Americans can soon benefit from the world's collection of accessible reading materials, and thereby end the book famine.

Sincerely,

American Council of the Blind
American Foundation for the Blind
American Library Association
Association of American Publishers
Association of College and Research Libraries
Association of Research Libraries
Authors Guild
Benetech
National Federation of the Blind
National Music Publishers Association
Perkins School for the Blind

Mark Riccobono, *President* | 200 East Wells Street *at Jernigan Place* Baltimore, MD 21230 | 410 659 9314 | www.nfb.org

MARCH 15, 2018 eff.org

# Blind Users Celebrate as Marrakesh Treaty Implementation Bill Drops

Today the Marrakesh Treaty Implementation Bill was introduced into Congress by Senators Chuck Grassley (R-IA), Bob Corker (R-TN), Dianne Feinstein (D-CA), Bob Menendez (D-NJ), Kamala Harris (D-CA), Orrin Hatch (R-UT), and Patrick Leahy (D-VT). The bill implements the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, a landmark treaty that was adopted by the World Intellectual Property Organisation (WIPO) in June 2013, and has since been ratified by 37 other countries. The treaty is notable in that it is the first WIPO treaty passed primarily for a disadvantaged class of users, rather than for the benefit of copyright holders.

When passed, the bill will allow those who are blind, visually impaired, or otherwise reading disabled (for example, being unable to pick up and turn the pages of a book) to make free use of written works in accessible formats such as braille, large print, or audiobook. Although similar provisions were already part of U.S. law, the amendments made by this bill slightly broadens the class of beneficiaries who were eligible for access to such works.

Even more significantly, the implementation bill will ensure that it is legal for accessible works to be sent between the U.S. and other countries that are signatories to the Marrakesh Treaty. There are many blind,





visually impaired, and print disabled users in countries that do not have the capacity to produce their own accessible works, reflected in the fact that such users in poor countries have access to only 1% of published books in accessible formats, compared with 7% in rich countries. Allowing eligible users throughout the world access to works that have been created in any other Marrakesh signatory countries is a compassionate and sensible solution to this "book famine."

The implementation bill tracks the Marrakesh Treaty closely, and it is not, as we had once feared, tied to the implementation of the much more problematic Beijing Treaty on Audiovisual Performances, which would require more significant changes to U.S. law. The National Federation for the Blind, libraries, publishers, the Copyright Office and the U.S. Patent and Trademark Office (USPTO) all support the Marrakesh Treaty Implementation Bill, and so does EFF. We wish the bill's sponsors success in seeing its speedy passage through Congress.

Marrakesh Treaty Implementation Act

## PRESS RELEASE

**FOR IMMEDIATE RELEASE**

**Broad Spectrum of Stakeholder Organizations Applaud Introduction of Legislation to Implement the Marrakesh Treaty**
*Urge Passage of Implementation Act & Ratification of Treaty*

**Washington, DC (March 15, 2018):** The American Council of the Blind, American Foundation for the Blind, American Library Association, Association of American Publishers, Association of College and Research Libraries, Association of Research Libraries, Authors Guild, Benetech, National Federation of the Blind, National Music Publishers Association, and Perkins School for the Blind together applaud Chairmen Grassley and Corker, and Ranking Members Feinstein and Menendez, of the United States Senate Judiciary and Foreign Relations Committees, respectively, for today's introduction of the Marrakesh Treaty Implementation Act. We also appreciate the support of Senators Hatch, Harris, and Leahy.

As U.S. stakeholder representatives, we strongly urge both houses of Congress to swiftly approve this legislation, and the Senate to quickly ratify the Marrakesh Treaty. Working tirelessly for many years with experts in the U.S. Government, we overcame our differences on the issues and processes that led to support for the global treaty; now, we again come together to support implementing legislation in the United States. The Treaty will greatly increase the availability of accessible books for people with print disabilities in the United States and in all countries that are parties to the Treaty.

The Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled was adopted by member states of the World Intellectual Property Organization in 2013. The Marrakesh Treaty Implementation Act amends the U.S. Copyright Act to comply with the Treaty.

