

Report 115

Treaties tabled on 28 October and 24 November 2010

Treaties referred on 16 November 2010 (Part 2)

An Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services

Agreement between Australia and the Kingdom of Spain relating to Air Services

Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services

Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services

Agreement between Australia and the European Union on the Security of Classified Information

Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as Amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; Postal Payment Services Agreement

World Wine Trade Group Agreement on Requirements for Wine Labelling

Second Protocol to the Agreement between Australia and the Republic of Austria on Social Security

Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion

Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan

Air Services Agreement between the Government of Australia and the Government of the Federative Republic of Brazil

Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services

Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey

The Agreement Establishing the Advisory Centre on WTO Law

Amendments to the Convention on the International Mobile Satellite Organization adopted at the Twentieth Session of the Assembly

Convention on Limitation of Liability for Maritime Claims

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Resolution of Appointment

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and
- c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



List of abbreviations

ACSA	Acquisition and Cross Servicing Agreement
ACWL	Advisory Centre on WTO Law
AGD	Attorney-General's Department
ATO	Australian Taxation Office
DBCDE	Department of Broadband, Communications and the Digital Economy
DFAT	Department of Foreign Affairs and Trade
EU	European Union
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
GMDSS	Global Maritime Distress and Safety System
HNS	Hazardous and Noxious Substances
IMSO	International Mobile Satellite Organization
INMARSAT	International Maritime Satellite Organization
JSCOT	Joint Standing Committee on Treaties
LRIT	Long Range Identification and Tracking
NIAs	National Interest Analyses

OECD	Organisation for Economic Co-operation and Development
QSF	Quality of Service Fund
RIS	Regulation Impact Statement
UK	United Kingdom
UTML	Uniform Trade Measurement Legislation
UPU	Universal Postal Union
WTO	World Trade Organisation
WWTG	World Wine Trade Group



List of recommendations

2 Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan

Recommendation 1

The Committee supports the *Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan* and recommends that binding treaty action be taken.

3 Air Services Agreements with Brunei Darussalam, Spain, Switzerland and the United Kingdom

Recommendation 2

The Committee supports the *Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 3

The Committee supports the *Agreement between Australia and the Kingdom of Spain relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 4

The Committee supports the *Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 5

The Committee supports the *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services* and recommends that binding treaty action be taken.

4 Agreement with the European Union on the Security of Classified Information**Recommendation 6**

The Committee supports the *Agreement between Australia and the European Union on the Security of Classified Information* and recommends that binding treaty action be taken.

5 Universal Postal Union**Recommendation 7**

The Committee supports the *Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; and Postal Payment Services Agreement*, and recommends that binding treaty action be taken.

6 Second Protocol to the Social Security Agreement with Austria**Recommendation 8**

The Committee supports the *Second Protocol to the Agreement Between Australia and the Republic of Austria on Social Security* and recommends that binding treaty action be taken.

7 Double Taxation Agreement with Turkey**Recommendation 9**

The Committee supports the *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of*

Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol and recommends that binding treaty action be taken.

8 World Wine Trade Group Agreement on Requirements for Wine Labelling

Recommendation 10

The Committee supports the *World Wine Trade Group Agreement on Requirements for Wine Labelling*, and recommends that binding treaty action be taken.

9 Amendments to the Convention on the International Mobile Satellite Organization

Recommendation 11

The Committee supports the *Amendments to the Convention on the International Mobile Satellite Organization* and recommends that binding treaty action be taken.

10 Convention on Limitation of Liability for Maritime Claims

Recommendation 12

The Committee supports denunciation of the *Convention on Limitation of Liability for Maritime Claims, 1976* and recommends that binding treaty action be taken.

11 Agreement establishing the Advisory Centre on WTO Law

Recommendation 13

The Committee supports accession to the *Agreement Establishing the Advisory Centre on WTO Law* and recommends that binding treaty action be taken.

12 Air services agreements with Brazil, Mexico and Turkey

Recommendation 14

The Committee supports the *Air Services Agreement between the Government of the Federative Republic of Brazil and the Government of Australia* and recommends that binding treaty action be taken.

Recommendation 15

The Committee supports the *Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 16

The Committee supports the *Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey* and recommends that binding treaty action be taken.

Introduction

Purpose of the report

- 1.1 This report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of four treaty actions tabled in Parliament on 28 October and 24 November 2010, and twelve treaty actions referred to the Committee on 16 November 2010. These treaty actions comprise:
- *Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan* (Tokyo, 19 May 2010)
 - *Air Services Agreement between the Government of Australia and the Government of the Federative Republic of Brazil* (Brasilia, 21 April 2010)
 - *Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services* (Mexico City, 9 April 2010)
 - *Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey* (Ankara, 28 April 2010)
 - *An Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services* (Canberra, 30 April 1992)
 - *Agreement between Australia and the Kingdom of Spain relating to Air Services* (Canberra, 24 June 2009)

- *Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services* (Canberra, 28 November 2008)
- *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services* (London, 10 July 2008)
- *Agreement between Australia and the European Union on the Security of Classified Information* (Brussels, 13 January 2010)
- *Second Protocol to the Agreement between Australia and the Republic of Austria on Social Security* (Vienna, 17 February 2010)
- *Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as Amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; Postal Payment Services Agreement* (Geneva, 12 August 2008)
- *Amendments to the Convention on the International Mobile Satellite Organization adopted at the Twentieth Session of the Assembly* (Malta, 2 October 2008)
- *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion* (Ankara, 28 April 2010)
- *World Wine Trade Group Agreement on Requirements for Wine Labelling* (Canberra, 23 January 2007)
- *The Agreement Establishing the Advisory Centre on WTO Law* (Seattle, 30 November 1999)
- *Convention on Limitation of Liability for Maritime Claims, 1976* (London, 19 November 1976)¹

1.2 One of the powers of the Committee set out in its resolution of appointment is to inquire into and report on matters arising from treaties and related *National Interest Analyses* (NIAs) presented. This report deals with inquiries conducted under this power, and consequently the report refers frequently to the treaties and their associated NIAs. Copies of each treaty and its associated NIA may be obtained from the Committee Secretariat or accessed through the Committee's website at:

www.aph.gov.au/house/committee/jsct

¹ Parliament of the Commonwealth of Australia, House of Representatives, *Votes and Proceedings* No. 11, p. 164, No. 18, pp. 242-243; Parliament of the Commonwealth of Australia, Senate, *Journals of the Senate*, No. 9, p.295, No. 14, pp. 407-408.

- 1.3 Copies of each treaty action and the NIAs may also be obtained from the Australian Treaties Library maintained on the internet by the Department of Foreign Affairs and Trade. The Australian Treaties Library is accessible through the Committee's website or directly at:

www.austlii.edu.au/au/other/dfat/

Conduct of the Committee's review

- 1.4 The reviews contained in this report were advertised in the national press and on the Committee's website. Invitations to lodge submissions were also sent to all State Premiers, Chief Ministers, Presiding Officers of parliaments and to individuals who have expressed an interest in being kept informed of proposed treaty actions. Submissions received and their authors are listed at Appendix A.
- 1.5 A number of treaties in this report were tabled in the 42nd Parliament. On 16 November 2010 these treaties were referred to the Committee for review in the 43rd Parliament. The Committee of the 42nd Parliament took evidence on treaties on 21 June 2010 in Canberra and 29 June 2010 in Sydney. The Committee of the 43rd Parliament took further evidence on 22 November 2010, and on 7 and 25 February 2011 in Canberra. A list of witnesses who appeared at the public hearings is at Appendix B.
- 1.6 Transcripts of evidence from the public hearing may be obtained from the Committee Secretariat or accessed through the Committee's website under the date of tabling:

21 June 2010

ww.aph.gov.au/house/committee/jsct/12may2010/hearings.htm

29 June 2010

ww.aph.gov.au/house/committee/jsct/15june2010/hearings.htm

22 November 2010, 7 February 2011 and 25 February 2011

www.aph.gov.au/house/committee/jsct/16november2010/hearings.htm

Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan

Introduction

- 2.1 The proposed treaty action, otherwise known as the *Japan–Australia Acquisition and Cross Servicing Agreement (ACSA)*, sets out the basic terms and conditions for the reciprocal provision of supplies and services between the Australian Defence Force and the Japanese Self-Defence Forces.¹
- 2.2 The agreement covers defence co-operation during joint exercises and United Nations led peace keeping operations, international humanitarian and disaster relief operations. It does not apply to offensive military operations, nor supply of weapons or ammunition.²

1 *National Interest Analysis (NIA)*, [2010] ATNIA 54, Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan, done at Tokyo on 19 May 2010 [2010] ATNIF 29, para. 6.

2 NIA, paras 6 and 10.

- 2.3 The Committee was informed that this is the second only cross-servicing agreement in place with Japan and, as such, is an important advance for future bilateral engagement between our two defence organisations:

As the defence logistics relationship between Japan and Australia matures, it is likely that subordinate, non-treaty level implementing arrangements may be developed to address specific bilateral activities. Examples could be the exchange of fuel between defence forces or the sharing of airlift capability.³

- 2.4 The advantage of the treaty in practical terms is that it will provide an agreed framework of conditions for supply and other activities, which otherwise would have to be negotiated on a case-by-case basis.⁴
- 2.5 It is expected that the new arrangements will allow 'capability gaps' identified in past joint activities with Japan, such as during the Padang earthquake, to be addressed. In particular, the capacity to respond promptly in non-combatant evacuation operations and to deliver medical assistance during emergency relief operations.⁵
- 2.6 Japan's other cross-servicing agreement is with the United States. The agreement will increase the uptake in joint and trilateral training and security opportunities across the region, exemplified by the trial trilateral Pacific Bond exercise conducted between Australia, Japan and the United States in late 2009.⁶

Obligations

- 2.7 The agreement provides for reciprocity in procedural arrangements and limits the potential for non-military application of supplies and services.
- 2.8 Article I details the proposed activities to be covered:
- joint exercises and training conducted by both the Australian Defence and Japan's Self-Defence forces, but with unilateral exercises conducted by each Party excluded;

3 Air Vice Marshal Margaret Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 2.

4 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 3.

5 Mr Benjamin Burdon, Department of Defence, *Transcript of Evidence*, 7 February 2011, pp. 4, 5.

6 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, pp. 2, 6.

- United Nations Peacekeeping Operations, humanitarian international relief operations or relief for large scale disasters in party territories or a third country;
 - transportation of nationals of either Party or, where appropriate, others for evacuation overseas in case of exigency of the situation; and
 - communication and co-ordination or other routine activities, including visits by ships or aircraft of either Party in each other's territory.
- 2.9 Article II (3) contains a prohibition on the provision of weapons or ammunition, specifying categories to be covered.⁷
- 2.10 Article III requires that these supplies and services must be used consistently with the Charter of the United Nations, which prohibits 'threat or use of force against the territorial integrity or political independence of any state'.⁸ Article III also prohibits transferral of services or supplies procured under the agreement to external forces unless with written permission.⁹
- 2.11 Articles IV and V specify the procedural arrangements for the agreement, addressing financial and other terms of transaction to ensure equity of price, quality and quantity on exchange. Taxation exemptions are also required.
- 2.12 Article VI sets out the approach for dispute resolution, and excludes application of the agreement to Australian Defence Force activities conducted under the *Agreement Regarding the Status of the United Nations Forces in Japan, 1954*.
- 2.13 The Committee was advised that payment for any supplies and services transferred under the agreement is to be made either as a cash reimbursement or replacement in kind.¹⁰

7 Including provision of food, water, medical services, communications, billeting, transportation, petroleum, storage, spare parts and components, repair and maintenance, and airport and seaport services, Article II (2).

