

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group: 2

Program: 1.3

Question: BE14/083

Senator Singh asked the following question at the hearing on 26-29 May 2014:

1. Which Department is responsible for The Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities?
2. Please clarify precisely what role is played by the AGD and DFAT in relation to this treaty.
3. Who is responsible for the preparation of Australian domestic law for ratification?
4. Who is responsible for advising the government on the substantive effect of the treaty on copyright law?
5. What role does the Attorney-General play in the decision to sign, or not to sign, this Treaty?
6. What part did Australia play in the negotiation of the Treaty?
7. Was Australia a strong player in the conclusion of the treaty?
8. The conclusion of the treaty was an unexpected success, wasn't it? How have key stakeholders reacted to the conclusion of the treaty?
9. How many countries have now signed the Treaty?
10. Have the USA and the UK now signed the Treaty?
11. The Treaty is open for signature until June 26. Will the government sign the Treaty?
12. Given the role we played in negotiating the Treaty, would it embarrass Australia if we did not sign the Treaty before June 26? How would a failure to sign be received internationally?
13. What steps need to be taken in order to sign the Treaty?
14. If Australia does not sign the Treaty before June 26, will accession be possible? What steps will need to be taken to accede to the Treaty?

The answers to the honourable senator's questions are as follows:

1. The Attorney-General's Department (AGD) leads a whole of government approach to the *WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled* (Marrakesh Treaty).

2. AGD and the Department of Foreign Affairs and Trade (DFAT), in consultation with other departments, negotiated the Marrakesh Treaty and implemented the government's decision that Australia should become an original signatory to it. The Marrakesh Treaty relates to copyright, which is a substantive matter for AGD under the Administrative Arrangements Order. DFAT is responsible for advising the government on treaties, as well as international aspects of intellectual property including trade-related policy, under the Administrative Arrangements Order. The Minister for Foreign Affairs is responsible for referring treaty matters (regardless of subject matter) to the Executive Council for approval.
3. AGD leads a whole of government approach.
4. AGD is principally responsible for advising the government on the Marrakesh Treaty's substantive effect on, and any implementation under, Australia's copyright law. DFAT has a general role in advising the government on Australia's treaty commitments, including on intellectual property.
5. In keeping with well-established practice, the Attorney-General consulted with all ministers with a portfolio interest in the Marrakesh Treaty's subject matter, after which the Minister for Foreign Affairs submitted the Marrakesh Treaty to the Executive Council. The Executive Council approved the recommendation that Australia sign the Marrakesh Treaty on 29 May 2014.
6. Australia was an active participant in the Marrakesh Treaty's negotiation under the auspices of the World Intellectual Property Organization.
7. Yes. Stakeholders have expressly recognised Australia's support for the treaty and its role in the negotiations.
8. The Marrakesh Treaty's adoption has been welcomed by a diverse range of stakeholders in Australia and elsewhere.
9. Over 70 countries, including Australia, have signed the Marrakesh Treaty.
10. Yes, the United Kingdom and the United States of America are signatories.
11. Yes. Australia signed the Marrakesh Treaty in Geneva on 23 June 2014.
12. Australia has signed the Marrakesh Treaty, as advised in response to Question 11.
13. The necessary steps, including Executive Council consideration and approval, were taken to enable Australia to sign the Marrakesh Treaty.
14. As Australia has signed the Marrakesh Treaty, accession to it will not be necessary.