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PRESS RELEASE COPYRIGHT REFORM

# Public Knowledge Welcomes Marrakesh Treaty Implementation Act to Increase Accessible Content

***By*** ***Shiva Stella***

**March 19, 2018** accessible content, Copyright, Marrakesh Treaty

Recently, bipartisan leadership of the Senate Judiciary and Foreign Relations Committees, Chairmen Chuck Grassley (R-IA) and Bob Corker (R-TN), as well as Ranking Members Dianne Feinstein (D-CA) and Bob Menendez (D-NJ), introduced the Marrakesh Treaty Implementation Act (S. 2559). The bill was co-sponsored by Sens. Kamala Harris (D-CA), Orrin Hatch (R-UT), and Patrick Leahy (D-VT).

The bill amends the U.S. Copyright Act to ensure compliance with the Marrakesh Treaty adopted by the World Intellectual Property Organization (WIPO) in 2013. The Marrakesh Treaty requires countries to enact copyright exceptions that allow the creation and distribution of accessible format copies such as braille, audiobooks or digital files for consumers. Among other things, the treaty enables the importation and exportation among treaty members of accessible versions of printed works. Public Knowledge supports implementing the treaty and urges Congress to act to provide equal access to printed materials for those with disabilities.

The following can be attributed to Meredith Rose, Policy Counsel at Public Knowledge:

"Public Knowledge applauds Chairmen Grassley and Corker, Ranking Members Feinstein and Menendez, as well as Senators Harris, Hatch, and Leahy, for their tireless efforts to make this bill a reality and bring the U.S. into compliance with its obligations under the Marrakesh treaty.

"This bipartisan, common-sense legislation will improve the ability of blind, visually impaired and print-disabled persons to access published works in a usable format. These Americans have waited far too long for equal access to printed materials. With the Marrakesh Treaty Implementation Act, they will finally have the legal protections they need to fully access and utilize important cultural works.

"Congress should not waste another single day in implementing the Marrakesh Treaty. We call upon Congress to support the Marrakesh Treaty Implementation Act, and improve access for print-disabled consumers across America."

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**FOR IMMEDIATE RELEASE**
**MARCH 23, 2018**

**AAU Public Affairs**
**202-408-7500,** public-affairs@aau.edu

**HIGHER EDUCATION GROUPS URGE CONGRESS TO PROVIDE AMERICANS BETTER ACCESS TO PRINTED MATERIALS**

*Following is a joint statement in support of the Marrakesh Treaty Implementation Act (S. 2559):*

We commend Senate Judiciary Chair Chuck Grassley (R-IA), Ranking Member Diane Feinstein (D-CA), Foreign Relations Committee Chair Bob Corker (R-TN), Ranking Member Bob Menendez (D-NJ), and Senators Orrin Hatch (R-UT), Kamala Harris (D-CA), and Patrick Leahy (D-VT) for their March 15 introduction of the bipartisan Marrakesh Treaty Implementation Act (S. 2559) to ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled ("Marrakesh Treaty").

We urge Congress to act swiftly to pass S. 2559. It is time for blind and otherwise print-disabled individuals, at U.S. colleges and universities, to enjoy the same access to printed works as other Americans.

Our colleges and universities – among the nation's leading producers and consumers of copyrighted works – are committed to providing equitable access to information. But students, faculty, and staff who have print disabilities encounter significant, daily challenges in accessing required course materials and essential scholarly resources. The university disability services offices that serve these communities struggle to locate or create accessible-format materials in a timely manner. The National Federation of the Blind estimates, for example, that no more than 5 percent of published works are created in an accessible format.

The Marrakesh Treaty offers a fair and transparent way to remedy the disadvantages that Americans with print disabilities confront when seeking to lawfully access the world's printed materials.