8 Article 2(4).

9 NIA, para. 11.

10 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 2.

Implementation

- 2.14 After exchange of diplomatic notes, this agreement will remain in force for ten years and is renewable.¹¹
- 2.15 The *National Interest Analysis* (NIA) found implementation of the treaty would not generate a financial cost or need to change national laws, regulations or policies, nor Commonwealth, State or Territory government roles.¹²
- 2.16 State and territory governments gave unqualified support to the proposed treaty in consultations.¹³

Conclusion

- 2.17 Australia and Japan have a well-developed partnership in conducting humanitarian and disaster relief operations.
- 2.18 The Committee considers the agreement will provide a secure and reliable arrangement to advance defence co-operation between Australia and Japan, building closer bilateral ties between the parties, and with tangible benefits to international peacekeeping and humanitarian rescue operations.
- 2.19 The Committee supports binding treaty action being taken.

Recommendation 1

The Committee supports the *Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan* and recommends that binding treaty action be taken.

11 Article VII (1).

12 NIA, para. 27

13 NIA, para. 28.

Air Services Agreements with Brunei Darussalam, Spain, Switzerland and the United Kingdom

Introduction

3.1 This chapter considers four air services agreements:

- *An Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services;*
- *Agreement between Australia and the Kingdom of Spain relating to Air Services;*
- *Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services; and*
- *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services.*

3.2 Air services agreements permit and facilitate the operation of international air services within the overarching civil aviation framework provided by the *Convention on International Civil Aviation* (the Chicago Convention). Without an air services agreement, international airlines cannot operate between countries.¹

¹ Mr Samuel Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 1.

- 3.3 The four agreements under consideration will open new markets for Australian airlines in Spain, the United Kingdom, Switzerland and Brunei and increase opportunities for tourism and export industries to access these markets.²

The agreements

- 3.4 Each agreement imposes obligations upon both countries to allow the designated airlines of each country to operate services in accordance with:
- ...the limitations settled between aeronautical authorities and subject to compliance with applicable laws, including safety, aviation security, border security including customs and quarantine, and trade practices.³
- 3.5 The agreements are supported by Memoranda of Understanding that address commercial entitlements.

Brunei

- 3.6 Royal Brunei Airlines currently operates 12 services per week between Australia and Brunei.⁴ The Exchange of Notes with Brunei will implement three amendments to an existing 1992 agreement and are intended to provide further commercial flexibility for airlines operating between Australia and Brunei.
- 3.7 The amendments:
- expand the scope of agreed services to include cargo-only services;
 - liberalise the nationality test for designated airlines; and
 - replace the current Annex, which specifies particular routes that may be operated by the designated airline, with an open route structure. This entitles designated airlines to operate on any route between any point

2 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 3.

3 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 2.

4 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 2.

in Australia and Brunei, via any intermediate point, subject to the entitlements determined by the aeronautical authorities.⁵

- 3.8 With the amendments to the nationality test, airlines can be designated based on the location of their incorporation and principal place of business, allowing airlines to increase foreign investment opportunities and access to capital. This change reflects Australian policy and has been included in 32 other air services agreements.⁶

Spain

- 3.9 This agreement is the first treaty level air services arrangement between Australia and Spain. Spain is the last major European country with which Australia has established an air services agreement. There are no airlines operating between Australia and Spain using their own aircraft, although Qantas and Iberia provide joint codesharing services on routes between Australia and Spain over London and Frankfurt.⁷
- 3.10 The agreement will allow the designated airlines of both countries to operate scheduled air services carrying passengers and cargo between the two countries on specified routes, subject to capacity levels. The agreement includes provisions relating to:
- designating the number of airlines to operate agreed services;
 - rights to overfly territory and make stops for non-traffic purposes;
 - the application of domestic laws, regulations and rules in a Party's territory, including competition laws;
 - safety standards and aviation security;
 - exemptions from customs and excise duties;
 - fares; and
 - conduct of an airline's business.⁸

5 *National Interest Analysis* [2010] ATNIA 18, Amendments to the Agreement between the Government of Australia and the Government of His Majesty the Sultan of Yang Di-Pertuan of Brunei Darussalam relating to Air Services Canberra 30 April 1992 [1992] ATS 20 [2010] ATNIF 21 (Brunei NIA), para. 5.

6 Brunei NIA, paras 6 and 11.

7 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 2.

8 *National Interest Analysis* [2010] ATNIA 14, Agreement between Australia and the Kingdom of Spain relating to Air Services Canberra, 24 June 2009 [2009] ATNIF 16 (Spain NIA) paras 9 to

- 3.11 The annex to the agreement includes a route schedule that specifies the routes that can be operated by designated airlines.⁹

Switzerland

- 3.12 The agreement with Switzerland replaces an existing 1993 agreement. No airlines currently operate services with their own aircraft between Australia and Switzerland, although Qantas utilises the agreement to codeshare on British Airways services into Geneva and Zurich.¹⁰
- 3.13 The provisions of this agreement are consistent with those in the Spanish and United Kingdom agreements.

United Kingdom

- 3.14 The United Kingdom agreement replaces a 1958 agreement that has been amended numerous times with 'an updated text that provides a flexible and modern framework'.¹¹
- 3.15 Under the agreement at present, three airlines operate direct passenger services with their own aircraft between Australia and the United Kingdom: Qantas (28 services per week), British Airways (14 services per week) and Virgin Atlantic (7 services per week).¹²
- 3.16 The agreement improves access for Australian airlines to the UK aviation market and allows for the expansion of services between the two countries. Under the agreement, Australian and UK carriers can operate between any point in Australia and any point in the UK. The agreement also improves the capability of Qantas and other Australian air carriers to compete with 'hub-based carriers', such as those based in Asia and the Middle East that previously had significantly greater access to the UK.¹³
- 3.17 The amendments to the agreement also remove limitations upon fares in the previous agreement, allowing each airline to determine its own fares.¹⁴

25.

9 Spain NIA, para. 26.

10 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 2.

11 *National Interest Analysis* [2010] ATNIA 15, Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services London, 10 July 2008 [2008] ATNIF 13 (UK NIA), para. 4.

12 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 3.

13 UK NIA, para. 8.

14 UK NIA, para. 8.

Memoranda of Understanding

3.18 The Committee notes that Memoranda of Understanding and Exchanges of Letters have provisionally applied the provisions of each agreement, pending completion of domestic process and the agreements coming into force.¹⁵ Mr Samuel Lucas of the Department of Infrastructure, Transport, Regional Development and Local Government explained to the Committee:

When we negotiate the agreements, they are given interim administrative effect between aeronautical authorities so that airlines can access the rights available under the agreement immediately. Once the agreements have been negotiated, we commence the domestic processes to have them signed and subsequently brought into legal force.¹⁶

The practice that we follow.... is the standard international practice in the negotiation of air services agreements.¹⁷

Consultation and implementation

3.19 Consultation in the development of each agreement included airlines, airports, Australian government departments, state and territory government departments and industry groups.¹⁸

3.20 The agreements will be implemented through existing legislation, including the *Air Navigation Act 1920*, *Civil Aviation Act 1988* and *International Air Services Commission Act 1992*. Amendments to this legislation are not required.¹⁹

15 *National Interest Analysis [2010] ATNIA 16*, Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services Canberra, 28 November 2008 [2008] ATNIF 22, (Switzerland NIA), para. 4; Brunei NIA, para. 4; Spain NIA, para. 5, UK NIA, para. 5.

16 *Transcript of Evidence*, 21 June 2010, p. 3.

17 *Transcript of Evidence*, 21 June 2010, p. 4.

18 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 2.

19 Mr Lucas, Department of Infrastructure, Transport, Regional Development and Local Government, *Transcript of Evidence*, 21 June 2010, p. 1.

Conclusion

- 3.21 The Committee notes that these agreements are expected to improve access to each of these markets for Australian airlines and increase opportunities for Australian business interests, including tourism and export industries. The Committee supports binding treaty action being taken.

Recommendation 2

The Committee supports the *Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 3

The Committee supports the *Agreement between Australia and the Kingdom of Spain relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 4

The Committee supports the *Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 5

The Committee supports the *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services* and recommends that binding treaty action be taken.

Agreement with the European Union on the Security of Classified Information

Introduction

- 4.1 The *Agreement between Australia and the European Union on the Security of Classified Information* establishes procedures for the exchange of classified information between Australia and the European Union (EU).¹
- 4.2 Classified information is defined by the agreement as information that is subject to a security classification assigned by either party, the unauthorised disclosure of which might cause damage or harm to the interests of either party.²
- 4.3 The agreement is substantially similar to other legally binding information-sharing agreements entered into by Australia.³
- 4.4 The Committee was informed that the agreement will strengthen relations between Australia and the EU. Specifically:

Concluding the [agreement] is an immediate action item under Objective 1, dealing with foreign policy and security interests, of the 2009 iteration of the Australia-European Union Partnership

1 *National Interest Analysis (NIA)* [2010] ATNIA 19, Agreement between Australia and the European Union on the Security of Classified Information, done at Brussels, 13 January 2010 [2010] ATNIF 2, para. 4.

2 NIA, para. 7.

3 Australia has also concluded agreements with Germany, Republic of Korea, NATO, Denmark, New Zealand, Singapore, South Africa, United States of America, Sweden, France and Canada. Mr John Griffin, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 21 June 2010, pp. 18 and 19.