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*Founded in 1900, the Association of American Universities comprises 62 distinguished institutions that continually advance society through education, research, and discovery. Our universities earn the majority of competitively awarded federal funding for academic research, are improving human life and wellbeing through research, and are educating tomorrow's visionary leaders and global citizens. AAU members collectively help shape policy for higher education, science, and innovation; promote best practices in undergraduate and graduate education; and strengthen the contributions of research universities to society. Follow AAU on Twitter, on Facebook and on Linkedin.*

*Celebrating its centennial in 2018, ACE is the major coordinating body for all the nation's higher education institutions, representing nearly 1,800 college and university presidents and related*

*associations. It provides leadership on key higher education issues and influences public policy through advocacy. For more information, please visit www.acenet.edu or follow ACE on Twitter @ACEducation.*

*The Association of Public and Land-grant Universities is a research, policy, and advocacy organization dedicated to strengthening and advancing the work of public universities in the U.S., Canada, and Mexico. With a membership of 237 public research universities, land-grant institutions, state university systems, and affiliated organizations, APLU's agenda is built on the three pillars of increasing degree completion and academic success, advancing scientific research, and expanding engagement. Annually, member campuses enroll 4.9 million undergraduates and 1.3 million graduate students, award 1.2 million degrees, employ 1.2 million faculty and staff, and conduct $43.9 billion in university-based research.*

*AUPresses is an organization of more than 140 international nonprofit scholarly publishers. Since 1937, the Association of University Presses advances the essential role of a global community of publishers whose mission is to ensure academic excellence and cultivate knowledge. The Association holds integrity, diversity, stewardship, and intellectual freedom as core values. AUPresses members are active across many scholarly disciplines, including the humanities, arts, and sciences, publish significant regional and literary work, and are innovators in the world of digital publishing.*

*EDUCAUSE is a higher education technology association and the largest community of IT leaders and professionals committed to advancing higher education. Technology, IT roles and responsibilities, and higher education are dynamically changing. Formed in 1998, EDUCAUSE supports those who lead, manage, and use information technology to anticipate and adapt to these changes, advancing strategic IT decision making at every level within higher education. EDUCAUSE is a global nonprofit organization whose members include U.S. and international higher education institutions, corporations, not-for-profit organizations, and K-12 institutions. With a community of more than 99,000 individuals at member organizations located around the world, EDUCAUSE encourages diversity in perspective, opinion, and representation.*

**Thomas M. Susman**
Director
Governmental Affairs Office

**AMERICAN BAR ASSOCIATION**
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Washington, DC 20036
(202) 662-1760
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April 17, 2018

The Honorable Bob Corker
Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

The Honorable Bob Menendez
Ranking Member
Committee on Foreign Relations
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Corker, Ranking Member Menendez, Chairman Grassley, and Ranking Member Feinstein:

On behalf of the American Bar Association (ABA) and our over 400,000 members, I write to express our support for prompt ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. We also urge Congress to pass the "Marrakesh Treaty Implementation Act."

To halt discrimination against individuals with print disabilities, the Treaty requires contracting parties to adopt exceptions and limitations in their domestic copyright law to permit reproduction of published works into accessible formats usable by the print disabled. The United States has already adopted exceptions in our copyright laws that allow for lawful reproduction of accessible content for individuals with print disabilities. However, over 130 World Intellectual Property Organization-designated countries have not adopted these exceptions, so the reproduction of works in Braille (or other forms) for personal use in those countries may constitute a copyright violation. In addition, these exceptions may not always explicitly permit the import or export of accessible formats across international borders. Ratifying the Treaty would help open doors to countries worldwide, allowing literature to be disseminated in accessible formats with no borders.

As a supporter of the Marrakesh Treaty since its negotiation, the ABA recommends swift ratification to ensure greater access to published works by people with print disabilities. We would be pleased to assist you and your committees with any questions regarding this vital issue.

Sincerely,

Thomas M. Susman

**National Council on Disability**

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

April 20, 2018

Chairman Bob Corker
U.S. Senate Foreign Relations Committee
423 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Bob Menendez
U.S. Senate Foreign Relations Committee
444 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Corker and Ranking Member Menendez:

I write on behalf of the National Council on Disability (NCD), an independent federal agency with a statutory mandate to advise the President and Congress on disability policy matters to thank the Committee for considering the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled at your recent hearing. In our roles as your federal disability advisors, we recommend to you the ratification of Marrakesh Treaty and the adoption of S. 2559, the Marrakesh Treaty Implementation Act, which we believe would enhance the lives of people all over the world who are blind, visually impaired or print disabled by providing them with access to books and other material in accessible formats, including Braille, audio, digital, large print and other formats that emerge as technology advances. Ratification and adoption would be in keeping with the national policy aim of exporting the best of American policy abroad, given that the U.S. is looked to as a world authority on the rights of people with disabilities.

The Marrakesh Treaty allows "authorized entities" to create accessible versions of published materials and share them with individuals who need them to access the material at no cost. Additionally, the treaty allows authorized entities to exchange accessible works across international borders with each other, thereby reducing duplication and cost. It's important to note that this treaty would not require substantive changes to existing U.S. law, which already allows authorized entities to reproduce or distribute copies of previously published literary works in specialized formats for use by blind or other persons with disabilities, S. 2559 makes only modest changes to U.S. copyright law that will facilitate access to copyrighted material in accessible formats.

Worldwide, it is estimated that 95% of published material are not produced in accessible formats, leading to a global "book famine" for blind and visually impaired individuals. This poses a tremendous barrier to education and employment opportunities for this population of

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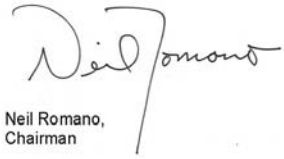
people with disabilities. For individuals who are blind, visually impaired or print disabled, this treaty would unlock access to the written word, from novels to religious texts and educational materials.

NCD is very proud to have played a primary role in drafting the Americans with Disabilities Act (ADA) and working to assure its passage in 1990. NCD views the ratification of both the Convention on the Rights of Persons with Disabilities and the Marrakesh Treaty as important ways to export the core values of the ADA to the rest of the world. The Marrakesh treaty in particular has the potential to open up a world of knowledge and shared cultural and educational experiences to everyone, regardless of disability.

NCD advises this Committee to consider the potential of enormous transformative impact that the Marrakesh Treaty and S.2559 represent. Please don't hesitate to have your Committee staff contact our staff if you desire additional information. We stand ready to serve.

Respectfully,



Neil Romano,
Chairman

**Congress of the United States**
**Washington, DC 20515**

August 30, 2017

Senator Bob Corker
Chairman
Senate Foreign Relations Committee
423 Dirksen Senate Office Building
Washington, DC 20510

Senator Ben Cardin
Ranking Member
Senate Foreign Relations Committee
423 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Corker and Ranking Member Cardin,

We write to encourage the Senate Foreign Relations Committee to consider the Marrakesh Treaty's resolution of ratification and to introduce implementing legislation making any necessary statutory changes to the Chafee Amendment.[1] The Marrakesh Treaty (the Treaty) requires participating countries to adjust their copyright rules in order to permit the reproduction and distribution of published works in accessible formats. As co-chairs of the House of Representative's Bipartisan Disabilities Caucus, we have a vested interest in supporting greater access to published works for persons who are blind, visually impaired, or otherwise print disabled.

Despite the existence of accessible formats such as large print, audio, digital and Braille, only 10 percent of published works are currently available to Americans who are print disabled.[2] Lowering barriers to the production of accessible printed and digital texts will allow the blind and visually impaired greater use of educational and cultural resources while also enhancing their ability to lead more fulfilling and independent lives.

Once participating countries have incorporated appropriate exceptions into their copyright laws, the Treaty will facilitate access in two major ways. First, authorized entities will be able to reproduce and distribute accessible format copies of published works to eligible persons.[3] Second, accessible format copies of published works will be importable and exportable among countries who are parties to the Treaty.[4] The Treaty specifies who qualifies as an eligible person, defines accessible formats, and prescribes what authorized entities must do to lawfully engage in the cross-border exchange of accessible format copies.

Although the United States played a crucial leadership role in developing the Treaty, Americans cannot benefit until it is approved by the Senate. Initial concerns about the Treaty's effect on the copyright system and its potential financial impact have been mollified through careful negotiation. Publishers and copyright holders were able to reach a compromise regarding the creation of accessible format works among authorized entities, and participating authorized entities agreed to limit the export of accessible formats to only those countries that have ratified the Treaty.

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[1] 17 U.S.C Sec. 121
[2] http://www.worldblindunion.org/English/resources/Pages/Global-Blindness-Facts.aspx
[3] http://www.wipo.int/wipolex/en/details.jsp?id=13169
[4] Ibid.