Framework. The [agreement] will provide the opportunity to influence EU thinking on issues of importance to Australia. The [agreement] will also provide Australia with access to EU information, broadening our pool of data available for consideration when making policy decisions.⁴

Obligations

- 4.5 Under the agreement, each party will be obliged to protect classified information received from the other party, particularly from unauthorised disclosure. Protection will be afforded by giving the information an equivalent level of security classification to that which applied for the providing party. The agreement establishes the security classification levels for each party and the equivalent level of security classification that applies for the other party.⁵ In Australia, the security levels used are those contained in the Commonwealth's protective security policy.⁶
- 4.6 The agreement is based on the principle of originator control. Originator control means that the originator of the classified information must consent to its use or disclosure.⁷
- 4.7 In terms of the handling of classified material, the agreement requires each party to:
- ensure the security of the facilities in which the information provided by the other party is secured;
 - ensure that the material released by the other party retains the level of security assigned to it by the providing party; and
 - afford protection to the classified material provided by the other party at least equivalent to its own material of the same classification.⁸
- 4.8 The agreement requires that parties only use the classified information provided by the other party for the specific purpose for which it was released.⁹

4 Mr Griffin, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 21 June 2010, p. 19.

5 NIA, para. 7.

6 NIA, para. 17.

7 NIA, para. 8.

8 NIA, para. 9.

9 NIA, para. 10.

4.9 In addition, parties are not permitted to disclose the information to third parties without the express permission of the providing party.¹⁰ For Australian classified information, the EU:

...shall mean the Council of the European Union (hereafter referred to as "the Council"), the Secretary-General/High Representative and the General Secretariat of the Council, and the Commission of the European Communities (hereafter referred to as "the European Commission").¹¹

4.10 All other EU institutions or entities are considered third parties for the purposes of this provision.¹²

4.11 Individuals who access the information must have:

- a need to know the information to perform their official functions;
- a security clearance of an appropriate level; and
- been informed by the relevant party of their obligations in relation to the information.¹³

4.12 The agreement requires the parties to agree on a set of standards for the reciprocal protection of classified information and a set of standards where there is a suspected loss or compromise of the material.¹⁴

4.13 Departmental representatives emphasised to the Committee that while the agreement formalises the exchange of classified information:

...the decision-making process of what to pass is entirely an Australian Government prerogative.¹⁵

Implementation

4.14 No new legislation is required for implementation of the agreement.

4.15 The relevant security authorities of both parties are obliged however to conclude implementing arrangements. The Attorney-General's

10 NIA, para. 11.

11 Article 2.

12 NIA, para. 10.

13 NIA, para. 11.

14 NIA, para. 15.

15 Mr Griffin, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 21 June 2010, p. 23; Mr Alex Webling, Attorney-General's Department, *Transcript of Evidence*, 21 June 2010, p. 24.

Department has responsibility for developing these arrangements under the agreement.¹⁶ Implementation of the agreement will be overseen by the Minister for Foreign Affairs, the Minister for Defence and the Attorney-General.¹⁷

- 4.16 The Committee noted at the time of hearing that implementation arrangements, such as security standards, were still under negotiation.¹⁸

Conclusion

- 4.17 The Committee notes that this agreement is substantially similar to a number of agreements Australia has concluded with other countries relating to the exchange of security information. The agreement will allow Australia and the EU to exchange information that is subject to a security classification and establishes procedures for the protection of this material. The Committee supports binding treaty action being taken.

Recommendation 6

The Committee supports the *Agreement between Australia and the European Union on the Security of Classified Information* and recommends that binding treaty action be taken.

16 Mr Griffin, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 21 June 2010, p. 19.

17 NIA, para. 18.

18 Mr Webling, Attorney-General's Department, *Transcript of Evidence*, 21 June 2010, pp. 20–21; Mr Griffin, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 21 June 2010, p. 24.

Universal Postal Union

Introduction

5.1 This chapter addresses Australia's proposed accession to:

- the *Eighth Additional Protocol to the Constitution of the Universal Postal Union* of 10 July 1964, as amended;
- amendments to the *Universal Postal Convention* (the Convention);
- the Final Protocol to the Convention;
- the *First Additional Protocol to the General Regulations*; and
- the *Postal Payment Services Agreement of the Universal Postal Union*.¹

5.2 These instruments were incorporated into the Acts of the 24th Congress of the Universal Postal Union (UPU) on 12 August 2008.²

5.3 The UPU is a specialised agency of the United Nations comprising 191 member countries. Its purpose is to develop and maintain international postal services by:

- establishing rules for the flow of international mail;
- providing the basis for the reciprocal exchange of international mail through a single postal territory; and

1 *National Interest Analysis* (NIA), [2010] ATNIA 13, Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as amended; Convention, and Final Protocol; First Additional Protocol to the General Regulations and the Postal Payment Services Agreement, done at Geneva on 12 August 2008 [2010] ATNIF, para. 1.

2 NIA, para. 2.

- fostering the sustainable development of universal, efficient and accessible postal services.³

Reasons to take treaty action

- 5.4 Australia has been a member of the UPU since 1907.⁴ Participation in the UPU allows Australia and its designated operator, Australia Post, to provide input to international postal arrangements.⁵ Australia is recognised as an active member state and has been a leading advocate for reform of the international postal system.⁶
- 5.5 Accession to these agreements will also assist Australia's continued development of a more efficient and effective domestic postal service.⁷
- 5.6 The Committee notes that international mail services have been in decline for a number of years, with personal mail almost disappearing and companies increasingly conducting business online.⁸ However, while the number of items posted is declining, the network of countries is increasing:
- So there are more and more points you have to serve, but you put fewer and fewer letters in each one. So it is getting more and more expensive for Australia Post to manage that.⁹
- 5.7 Unlike some other countries, Australia's postal services have been diversified for a longer period, protecting Australia Post against the changing nature of postal services.¹⁰ Recent changes in Australia Post's operations have included improvements in automated letter sorting,

3 NIA, para. 7.

4 NIA, para. 4.

5 Mr Duncan McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 11.

6 NIA, paras 8 and 10.

7 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 12.

8 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

9 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, pp. 13-14.

10 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

continued diversification of services, and a significant increase in the number of international parcels.¹¹

The UPU agreements

5.8 The UPU is constituted by three treaty-level instruments that are binding on all members: the Constitution, General Regulations and Convention. As noted above, the proposed treaty action includes amendments to all three instruments.

Constitution

5.9 The Constitution remains in force indefinitely and contains the fundamental rules that provide the legal foundation of the UPU. Amendments to the Constitution are effected by means of an Additional Protocol adopted by a Congress – in this case, the Eighth Additional Protocol.¹²

5.10 Changes to the Constitution include:

- the term ‘postal administration’ is replaced with ‘designated operator’ and/or ‘member country’. Designated operator refers to ‘any governmental or non-governmental entity officially designated by the member country to operate postal services and to fulfil the related obligations arising out of the Acts of the Unions on its territory’;¹³ and
- a definition of ‘reservation’ is inserted at Article 1bis.¹⁴

General Regulations

5.11 The General Regulations implement the Constitution and govern operation of the UPU. Like the Constitution, the General Regulations remain in force for an indefinite period and are amended through an Additional Protocol.¹⁵

5.12 Changes to the General Regulations include:

11 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 14.

12 NIA, para. 11.

13 NIA, para. 15.

14 Article 1bis (amended) – Definitions. See NIA, para. 16.

15 NIA, para. 12.

- ‘postal administration’ is replaced with ‘designated operator’ and/or ‘member country’; and
- A new article has been inserted, which sets out the functions of the Congress, and updates the functions of the Council of Administration and Postal Operations Council (the primary governing bodies of the UPU) and duties of Director-General.¹⁶

Convention

- 5.13 The Convention comprises the operational rules for international postal services and remains in operation from one Congress until the next, at which time it is reapproved with any amendments.¹⁷ The UPU Congress meets every four years.¹⁸
- 5.14 A series of amendments to the Convention were agreed at the 24th Congress:
- Article 1 has been amended to include a definition of ‘designated operator’ and introduce definitions for terms such as parcel, small packet, misrouted mail and mis-sent items, to ensure common interpretations.
 - Article 8 has been amended to underscore member state sovereignty in relation to issuance, administration and circulation of stamps.
 - Article 10 clarifies member countries’ responsibilities with regard to developing environmentally sustainable postal operations.
 - Article 14 has been amended to incorporate new cross-border interoperable ‘Eproducts’ and services.
 - Article 15 expands the list of prohibited mail items to include narcotics, psychotropic substances and other illicit drugs which are prohibited in the country of destination, as well as counterfeit and pirated articles, replica and inert explosive devices and military ordnance.
 - Article 16 has been amended in order to ensure alignment between UPU Regulations and those of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods, International Civil Aviation Organisation Technical Instructions and International Air Transport Association Dangerous Goods Regulations.

16 NIA, para. 17.

17 NIA, para. 13.

18 NIA, para. 43.

- Article 17 provides that postal administrations remain bound to accept inquiries about the non-receipt of ordinary letter-post items only in respect of parcels, registered, insured or recorded delivery items.
 - Article 21, which addresses designated operator liability in relation to lost, 'rifled' or damaged postal items, has been expanded to provide for the refund of charges for unexplained non-delivery of parcels or registered or insured items.
 - Articles 27, 28 and 29, which address the matter of terminal dues, have been further amended to reflect the continuing development of the terminal dues system. Terminal dues are the dues which one national postal service provider collects from another for the delivery of its international letter-post mail (items up to two kg in mass).
 - In line with changes to the provisions addressing terminal dues, changes have also been made to Article 30 – Quality of Service Fund (QSF). The QSF is a fund designed to help developing nations improve their postal infrastructure and quality of service.¹⁹
- 5.15 The Committee was interested in some of the ways that sustainable environmental practices (Article 10) are being addressed. Representatives of the Department of Broadband, Communications and the Digital Economy told the Committee of two areas where the international postal agreement has increasingly imposed obligations on countries to:
- conduct postal activities in a more sustainable way – for example, by making vehicle fleets runs more cleanly; and
 - substitute services with technology.²⁰
- 5.16 The international postal system has also provided support and expertise to developing nations over many years to help these nations develop better postal systems.²¹

Postal Payment Services Agreement

- 5.17 The Postal Payment Services Agreement was adopted at the 24th Congress and is binding only on member countries that become party to it. The
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¹⁹ NIA, paras 19 to 30.

²⁰ Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

²¹ Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

agreement establishes a multilateral framework to facilitate the exchange of money transfers between postal operators.²²

- 5.18 Australia Post currently provides international funds transfers via its agency service for Western Union. However, accession to this agreement will allow Australia Post to participate in the framework for postal orders that sits under the UPU.²³ This will provide Australia Post with additional flexibility and is expected to increase product competition.²⁴

Implementation and costs

- 5.19 The amendments to the Acts of the UPU will be implemented administratively by Australia Post and do not require any legislative changes.²⁵
- 5.20 Contributions to the UPU's budget are financed jointly by member countries and are determined based upon a country's population and level of development. Countries contribute to one of ten contribution classes ranging from one to 50 units. Australia's contribution class is 20 units.²⁶
- 5.21 Australia therefore contributes approximately A\$0.83 million annually to the UPU's regular budget, which was 37 million Swiss francs in 2010.²⁷
- 5.22 Australia also incurs additional expenses arising from both voluntary and mandatory activities within the UPU framework of about \$0.37 million per annum.
- 5.23 It is expected that implementation of the amendments will add \$2 million to \$3 million to Australia Post's costs. Australia Post will meet these costs from existing income sources.²⁸

22 NIA, para. 31.

23 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

24 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

25 NIA, para. 36.

26 Department of Broadband, Communications and the Digital Economy, *Submission 2*, p. 1; Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 15.

27 Department of Broadband, Communications and the Digital Economy, *Submission. 2*, p. 1.

28 NIA, para. 41.

Conclusion

- 5.24 The Committee notes that Australia has taken an active role in the ongoing development of the international postal service, and that its designated operator, Australia Post, has successfully adapted to the changing nature of these services. Accession to these agreements will allow Australia to continue this contribution. The Committee therefore supports binding treaty action being taken.

Recommendation 7

The Committee supports the *Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; and Postal Payment Services Agreement*, and recommends that binding treaty action be taken.