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Chairman Corker
Ranking Member Cardin
August 30, 2017
Page 2

The Treaty "[c]oncluded under the auspices of the World Intellectual Property Organization" and was adopted on June 27, 2013 with strong stakeholder support among advocates for the blind, the international publishing community, and legal experts.[5] Currently, it has been signed by 90 countries and ratified by 31 countries.[6]

Implementation of the Treaty will require subtle changes to United States law, but it fits well within the current framework of American copyright restrictions. During the 114th Congress, the Treaty was described as an asset to the country's national interest and a catalyst for the enhancement of knowledge available for those who are visually impaired.[7] We believe that underlying tone of support remains in the 115th Congress.

Achieving more equal access to published works will improve lives, enhance educational opportunities, and increase literacy nationwide and around the world. We respectfully urge the Senate Foreign Relations Committee to end the book famine for the blind, visually impaired, and otherwise print disabled by moving forward with consideration of the Marrakesh Treaty.

Thank you in advance for your attention to this important matter.

Sincerely,

Jim Langevin
Member of Congress

Gregg Harper
Member of Congress

[5] https://www.congress.gov/treaty-document/114th-congress/6/document-text
[6] http://www.wipo.int/treaties/en/ShowResults.jsp?treaty_id=843
[7] https://www.congress.gov/treaty-document/114th-congress/6/document-text

STATEMENT

## Copyright Alliance Applauds Introduction of Marrakesh Treaty Implementation Act (S. 2559)

Washington, D.C. – In a statement issued today, the Copyright Alliance applauded the introduction of the Marrakesh Treaty Implementation Act (S. 2559), legislation that amends the Copyright Act to comply with the Treaty.

According to Alliance CEO Keith Kupferschmid, "We applaud Senators Chuck Grassley (R-IA), Bob Corker (R-TN), Dianne Feinstein (D-CA), Bob Menendez (D-NJ), Orrin Hatch (R-UT), Kamala Harris (D-CA), and Patrick Leahy (D-VT) for their introduction of the Marrakesh Treaty Implementation Act – which will greatly increase the availability of accessible books for persons with print disabilities throughout the United States and throughout all countries that are parties to the Treaty in a manner that is consistent and respectful of the rights of authors and publishers."

Kupferschmid continued by stating, "We believe that the Marrakesh Treaty will build upon existing international copyright principles to provide persons with print disabilities with access to a wealth of published works, which might otherwise not be available to them. We look forward to working with stakeholders in supporting the swift ratification and implementation of this legislation."

A copy of The Marrakesh Treaty Implementation Act is available **here**.

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Perkins SCHOOL FOR THE BLIND

President and Chief Executive Officer

Chairman Bob Corker
United States Senate Committee on Foreign Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Bob Menendez
United States Senate Committee on Foreign Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Chairman Chuck Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Ranking Member Dianne Feinstein
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Chairman Corker, Ranking Member Menendez, Chairman Grassley, and Ranking Member Feinstein:

On behalf of the Perkins School for the Blind and the thousands of individuals we serve of all ages who are blind, visually impaired, or living with multiple disabilities, we are writing to express our support for the prompt ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons with print disabilities. In addition, we urge the immediate passage of the 'Marrakesh Treaty Implementation Act of 2018' S. 2559 to make needed adjustments to U.S. copyright law. The proposed legislation, and proposed legislative history provisions under consideration, represent a consensus perspective developed by publishers, libraries, and the blindness/disability community to provide clear and balanced implementation of the treaty.

Following the very positive hearing before the joint Foreign Relations and Judiciary committees on April 18, 2018, we urge the Senate to swiftly provide its advice and consent for the Marrakesh Treaty. Likewise, we urge both the U.S. Senate and House of Representatives to promptly

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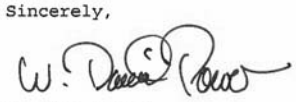
pass the treaty's implementing legislation, so blind and print disabled Americans can soon benefit from the world's collection of accessible reading materials, and thereby end the global book famine.

Thank you for your efforts and your consideration of this ground-breaking treaty and its implementing legislation.

Sincerely,



w. Dave Power
President and CEO

MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED

[This document can be found online at the following website: https://www.congress.gov/114/cdoc/tdoc6/CDOC-114tdoc6.pdf ]

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