Second Protocol to the Social Security Agreement with Austria

Introduction

- 6.1 The proposed Second Protocol will amend the 1992 *Agreement between Australia and the Republic of Austria on Social Security*.
- 6.2 Australia currently has 24 social security agreements in place, mostly with European countries.¹ The purpose of these agreements is to ensure social security coverage for people who move between countries.² The agreements overcome barriers to pension payments in each country's domestic legislation, including those relating to citizenship, minimum contribution or residence requirements, and restrictions upon claiming from outside the country.³
- 6.3 Under the existing agreement with Austria, over 8,000 pensions are paid by Austria into Australia with a value of approximately \$28 million per annum, while Australia currently pays 1,082 pensions into Austria worth almost \$6 million per annum.⁴

1 Mr Peter Hutchinson, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript of Evidence*, 22 November 2010, p. 19.

2 *National Interest Analysis (NIA)*[2010] ATNIA 28, Second Protocol to the Agreement Between Australia and the Republic of Austria on Social Security, done at Vienna on 17 February 2010 [2010] ATNIF 4, para. 4.

3 NIA, para. 3.

4 Mr Hutchinson, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript of Evidence*, 22 November 2010, p. 18.

The amendments

- 6.4 The amendments contained in the Second Protocol are intended to:
- facilitate business between Australia and Austria through double coverage provisions, under which an employee seconded to work in the other country temporarily will not have to make compulsory pension/superannuation contributions in both countries;
 - implement European Union standards for data protection;
 - bring the portability period for the Australian Disability Support Pension into line with Australian legislation; and
 - remove unnecessary costs.⁵
- 6.5 Article III contains the substantive amendments to the agreement to clarify the operation of the double coverage provisions, which are in line with Australia's other social security agreements. The definitions and legislative scope now include reference to Australia's superannuation guarantee laws.⁶
- 6.6 The Committee was informed that these amendments are expected to remove financial imposts upon business arising from the need to make contributions into both countries' systems, and make it easier to conduct business.⁷
- 6.7 Article III(2) removes reference (for Australia) to wife pensions as this pension is being gradually phased out.⁸
- 6.8 Article III(3) updates the agreement's provisions on equality of treatment and the agreement has been extended to apply to refugees and stateless persons, as well as to nationals.⁹
- 6.9 The Committee notes that the new provisions relating to data protection are similar to, but more detailed than, those in other agreements with European Union countries.¹⁰ Under the new Article 18a, personal data may be communicated between the parties for the purposes of the

5 NIA, paras 5–8.

6 NIA, paras 11 and 12.

7 Mr Hutchinson, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript of Evidence*, 22 November 2010, p. 22.

8 NIA, para. 12.

9 NIA, para. 13.

10 Mr Hutchinson, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript of Evidence*, 22 November 2010, p. 19.

agreement, but must be treated as confidential in the same manner as information obtained under domestic legislation.¹¹ The Committee was informed that these provisions are:

...basically consistent with Australia's framework through both the Privacy Act and of course the confidentiality provisions in the social security law.¹²

- 6.10 The new article also provides for freedom of information requests: individuals are able to request information about the data relating to them which has been communicated or processed and have the right to have any inaccurate data corrected.¹³

Implementation

- 6.11 The agreement will be implemented through the addition of a new schedule to the *Social Security (International Agreements) Act 1999*.
- 6.12 The provisions in the agreement relating to double superannuation coverage are given automatic effect once the agreement is scheduled to this Act.¹⁴

Conclusion

- 6.13 The Committee supports the proposed amendments to this agreement to bring it up to date with Australia's other social security agreements and recommends that binding treaty action be taken.

11 NIA, para. 18.

12 Mr Hutchinson, Department of Families, Housing, Community Services and Indigenous Affairs, *Transcript of Evidence*, 22 November 2010, p. 19.

13 NIA, para. 19.

14 NIA, para. 24.

Recommendation 8

The Committee supports the *Second Protocol to the Agreement Between Australia and the Republic of Austria on Social Security* and recommends that binding treaty action be taken.

Double Taxation Agreement with Turkey

Introduction

7.1 The *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol*, is intended to:

- promote closer economic cooperation between Australia and Turkey by reducing barriers caused by double taxation of income; and
- improve the integrity of the tax system through a framework to prevent international fiscal evasion.¹

7.2 In 2009, two-way trade between Australia and Turkey was around \$800 million. Australia's major exports to Turkey include coal, medicaments (including veterinary), aluminium and butter. Australia has also recently sold a number of fast ferries to the Istanbul municipality and shipments of live cattle resumed in 2007, following conclusion of a health protocol. Dried fruits and nuts, goods and passenger vehicles and household equipment are Australia's major imports from Turkey.²

1 *National Interest Analysis (NIA)* [2010] ATNIA 31, *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol*, done at Ankara on 28 April 2010, [2010] ATNIF 28, para. 4.

2 *Regulation Impact Statement (RIS)*, paras 1.1 and 1.2.

Reasons to take treaty action

- 7.3 The Convention is intended to promote trade and investment between the two countries and provide greater certainty for Australian businesses and other Australian taxpayers intending to expand into Turkey by establishing an internationally accepted framework for the taxation of cross-border transactions.³ It will also reduce taxation barriers to the cross-border movement of people, capital and technology.⁴
- 7.4 Treasury representatives told the Committee that the Convention will provide long-term benefits for Australian businesses by:
- facilitating increased direct investment;
 - reducing the costs of intellectual property; and
 - making Australia a more attractive source of finance by reducing withholding tax rates on dividends, interest and royalties.⁵
- 7.5 The Committee was also informed that although Turkey did not agree to all of Australia's preferred tax treaty rate limits for withholding taxes:
- Australia has secured similar treaty outcomes to those reflected in Turkey's tax treaties with other countries. The proposed treaty, therefore, ensures that Australians will face no competitive tax disadvantage compared to residents of other countries when they enter into cross-border transactions that involve Turkey. The treaty is also broadly consistent with other Australian treaties where there exists an economic relationship comparable to that between Australia and Turkey.⁶
- 7.6 The Committee notes that Australia requested most favoured nation clauses in the Convention, but that Turkey did not agree to this request.⁷ Treasury informed the Committee that it understands that Turkey has not agreed to most favoured nation obligations with any other OECD countries.⁸

3 NIA, para. 5 and 6.

4 Ms Belinda Robilliard, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, p. 3.

5 Ms Robilliard, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, pp. 2-3.

6 Ms Robilliard, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, p. 3.

7 Other double taxation agreements concluded by Australia have included most favoured nation obligations. See, for example, Australia's agreement with Chile (JSCOT Report 114).

8 Ms Robilliard, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, p. 13.

- 7.7 The Convention does not impose any greater obligations on residents of Australia than Australian domestic tax laws and in some cases will reduce the obligations of Australians operating or investing in Turkey. The Convention is expected to reduce compliance costs for taxpayers with cross-border dealings.⁹
- 7.8 The combination of reduced compliance costs and the greater certainty provided by having a treaty in place, is expected to increase investment. Treasury indicated that there is general evidence to suggest that this has been the case with other treaties.¹⁰
- 7.9 The Convention also establishes a framework for tax information exchange to prevent international tax evasion, consistent with the OECD's internationally agreed tax standard.¹¹

Obligations

- 7.10 The Convention will reduce withholding taxes on dividend, interest and royalty payments between the two countries. Under the Convention:
- the Australian dividend withholding tax rate limit will be reduced from 30 per cent to 5 per cent on inter-corporate dividends on holdings of at least 10 per cent of the voting power of the Australian company paying the dividend;¹²
 - Turkish dividend withholding tax will be reduced from 15 per cent to 5 per cent for inter-corporate dividends for direct holdings of at least 25 per cent of capital, where the dividends have been paid out of profits that have been subjected to the full rate of corporation tax in Turkey. A general rate of 15 per cent will apply in all other cases (Article 10);¹³
 - interest withholding tax on Turkish sourced interest paid to Australian lenders will be reduced from 15 per cent to 10 per cent (Article 11);
 - Australian royalty withholding tax will be reduced from 30 per cent to 10 per cent and Turkish withholding tax from 20 per cent to 10 per cent (Article 12);¹⁴ and

9 NIA, para. 14.

10 Ms Lynette Redman, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, p. 14.

11 NIA, para. 13.

12 NIA, para. 8.

13 NIA, para. 8.

14 NIA, para. 10.

- profits from within a multinational company will be allocated on an agreed basis (Articles 7 and 9);¹⁵
- 7.11 Pension and retirement annuities and lump sums paid after age 60 in lieu of the right to receive a pension are to be taxed only in the country of residence. For all other lump sum payments, taxing rights are to be shared between the country of residence and country of source (Article 18).¹⁶ This clause is expected to simplify current arrangements for individuals.¹⁷
- 7.12 Other obligations under the Convention include:
- a general obligation on both countries to allow tax paid under the other country's laws and in accordance with the Convention to be allowed as a credit against tax payable under their own laws (Article 23);¹⁸
 - a general non-discrimination principle, which requires each state to treat nationals of the other no less favourably than it treats its own nationals (Article 24);¹⁹
 - dispute resolution procedures, including a mechanism for taxpayers to complain about the operation of the agreement (Article 25);²⁰ and
 - provisions for the exchange of tax information (Article 26).²¹

Implementation and costs

- 7.13 The *International Tax Agreements Act 1953* will be amended to bring the Convention into effect. The agreement will not affect the existing taxation roles of the Commonwealth and States and Territories.²²
- 7.14 Treasury has estimated the costs of the agreement, while unquantifiable, to be small (less than \$5 million per annum).²³ There will be minor implementation costs to the Australian Taxation Office and some ongoing

15 NIA, para. 11.

16 NIA, para. 15.

17 Ms Redman, Department of the Treasury, *Transcript of Evidence*, 29 June 2010, p. 15.

18 NIA, para. 16.

19 NIA, para. 17.

20 NIA, para. 18.

21 NIA, para. 19.

22 NIA, para. 20.

23 NIA, para. 21.

costs to the ATO and Treasury from administering the agreement, which will be met through agency resources.²⁴

Conclusion

- 7.15 The Committee supports efforts to promote trade and investment between Australia and Turkey, and provide greater certainty for Australian businesses and other Australian taxpayers through a double taxation agreement. The Committee therefore supports binding treaty action being taken.

Recommendation 9

The Committee supports the *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol* and recommends that binding treaty action be taken.

²⁴ NIA, para. 23.

World Wine Trade Group Agreement on Requirements for Wine Labelling

Introduction

- 8.1 The *World Wine Trade Group (WWTG) Agreement on Requirements for Wine Labelling* (the Wine Labelling Agreement) is the second major initiative of the WWTG, an informal group of industry and government representatives working to reduce wine trade barriers.¹ The trade group currently comprises Australia, Argentina, Canada, Chile, Georgia, New Zealand, South Africa and the United States.²
- 8.2 The purpose of the Wine Labelling Agreement is to harmonise requirements for placement on wine labels of four mandatory items of information: country of origin, product name, net contents and actual alcohol content. The items are to appear in a 'single field of vision' on all standard size wine containers.³
- 8.3 The agreement will apply to wine marketed in all WWTG member countries. The harmonised labelling regime is expected to reduce trade barriers in these key wine markets and simplify label production for

1 *National Interest Analysis (NIA)* [2010] ATNIA 27, Agreement on Requirements for Wine Labelling, done at Canberra on 23 January 2007, para. 6.

2 Mr Hamish McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 7.

3 NIA, para. 6.

Australian suppliers, who currently produce different labels for different markets.⁴

Obligations

- 8.4 The Wine Labelling Agreement contains 20 articles covering mandatory information, presentation, terminology and languages, as well as agreement process management, amendment and joining of new signatories.
- 8.5 The Agreement is to apply to Australian wine produced for domestic consumption and to Australian wine exports to WWTG Parties acceding to or ratifying the Wine Labelling Agreement. In turn, Australia is to accept appropriately labelled wine from other Parties to the agreement.⁵
- 8.6 The primary obligations under the agreement are :
- four mandatory items of information are to be presented in a single field of vision, which must not be on the cap or base, for standard sized containers (Article 6);
 - information must be clear, accurate and truthful with flexibility to include other, or to repeat, information elsewhere to meet domestic laws – winemaking practices need not be disclosed (Article 5); and
 - the four mandatory items of information are to comprise: country of origin, product name, net contents and actual alcohol content, with requirements only to apply to standard fill sized containers (Article 11).⁶
- 8.7 Article 13 provides for future negotiation over inclusion of further items, such as regional production and alcohol content, to be held within three years of the closing period.

4 *Regulation Impact Statement (RIS), Agreement on Requirements for Wine Labelling, done at Canberra on 23 January 2007, ATNIF 7, para. 22.*

5 NIA, para. 23, Article 6.

6 Standard fills: 50 ml, 100 ml, 187 ml, 250 ml, 375ml, 500ml, 750ml, 1 litre, 1.5 litres etc. RIS, para. 29.

Reasons to support the treaty

- 8.8 The wine industry is an important contributor to Australia's national economy, accounting for about nine per cent of agricultural exports. The industry directly employs 28,000 people and in 2008, exported over 699 million litres of wine at an estimated value of \$2.5 billion.⁷
- 8.9 Over the last decade, diversification and overproduction in the international wine market has put downward pressure on wine prices, affecting the profitability of the Australian wine industry.⁸
- 8.10 The Wine Labelling Agreement aims to establish a consistent and agreed labelling presentation among WWTG member nations, creating new export opportunities in these major markets.⁹ The agreement may also improve trade for Australian makers in the European Union, which already operates under the 'single field of vision' labelling system.¹⁰
- 8.11 Currently, approaches to wine labelling are very diverse. The Committee was advised that the requirement for the four key items of information to be viewable in a 'single field of vision' will be advantageous in that at *least one label* on a bottle or package would comply with an agreed standard, reducing the number of labels necessary for different markets.¹¹
- 8.12 A wine industry study conducted in 2005 estimated the efficiencies achieved in label production would secure Australian wine makers a total saving of around \$25 million annually, a figure largely supported by government economic analysis.¹²
- 8.13 Conversely, the Committee was told, if Australia should fail to ratify the agreement and other WWTG nations do so the industry's competitive position within WWTG markets could be eroded:

Our competitors already enjoy or are about to be able to enjoy these provisions in overseas markets outside of Australia but Australian exporters would have to have one set of provisions that

7 RIS, para. 2.

8 RIS, para. 3.

9 RIS, para. 27.

10 NIA paras 7-8.

11 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

12 Study by the Winemakers Federation Australia, and verified by the Australian Bureau of Agricultural and Resource Economics (ABARE) in 2006. See RIS, para. 19.

would apply for domestic sales and a different one that would apply for international markets.¹³

- 8.14 Australia would also risk its role as a lead agent in the WWTG, with consequences for future participation in trade facilitation initiatives within its key wine markets.¹⁴
- 8.15 The Winemakers Federation of Australia endorsed this view noting existing competition from New Zealand wine, which currently complies with agreement requirements, and anticipating substantial economic benefits for the Australian industry under the agreement.¹⁵

Implementation

- 8.16 Prior to the signing of the Wine Labelling Agreement in 2007, Australian trade measurement regulation for wine complied with the 1955 *International Organisation of Legal Metrology Convention* (the Metrology Convention), to which Australia is a signatory.¹⁶
- 8.17 At this time, regulation of trade measurement was conducted under state and territory Uniform Trade Measurement Legislation (UTML). The UTML enforced Recommendation 79 of the Metrology Convention, which required that volume statements for all food products appear on the principal display panel (the front) of all containers.¹⁷
- 8.18 The Wine Labelling Agreement's 'single field of vision' labelling approach was incompatible with the UTML, which was then amended to remove the frontal volume display requirement (expedited as of 1 June 2009).¹⁸
- 8.19 In July 2010, regulation of trade measurement in Australia became a matter for the National Measurement Institute which took carriage of the administration of the new national regulation system.¹⁹

13 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

14 NIA, para. 13.

15 Winemakers Federation of Australia, *Submission 12*, p. [2].

16 RIS, para. 10.

17 RIS, paras 10–11.

18 In 2008, the Council of Australian Governments secured an agreement to have relevant State and Territory trade measurement legislation amended. See NIA, para. 32; RIS paras 11–12.

19 As determined by Council of Australian Governments on 13 April 2007, RIS, para. 11.

- 8.20 To accommodate inconsistencies between international Metrology Convention obligations (as per Recommendation 79) and the amended regulations for wine labels introduced at state and territory level, the National Measurement Regulations were amended to provide an exemption for labelling of wine pending ratification of the Wine Labelling Agreement.²⁰
- 8.21 The Regulation Impact Statement (RIS) for the agreement notes that further detail on regulatory requirements is to be inserted after ratification.²¹

Concerns about harmonisation

- 8.22 The Wine Labelling Agreement has initiated a number of changes to the Australian standard for labelling of wine, most significantly rescinding the requirement for the front of package volume display, which applies to other food stuffs.²²
- 8.23 While this move opened an inconsistency in Australian regulation of foods stuffs, Department of Foreign Affairs and Trade representatives advised that the Wine Labelling Agreement is the best means to harmonise requirements in major international markets, where this exemption is the accepted norm for wine labelling:

Countries that take around 80 per cent of the exports of Australian wine already accept this particular exception for wine. That includes the EU as a whole and also the members of the World Wine Trade Group. The other countries that have signed up to this particular wine-labelling agreement are all moving in that direction. Some of them have already ratified it. So an international consensus, if you like, is already moving forward, and we would simply be partaking, essentially, in that international consensus.²³

- 8.24 The Australia's National Measurement Institute offered a different view of international trade measurement trends. Its submission noted that,

20 Part 1.3, see National Measurement Institute, *Submission 11*, p. 3.

21 NIA, paras 37-39.

22 NIA, para. 32, Dr Valerie Villiere, National Measurement Institute, *Transcript of Evidence*, 25 February 2011, p. 2.

23 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 8.

parallel to WWTG negotiations, the International Organisation of Legal Metrology had reviewed Recommendation 79 to accommodate the Wine Labelling Agreement proposals. In 2009, the Organisation had voted to reject the proposal to exempt wine from front of packaging volume display applied to other foods and beverages.²⁴

- 8.25 The Institute's Dr Valerie Villiere advised that this conflict will be resolved on ratification under the National Measurement Regulations, through the exemption currently set to accommodate the agreement, *viz*:

Part 1.3 Application to Regulations - wine labelling

These Regulations do not apply in relation to the position of measurement marking for standard-sized wine containers that are mentioned in the World Wine Trade Group Agreement on Requirements for Wine Labelling signed on 23 January 2007 by the Minister for trade for the Commonwealth.

- 8.26 Dr Villiere nevertheless expressed concerns that the new arrangement will present a 'smorgasbord of options' rather than a set of standards, which could be difficult to regulate and potentially less certain for consumers.²⁵

Consumer issues

- 8.27 Essentially, the Wine Labelling Agreement is a voluntary arrangement.²⁶ Outside of the single label requirements for the four mandatory items, the agreement allows the information to be placed on the front or back of a container, to be repeated in different locations, and only applies to standard fill sized containers.²⁷

- 8.28 Consumer representatives did not think this flexibility in consumers' best interests.²⁸ The Consumers' Association of South Australia Inc. stated:

The ratification of the WWTG Agreement on Wine Labelling involves amending the Trade Measurement Regulations to allow for the volume statement to appear in a place other than the principal display panel of a wine bottle as is currently required,

24 *Submission 11*, pp. 2-3.

25 *Transcript of Evidence*, 25 February 2011, pp. 3, 4.

26 Mr John Power, Department of Agriculture Fisheries and Forestry, *Transcript of Evidence*, 7 February 2011, p. 13.

27 See Articles 5, 6 and 11.

28 Consumers' Association of South Australia Inc., *Submission 7*, p. 2; Queensland Consumers Association, *Submission 6*, p. 2, and CHOICE, *Submission 9*, p. [2].

thus failing to provide consumers with important product information that is needed to make an informed choice.²⁹

- 8.29 In particular, the front of bottle volume display was considered important to protect consumers against deceptive packaging, as wine makers may easily confuse a purchaser with differently shaped or non-standard sized bottles which are not covered under the agreement.³⁰
- 8.30 The Wine Makers Federation contested this view, reporting that the restriction to standard sized bottles has been a concession to appease consumer stakeholder concerns about possible misleading practices.³¹ Costs to production were a further disincentive to engage in any such deception.³²
- 8.31 Consumer groups also had concerns that the agreement might encourage requests from manufacturers of other food and beverage lines to be exempt from the volume display standard.³³ The National Measurement Institute advised that, while it had had such a request to date, it would not extend the exemption.³⁴
- 8.32 Finally, the Committee notes consumer group concerns about the length of time that has elapsed since the consultation process and the evidence gathering for this agreement. The industry cost savings analysis, for example, had been conducted well before 2007. CHOICE confirmed that it had participated in the agreement consultation process in 2006.³⁵
- 8.33 This lag in time was sufficient for the International Organisation of Legal Metrology to issue its new directives for wine regulation, and for CHOICE and other consumer organisations to withdraw initial support for the agreement. Meanwhile, Federal regulations had been drafted to support the Wine Labelling Agreement without further consultation.³⁶
- 8.34 These circumstances generated considerable negative comment in the evidence, reinforcing consumer representatives demands for a

29 Consumers' Association of South Australia Inc., *Submission 7*, p. 2.

30 National Measurement Institute, *Submission 11*, p. 2 and see Queensland Consumers Association, *Supplementary submission 6.1*.

31 Wine Makers Federation of Australia, *Submission 11*, p. [2].

32 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

33 Consumers' Association of South Australia Inc., *Submission 7*, p. 2;

34 Dr Graham Harvey, National Measurement Institute, *Transcript of Evidence*, 7 February 2011, p. 9.

35 Miss Hughes, Choice, *Transcript of Evidence*, 25 February 2011, p. 5.

36 Miss Hughes, Choice, and Mr Ian Jarratt, Queensland Consumers Association, *Transcript of Evidence*, 25 February 2011, pp. 5, 12.

reinstatement of front of label volume display for wine in the national regulations, irrespective of the ratification of the Wine Labelling Agreement.³⁷

Conclusion

- 8.35 The Committee notes that the Australian wine industry has recently faced challenges in an increasingly diversified and productive international wine market, and appreciates the need to remain competitive in the major wine markets of the World Wine Trade Group (WWTG).
- 8.36 Noting the disparate regulations applying to wine in these markets, the *World Wine Trade Group Agreement on Requirements for Wine Labelling* offers an advance as a flexible framework for regulation of an individuated product, with no history of label uniformity. Ratification of the agreement should assist Australian wine makers hoping to streamline production and expand in key export markets.
- 8.37 At the same time, the Committee recognises the need for balance between flexibility for trade and protection for consumers. The Committee is not of the opinion, however, that trade and consumer interests are incompatible under the Wine Labelling Agreement.
- 8.38 In the Committee's view, the Wine Labelling Agreement's four mandatory items in a 'single field of vision' responds well to consumer needs. While not directly compliant with the International Organisation of Legal Metrology's requirements for net volume on the principal display panel of wine labels, flexibility in the agreement allows this important information to be repeated in accordance with domestic laws.
- 8.39 The Committee recognises that concerns remain, particularly about the consultation process undertaken and the need to exempt some wine labelling from the National Measurement Regulations that require volume to be indicated on the front label. The National Measurement Institute will need to bear in mind consumer concerns when amending and implementing the National Measurement Regulations in support of the Agreement. Nonetheless, on balance, the Committee has agreed to support binding treaty action being taken.

37 Mr Jarratt, Queensland Consumers Association, *Transcript of Evidence*, 25 February 2011, pp. 7, 9.

Recommendation 10

The Committee supports the *World Wine Trade Group Agreement on Requirements for Wine Labelling*, and recommends that binding treaty action be taken.

Amendments to the Convention on the International Mobile Satellite Organization

Introduction

- 9.1 The International Mobile Satellite Organization (IMSO) is an intergovernmental organisation that oversees public satellite safety and security communication services provided via the International Maritime Satellite Organization (Inmarsat). The IMSO currently has oversight responsibility for maritime safety communications, distress alerting, search and rescue communications, maritime safety information broadcasts and aeronautical safety services.¹
- 9.2 The amendments to the *Convention on the International Mobile Satellite Organization* will change the role of the IMSO by:
- extending the IMSO's oversight responsibility to all maritime mobile satellite communication service providers for the Global Maritime Distress and Safety System (GMDSS), which is the technical, operational and administrative structure for maritime distress and communications worldwide; and
 - enhancing the IMSO's role as the Coordinator of the Long Range Identification and Tracking of Ships (LRIT), a system for the global identification and tracking of ships established by the International Maritime Organization in response to the growing threat from terrorism.²

1 Ms Poh Aye Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 8.

2 *National Interest Analysis (NIA)*, [2010] ATNIA, Amendments to the Amended Convention on

- 9.3 The IMSO assembly has applied these amendments provisionally since 6 October 2008, pending formal ratification by the requisite number of IMSO parties.³

Background to the 2008 amendments

- 9.4 The 1976 *Convention and Operating Agreement on the International Maritime Satellite Organization* established a global mobile satellite communications system for maritime communications and an international organisation called the International Maritime Satellite Organization (INMARSAT) to administer and deliver its services.⁴
- 9.5 The Convention was amended in 1985, 1989 and 1994 in response to changing technology and needs, and included a change to the title of the organisation to International Mobile Satellite Organization (Inmarsat).⁵
- 9.6 In 1998, further amendments were instituted to allow for the privatisation of Inmarsat, dividing it into two entities:
- Inmarsat Ltd – a public limited company that took on all the commercial activities of Inmarsat and was completely privatised by the end of 2003; and
 - IMSO – an intergovernmental body established to ensure Inmarsat Ltd meets its public service obligations, including those relating to the GMDSS.⁶

Reasons to take treaty action

- 9.7 The amendments are expected to promote open, fair and transparent competition in the mobile and other satellite services industry.⁷

the International Mobile Satellite Organization adopted at the Twentieth Session of the Assembly, done at Malta on 2 October 2008 [2010] ATNIF 27, para. 3.

3 NIA, para. 2.

4 NIA, para. 6.

5 NIA, para. 7.

6 NIA, para. 8.

7 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 8.

- 9.8 The IMSO's oversight responsibilities have been extended in direct response to the International Maritime Organization's intention to allow private companies to provide GMDSS services. The IMSO will evaluate the capabilities and performance of potential providers on behalf of the international maritime community.⁸
- 9.9 The Committee sought additional information about the provision of GMDSS services by private companies and any potential dangers to this approach. The Department of Infrastructure and Transport advised that the Australian Government considers there is no danger in the privatisation of maritime distress systems, particularly as the current sole provider of GMDSS services, Inmarsat, has been a private company for some years.⁹
- 9.10 Other companies currently provide maritime mobile satellite services outside the GMDSS and will potentially provide GMDSS services in future. The Government considers that the opportunity for more competition would be a positive outcome of these amendments.¹⁰ The Committee notes that this could include Australian companies, either directly or through services to major international companies.¹¹
- 9.11 The role of LRIT Co-ordinator is a new initiative of the IMO Maritime Safety Committee, intended to enhance international efforts to ensure maritime safety and security. Under the system, all vessels are required to automatically transmit their identity, position and date/time at six hour intervals. Member States can also receive position reports from vessels operating under their flag, vessels seeking entry to a port within their territory, or vessels operating in proximity to the State's coastline.¹²
- 9.12 The Australian Maritime Safety Authority established a LRIT system in February 2008 for Australian flagged vessels to which LRIT applies. Under the amendments, AMSA will be audited by the IMSO.¹³ The Department informed the Committee that the audit will concentrate on the operation of the Australian LRIT Data Centre, which is run by a commercial provider, and will occur annually.¹⁴

8 NIA, para. 9.

9 Department of Infrastructure and Transport, *Submission 3*, p. 2.

10 Department of Infrastructure and Transport, *Submission 3*, p. 2.

11 Department of Infrastructure and Transport, *Submission 3*, p. 2.

12 NIA, para. 11.

13 NIA, para. 13.

14 Department of Infrastructure and Transport, *Submission 3*, p. 3.

Implementation

- 9.13 Legislative changes are not required to implement the amendments, which have been implemented by the Australian Maritime Safety Authority through Marine Orders, Marine Notices and establishment of a National Data Centre.¹⁵
- 9.14 When asked about the limited number of parties that have agreed to the amendments, the Committee was informed that the amendments are generally supported but, because they have been implemented provisionally, the process of formal agreement by Member States has been slow.¹⁶

Conclusion

- 9.15 The Committee supports efforts to improve maritime safety through the initiatives contained in the proposed amendments to the *Convention on the International Mobile Satellite Organization*. The Committee therefore supports binding treaty action being taken.

Recommendation 11

The Committee supports the *Amendments to the Convention on the International Mobile Satellite Organization* and recommends that binding treaty action be taken.

15 NIA, para. 22.

16 Mr Paul Nelson, Australian Maritime Safety Authority, *Transcript of Evidence*, 22 November 2010, p. 9.

Convention on Limitation of Liability for Maritime Claims

Introduction

- 10.1 The Australian Government proposes to denounce the *Convention on Limitation of Liability for Maritime Claims, 1976* (1976 Convention) and lodge two reservations with the Secretary-General of the International Maritime Organization.¹
- 10.2 The first reservation excludes application of paragraphs 1(d) and 1(e) of Article 2 of the 1976 Convention as amended by the *Protocol of 1996 to Amend the Convention on Limitation of Liability for Maritime Claims of 19 November 1976* (1996 Protocol). The effect of this reservation is that shipowners cannot limit their liability for costs relating to shipwrecks or losses for claims relating to removing, destroying or rendering harmless the cargo of a ship.²
- 10.3 The second reservation excludes claims for damage within the meaning of the *International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 as amended by the 2010 Protocol* (HNS Convention).³ This reservation is

1 *National Interest Analysis* (NIA) [2010] ATNIA 53, Convention on Limitation of Liability for Maritime Claims, 1976, London, 19 November 1976 [1991] ATS 12, paras 1 and 2.

2 NIA, para. 5.

3 The Committee was advised that Australia is not party to the HNS Convention although consultation has commenced with a view to treaty ratification (Ms Poh Aye Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 6). Neither the HNS Convention nor the 2010 HNS Protocol has yet entered into force (Department of Infrastructure and Transport, *Submission 3*, p. 1).

intended to avoid any conflict between the liability limits in the 1996 Protocol and the HNS Convention.⁴

- 10.4 As Australia did not denounce the 1976 Convention when acceding to the 1996 Protocol, it remains a party to both.

1976 Convention and 1996 Protocol

- 10.5 The 1976 Convention limits the amount of compensation that must be paid by a shipowner in the event of a successful claim against it for loss of life, personal injury or damage to property where the death, loss or damage arose in connection with the operation of the ship.⁵
- 10.6 In Australia, the Convention applies to almost all claims relating to compensation for incidents involving ships, with the following exceptions:
- damage resulting from an oil spill from an oil tanker (as this is the subject of a separate convention);
 - salvage claims;
 - claims against the owner of a nuclear ship for nuclear damage; and
 - workers compensation claims.⁶
- 10.7 Australia has also made a reservation excluding application of the 1976 Convention to the removal of wrecks.⁷
- 10.8 In 1996, the International Maritime Organization adopted the 1996 Protocol, which increased shipowners' liability limits.⁸
- 10.9 The 1996 Protocol provides that the Convention and Protocol 'shall, as between the parties to the 1996 protocol, be read and interpreted together as one single instrument'. The effect of this provision is that a state need

4 NIA, para. 6.

5 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 4.

6 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 4.

7 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 4.

8 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 4.

only be party to the 1996 Protocol to apply the provisions of the 1976 Convention.⁹

Reasons to take treaty action

- 10.10 The Committee was informed that if the 1976 Convention is denounced, it will be clear to a ship entering Australian waters that the 1996 Protocol applies.¹⁰
- 10.11 Should Australia continue to be a party to the 1976 Convention and an incident occurs involving a ship registered in a country that is party to the 1976 Convention but not the 1996 Protocol, it is possible that the liability limits in the Convention rather than the higher limits in the Protocol would apply. This could then result in a significantly reduced amount of compensation being available.¹¹
- 10.12 The Committee notes that in the last approximately 30 years there have been only two incidents that have reached the limit of liability – the *Iron Baron* in Tasmania in 1995 and the *Pacific Adventurer* in Queensland in 2009.¹² Most compensation claims are well beneath the limit of liability.¹³

Implementation

- 10.13 The *Limitation of Liability for Maritime Claims Act 1989* currently implements both the 1976 Convention and 1996 Protocol. Legislative amendments are not required if the 1976 Convention is denounced.¹⁴

9 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 5.

10 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 6.

11 Ms Tan, Department of Infrastructure and Transport, *Transcript of Evidence*, 22 November 2010, p. 5.

12 Mr Paul Nelson, Australian Maritime Safety Authority, *Transcript of Evidence*, 22 November 2010, p. 5.

13 Mr Nelson, Australian Maritime Safety Authority, *Transcript of Evidence*, 22 November 2010, p. 5.

14 NIA, para. 21.

Conclusion

- 10.14 The Committee notes that denunciation of the 1976 Convention will provide greater clarity in respect of liability limits for compensation claims arising from incidents involving ships. The Committee therefore supports binding treaty action being taken.

Recommendation 12

The Committee supports denunciation of the *Convention on Limitation of Liability for Maritime Claims, 1976* and recommends that binding treaty action be taken.

Agreement establishing the Advisory Centre on WTO Law

Introduction

- 11.1 It is proposed that Australia become a member of the Advisory Centre on WTO [World Trade Organisation] Law by acceding to the *Agreement establishing the Advisory Centre on WTO Law*, which entered into force in 2001.¹
- 11.2 The Advisory Centre on WTO Law (ACWL) is a Geneva-based intergovernmental organisation that is independent of the World Trade Organisation (WTO).² The purpose of the ACWL is to assist developing countries to build trade policy expertise and capacity in the WTO system, with a view to realising their WTO rights, respecting their WTO obligations and participating fully in trade negotiations.³
- 11.3 The ACWL provides developing countries with subsidised legal advice, and training and support in WTO law and dispute settlement proceedings.⁴ Since its establishment, it has delivered over 700 legal

1 *National Interest Analysis* (NIA) [2010] ATNIA 24, Accession to the Agreement establishing the Advisory Centre on WTO Law, done at Seattle on 30 November 1999 [2010] ATNIF 20, paras 1 and 2.

2 NIA, para. 4.

3 Ms Elizabeth Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 23.

4 NIA, para. 4.

opinions, assisted members and least-developed countries in 32 WTO dispute settlement proceedings and offered annual courses in WTO law.⁵

Reasons to take treaty action

- 11.4 The Australian Government is committed to the WTO and an open and transparent multilateral trade system.⁶
- 11.5 Participation in the ACWL will allow Australia to raise its trade and development assistance profile and demonstrate its commitment to assisting developing countries to engage in the multilateral trading system.⁷ Improvements in the Asia-Pacific region in particular are expected to benefit Australia by providing larger and more reliable export markets and more sources for imports.⁸
- 11.6 Australia has demonstrated longstanding support for developing countries interests in the multilateral trading system, including efforts to reform global agricultural trade as Chair of the Cairns Group and a wide range of 'Aid for Trade' programs in the Asia Pacific.⁹
- 11.7 As a member of the ACWL, Australia will also be able to promote its foreign and trade policy interests and be involved in decision making by the ACWL's General Assembly, including decisions concerning the general direction of the ACWL, future funding arrangements, and programs that should be supported.¹⁰

ACWL services and funding

- 11.8 The ACWL is considered to have made a significant contribution to the development of the WTO dispute settlement system.¹¹

5 Ms Elizabeth Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 23.

6 Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 24.

7 NIA, para. 4.

8 NIA, para. 5.

9 NIA, para. 7.

10 NIA, para. 10; Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 26.

11 NIA, para. 8.

- 11.9 The ACWL's services are available to 74 developing and least-developed countries.¹² The fee for advice provided to members is determined according to a country's level of development, with the least developed countries receiving the cheapest advice.¹³
- 11.10 Ten developed countries are members of the ACWL and have made a financial contribution – Canada, Denmark, Finland, Ireland, Italy, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom.¹⁴
- 11.11 Thirty developing countries are members of the ACWL.¹⁵ Contributions are also made by developing countries, with the amount of the contribution varying according to their size.¹⁶
- 11.12 The Department of Foreign Affairs and Trade provided the Committee with details of the ACWL's funding sources, which include:
- a contribution of at least US\$1 million from each developed country member to either the Endowment Fund or ACWL's annual budget, or both;
 - fees for legal support in WTO dispute settlement proceedings as set out in the Schedule of Fees appended to the agreement, which range from 40 Swiss Franc per hour for least developed countries to 324 Swiss Franc per hour for Category A members;¹⁷ and
 - contributions from other government and non-governmental sources for specific purposes such as training and traineeship programs.¹⁸

12 Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 23.

13 NIA, para. 9. The 44 least developed countries that are members of the WTO or in the process of acceding are entitled to free legal advice on WTO law and a significant discount in dispute settlement proceedings without having to become a member of ACWL. Thirty developing countries are entitled to free advice and discounted dispute settlement support by virtue of ACWL membership.

14 Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 26.

15 Department of Foreign Affairs and Trade, *Submission 5*, p. 4.

16 Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, p. 26.

17 Developing countries that are not ACWL Members may also use the ACWL's services, with fees ranging from 405 Swiss Franc to 567 Swiss Franc per hour depending on the country's share of world trade and per capita income. Department of Foreign Affairs and Trade, *Submission 5*, p. 4.

18 Department of Foreign Affairs and Trade, *Submission 5*, p. 4.

- 11.13 The Committee notes that a large percentage of the legal advice offered by the ACWL concerns developing countries' own compliance with their WTO obligations.¹⁹
- 11.14 The Committee sought information from departmental representatives about the potential benefits of a 'small claims' procedure for addressing disputes. The Department indicated that Australia is interested in all options for improving dispute resolution, including a small claims procedure. However, as any review would take some time, the Australian Government considers the procedures under the WTO Dispute Settlement Understanding provide the best way for developing countries to realise their WTO rights.²⁰
- 11.15 The WTO Dispute Settlement Understanding includes options such as the good offices of WTO Director-General, conciliation, mediation and arbitration to resolve disputes amicably.²¹ The services provided by the ACWL can assist countries with these processes.²²

Implementation and costs

- 11.16 No legislative action is required to give effect to the agreement.²³
- 11.17 New members of the ACWL are obliged by Article 6(2) of the agreement to pay a one-time contribution to the ACWL. The Committee notes that Australia has already satisfied this commitment, with a payment A\$3 million announced on 12 November 2009 and made on 17 June 2010.²⁴
- 11.18 Representatives of the Department of Foreign Affairs and Trade emphasised to the Committee that the decision to make a contribution of A\$3 million to the ACWL was taken independently of any decision about membership:

...I would stress that, at the time when the contribution was announced, it was not announced with a view at that point to accession. It was announced as a contribution. Subsequent to the contribution being made, thought was then given to the idea that

19 Department of Foreign Affairs and Trade, *Submission 5*, p. 2.

20 Department of Foreign Affairs and Trade, *Submission 5*, p. 2.

21 Department of Foreign Affairs and Trade, *Submission 5*, p. 1.

22 Department of Foreign Affairs and Trade, *Submission 5*, p. 2.

23 NIA, para. 15.

24 NIA, para. 13; Department of Foreign Affairs and Trade, *Submission 5*, p. 4.

maybe there would be value in acceding, so that we could actually assist in directing the work of the organisation.²⁵

- 11.19 The Committee was informed that the original contribution arose in response to a review of multilateral trade funding undertaken by Mr Andrew Stoler in 2008, which led to consideration of other opportunities to progress Australia's objectives for its trade development programs.²⁶ The decision to support the ACWL was then based on:

...development considerations, the ACWL's financial needs and the merits of supporting the organisation's important work.²⁷

- 11.20 The Government's decision to pursue accession to the agreement arose following an invitation from the Executive Director of the ACWL Mr Frieder Roesler after Australia announced its intention to contribute to the ACWL.²⁸

Conclusion

- 11.21 The Committee supports the intent of the ACWL to assist developing and least developed countries to participate more fully in the WTO system.
- 11.22 The Committee notes that membership of the ACWL will provide Australia with a mechanism to promote its foreign and trade policy interests and raise its trade development assistance profile. As a member of the ACWL, Australia will be involved in decision making by the ACWL General Assembly.
- 11.23 The Committee notes that the decision to contribute to the ACWL was taken independently of any decision about membership. However, given the sizeable contribution that the Australian Government has already made, the Committee considers that it would be advantageous for Australia to be a member of the ACWL, and therefore have a more active role in the use of that contribution. The Committee therefore supports binding treaty action being taken.

25 Ms Ward, *Transcript of Evidence*, 22 November 2010, p. 29.

26 Ms Ward, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 22 November 2010, pp. 26-27.

27 Department of Foreign Affairs and Trade, *Submission 5*, p. 5.

28 Department of Foreign Affairs and Trade, *Submission 5*, p. 5.

Recommendation 13

The Committee supports accession to the *Agreement Establishing the Advisory Centre on WTO Law* and recommends that binding treaty action be taken.

Air services agreements with Brazil, Mexico and Turkey

Introduction

12.1 This chapter considers three air services agreements:

- *Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services;*
- *Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey; and*
- *Air Services Agreement between the Government of the Federative Republic of Brazil and the Government of Australia.*

12.2 Australia, Mexico, Turkey and Brazil are all parties to the *Convention on International Civil Aviation* (the Chicago Convention), which provides the overarching civil aviation framework for international air services.¹ A bilateral air services agreement must be concluded, however, before international airlines can service a market between two countries.²

1 *National Interest Analysis* [2010]: ATNIA 56, Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services, done at Mexico City on 9 April 2010 [2010] ATNIF 25, (Mexico NIA) para. 9; ATNIA 57, Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey, done at Ankara on 28 April 2010 [2010] ATNIF 37(Turkey NIA) para. 9; ATNIA 55 Air Services Agreement between the Government of the Federative Republic of Brazil and the Government of Australia, done at Brasilia on 21 April 2010 [2010] ATNIF 38(Brazil NIA), para. 9.

2 Mr Samuel Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 18.

- 12.3 The three agreements are expected to facilitate tourism and business opportunities for Australia, including export opportunities in new and developing markets.³

The agreements

- 12.4 Each of the agreements is based upon Australia's model air services agreement and obliges both governments to allow designated airlines of each country to operate services between the two countries:
- in accordance with limitations settled between aeronautical authorities and subject to compliance with applicable laws, including safety, aviation security, border security, including customs and quarantine, and trade practices.⁴
- 12.5 The agreements are supported by Memoranda of Understanding that address commercial entitlements.⁵

Brazil

- 12.6 This agreement is the first treaty level air services arrangement between Australia and Brazil and will allow international air services to be developed between the two countries.⁶ Brazil is the largest South American market and the last major South American market to be opened for Australia. The majority of passenger traffic to Brazil currently travels via either Argentina or Chile and the agreement will allow a significant gap in market opportunities to be filled. Although quite small, the Committee was informed that the market is growing strongly, with average annual growth of 19 per cent of the last five years.⁷
- 12.7 The agreement will allow the designated airlines of both countries to operate scheduled air services carrying passengers and cargo between the

3 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 20.

4 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 19.

5 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 19.

6 Brazil NIA, para. 4.

7 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 19.

two countries on specified routes, subject to capacity levels. The agreement includes provisions relating to:

- rights to overfly territory and make stops for non-traffic purposes;
- designating the number of airlines to operate agreed services;
- the application of domestic laws, regulations and rules in a Party's territory;
- safety standards and aviation security;
- exemptions from customs and excise duties;
- fares; and
- conduct of an airline's business.⁸

12.8 The agreement to the Annex includes a route schedule that specifies the routes that can be operated by designated airlines.⁹

12.9 The agreement has taken some time to finalise, with preliminary discussions taking place in the 1990s. The Committee was informed that the main reason for the long delay is that neither Australian nor Brazilian carriers had plans to enter the Brazilian or Australian market.¹⁰

Mexico

12.10 The agreement will establish a treaty level air services relationship between Australia and Mexico for the first time, allowing airlines of each country to develop international air services.¹¹ Most people travelling to Mexico currently do so via the United States. Qantas has a code share arrangement with Alaska Airlines, travelling via Los Angeles and San Francisco. It is also expected, subject to regulatory approval, that Australia will extend its code sharing network to Mexico using Delta Airlines.¹²

12.11 The provisions of the agreement are consistent with those outlined above in relation to Brazil. However, whereas the agreement with Brazil allows parties to designate 'any number' of airlines to operate agreed services, Article 2 of this agreement provides that each party may designate up to

8 NIA, paras 9 to 27.

9 Brazil NIA, para. 28.

10 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 20.

11 Mexico NIA, para. 4.

12 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 19.

three airlines to operate the agreed services and no more than two designated airlines can operate between any city pair.¹³

Turkey

12.12 This agreement also establishes a treaty level air services relationship for the first time. There are no airlines operating own aircraft services between Australia and Turkey, although Turkish Airlines has publicly announced an intention to commence services to Australia from late 2011 or early 2012.¹⁴

12.13 The provisions of this agreement are also consistent with those outlined above for the agreement with Brazil.¹⁵

Implementation

12.14 The agreements will be implemented through existing legislation, including the *Air Navigation Act 1920*, *Civil Aviation Act 1988* and *International Air Services Commission Act 1992*. Amendments to this legislation are not required.¹⁶

12.15 As with the air services agreements discussed in chapter three, Memoranda of Understanding have applied to each of the agreements on a non-legally binding basis, pending formal entry into force.¹⁷

12.16 Representatives of the Department of Infrastructure and Transport outlined to the Committee the steps involved when an Australian airline seeks to commence services in a country with which Australia has concluded an air services agreement. The process includes:

- making an application to the Australian Government to be designated to the other country, which would occur by way of a diplomatic third person note;
- obtaining an allocation of capacity from the International Air Services Commission, a statutory body responsible for allocating Australian

13 Mexico NIA, para. 11.

14 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 20.

15 NIA, paras 9 to 25.

16 Mexico NIA, para. 27; Turkey NIA, para. 26; Brazil NIA, para. 29.

17 Mexico NIA, para. 5; Turkey NIA, para. 5; Brazil NIA, para. 5.

capacity entitlements to Australian airlines. Capacity entitlements are usually equivalent between two countries;¹⁸

- obtaining airline licence approvals from the Australian government and the other country's authorities;
- obtaining the necessary safety and security operational approvals from the Civil Aviation Safety Authority and the Office of Transport Security; and
- obtaining regulatory approvals from the Australian Government to commence services.¹⁹

12.17 The agreement is structured with the intent to provide maximum commercial flexibility. Therefore, once an airline has taken a decision to enter a market and obtained designation and regulatory approval, it is then a matter for that airline to compete in the marketplace, subject to compliance with trade practices law.²⁰

12.18 The agreements contain a provision obliging each party to provide access to airport slots on a non-discriminatory basis.²¹

Conclusion

12.19 The Committee notes that these are the first air services agreements concluded by Australia with Brazil, Mexico and Turkey. These agreements are expected to improve access to these markets for Australian airlines and increase tourism and business opportunities. The Committee supports binding treaty action being taken.

18 The Committee was informed that historically allocations have not always been equal, largely due to the aviation policies being pursued by governments at a particular time. Mr Samuel Lucas, *Transcript of Evidence*, 25 February 2011, p. 22.

19 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, pp. 21–22.

20 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 21.

21 Mr Lucas, Department of Infrastructure and Transport, *Transcript of Evidence*, 25 February 2011, p. 23.

Recommendation 14

The Committee supports the *Air Services Agreement between the Government of the Federative Republic of Brazil and the Government of Australia* and recommends that binding treaty action be taken.

Recommendation 15

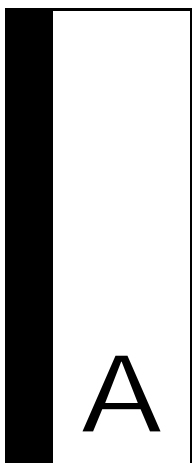
The Committee supports the *Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services* and recommends that binding treaty action be taken.

Recommendation 16

The Committee supports the *Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey* and recommends that binding treaty action be taken.

Kelvin Thomson MP

Chair



Appendix A — Submissions

Treaty tabled on 28 October 2010

- 1 Australian Patriot Movement

Treaties referred on 16 November 2010

- 2 Department of Broadband, Communications and the Digital Economy
- 3 Department of Infrastructure and Transport
- 5 Department of Foreign Affairs and Trade
- 6 Queensland Consumers Association
- 7 Consumers' Association of South Australia Inc.
- 9 CHOICE
- 10 Mr John Birch AM
- 11 Department of Innovation, Industry, Science and Research
- 12 Winemakers' Federation of Australia

Treaties referred on 16 November 2010 *(previously tabled on 12 May 2010)*

- 1.2 Australian Patriot Movement
- 1.3 Australian Patriot Movement
- 1.4 Australian Patriot Movement
- 1.5 Australian Patriot Movement
- 2 Department of Infrastructure, Transport, Regional Development and Local Government

Treaties referred on 16 November 2010 (*previously tabled on 15 June 2010*)

- 1 Australian Patriot Movement
- 1.1 Australian Patriot Movement
- 1.2 Australian Patriot Movement
- 1.3 Australian Patriot Movement
- 1.5 Australian Patriot Movement

Treaties referred on 16 November 2010 (*previously tabled on 24 June 2010*)

- 1.16 Australian Patriot Movement

Treaties tabled on 24 November 2010

- 1.3 Australian Patriot Movement
- 1.4 Australian Patriot Movement
- 1.5 Australian Patriot Movement



Appendix B — Witnesses

Monday, 21 June 2010 - Canberra

Attorney-General's Department

Mr Alex Webling, Head, Protective Security Policy Branch

Department of Foreign Affairs and Trade

Mr John Griffin, Assistant Secretary, EU & Western Europe Branch

Mr David Mason, Executive Director, Treaties Secretariat, International Legal Branch

Department of Infrastructure, Transport, Regional Development and Local Government

Mr Brenton Clark, Assistant Director, Air Services Negotiations

Mr Samuel Lucas, Director, Air Services Negotiations

Mr Edouard Pokalioukhine, Adviser, Air Services Negotiations

Tuesday, 29 June 2010 - Sydney

Australian Taxation Office

Mr Malcolm Allen, Assistant Commissioner, International Relations

Department of the Treasury

Ms Lynette Redman, Senior Adviser, Tax Treaties Unit

Ms Belinda Robilliard, Adviser, Tax Treaties Unit, International Tax and Treaties Division, Revenue Group

Mr Gregory Wood, Manager, International Tax and Treaties Division

Monday, 22 November 2010 - Canberra

Australian Maritime Safety Authority

Mr Paul Nelson, Manager, Environment Protection Standards

Department of Broadband, Communications and the Digital Economy

Ms Jacqueline Daly, Director, Postal Strategy Unit

Mr Duncan McIntyre, Assistant Secretary, Consumer Policy and Post

Department of Families, Housing, Community Services and Indigenous Affairs

Mr Peter Hutchinson, Agreements Section Manager, International Branch

Department of Foreign Affairs and Trade

Ms Elizabeth Ward, Assistant Secretary

Department of Infrastructure and Transport

Ms Poh Aye Tan, Section Head, Maritime Safety, Environment and Liner Shipping

Department of the Treasury

Mr Nigel Murray, Manager, Contributions Unit, Personal and Retirement Income Division

Monday, 7 February 2011 - Canberra

Department of Agriculture, Fisheries and Forestry

Mr John Power, Manager, Wine Policy, Crops, Horticulture and Wine Branch, Agriculture Productivity Division

Department of Defence

Mr Benjamin Burdon, Assistant Secretary International Policy, Major Powers Global Interests, International Policy Division

Miss Sophie Knipe, Senior Legal Officer, Defence Legal Division, ADF Legal Services, International Government Agreements and Arrangements

Mr Anthony Rumball, Director International Logistics, Joint Logistics Command, Strategic Logistics Branch, Directorate of International Logistics

Air Vice Marshal Margaret Staib, Commander Joint Logistics, VCDF Group, Joint Logistics Command

Department of Foreign Affairs and Trade

Mr David Mason, Executive Director, Treaties Secretariat, International Legal Branch

Mr Hamish McCormick, First Assistant Secretary, Office of Trade Negotiations

Ms Jane Parlett, Director, Food Trade and Quarantine, Agriculture and Food Branch, Office of Trade Negotiations

Department of Innovation, Industry, Science and Research

Dr Grahame Harvey, Section Manager, Legal Metrology Policy, Legal Metrology Branch, National Measurement Institute

Friday, 25 February 2011 - Canberra**CHOICE**

Ms Clare Hughes, Senior Food Policy Advisor

Department of Foreign Affairs and Trade

Mr David Mason, Executive Director, Treaties Secretariat, International Legal Branch

Department of Infrastructure and Transport

Mr Brenton Clark, Assistant Director, Air Services Negotiations, Aviation Industry Policy Branch, Aviation and Airports Division

Mr Samuel Lucas, Director Air Services Negotiations, Aviation Industry Policy Branch, Aviation and Airports Division

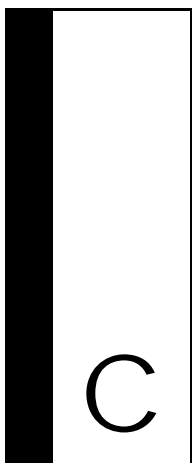
Mr Edouard Pokalioukhine, Adviser, Air Services Negotiations, Aviation Industry Policy Branch, Aviation and Airports Division

Department of Innovation, Industry, Science and Research

Dr Valerie Villiere, General Manager, Legal Metrology

Queensland Consumers Association

Mr Ian Jarratt, Vice President



Appendix C — Minor treaty actions

Minor treaty actions are identifiably minor treaties, generally technical amendments to existing treaties, which do not impact significantly on the national interest. Minor treaty actions are tabled with a one-page explanatory statement. The Joint Standing Committee on Treaties has the discretion to formally inquire into these treaty actions or indicate its acceptance of them without a formal inquiry and report.

The following minor treaty actions were considered by the Committee on the date indicated. In each case the Committee determined not to hold a formal inquiry and agreed that binding treaty action may be taken.

Minor treaty actions tabled on 24 November 2010

Considered by the Committee on 1 March 2011:

- *Amendments to the Schedule to the International Convention for the Regulation of Whaling*, done at Washington on 2 December 1946;
- *Amendments to the Plant Protection Agreement for the Asia and Pacific Region* adopted in November 1999 by the FAO Council;
- *Amendment to Annex I of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport* of 19 October 2005; and
- *Amendment to Annex II of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport* of 19 October 2005.

Minor treaty action tabled on 10 February 2011

Considered by the Committee on 1 March 2011:

- *Proposed Amendment to the Articles of Agreement of the International Monetary Fund on the Reform of the Executive Board*, adopted by the IMF Board of Governors on 15 December 2010.

