

Documents tabled on 7 August 2007:

**National Interest Analysis [2007] ATNIA 24
with attachment on consultation**

**Agreement between Australia
and the Hellenic Republic on Social Security
(Canberra, 23 May 2007)**

[2007] ATNIF 13

Background information:

Political brief on the Hellenic Republic and country fact sheet

List of other treaties with the Hellenic Republic

List of Social Security Agreements with other countries

**NATIONAL INTEREST ANALYSIS – CATEGORY 1 TREATY
SUMMARY PAGE**

**Agreement between Australia and the Hellenic Republic on Social Security
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Nature and timing of proposed treaty action

1. It is proposed that Australia enter into a Social Security Agreement with the Hellenic Republic (Greece). The Social Security Agreement (the Agreement) was signed in Canberra on 23 May 2007.
2. Pursuant to Article 22, the Agreement shall enter into force on the first day of the second month following the month in which notes are exchanged by Australia and Greece through diplomatic channels. The earliest realistic timeframe for an exchange of notes would be May 2008 to enable entry into force on 1 July 2008.

Overview and national interest summary

3. Australia's social security agreements are bilateral treaties which close gaps in social security coverage for people who migrate between countries. Such agreements do this by overcoming barriers to pension payment in the domestic legislation of each country, such as requirements on citizenship, minimum contributions record, past residence record and current country of residence.
4. The Agreement provides for enhanced access to Australian and Greek retirement benefits and greater portability of these benefits between the two countries. Portability of benefits allows for the payment of a benefit from one country into another country. Enhanced access to benefits is an underlying principle of bilateral social security agreements where the responsibility for providing benefits is shared. Under the Agreement, residents of Australia and Greece will be able to move between Australia and Greece with the knowledge that their right to benefits is recognised in both countries.
5. Double coverage provisions have also been included to ensure that Australian and Greek employers do not need to make compulsory contributions into both countries' systems when an employee is seconded to work in the other country temporarily. Under current arrangements the employer would be required to make contributions under both Australian and Greek legislation. The Agreement will provide that, generally, where compulsory contributions are required, the employer, and the employee, need to contribute only to the relevant superannuation scheme in their home country.
6. The Agreement will bring economic and political benefits to Australia. It will help to maximise the foreign income of Australian residents and there will be flow-on effects within the Australian economy. The Agreement will serve to reinforce Australia's political, business and strategic interests. It will also further strengthen bilateral relations between Australia and Greece and provide choices in retirement for individuals who have migrated (or will migrate) to Australia or Greece during or after their working lives.

Reasons for Australia to take the proposed treaty action

7. Australia's network of bilateral social security agreements improves access to income support for people whose adult lives are, or have been, split between Australia and the other country. Most people who benefit from these agreements are age pensioners.
8. The Agreement incorporates the same principles as Australia's other agreements on social security. A key element of the Agreement, as with other social security agreements, is the sharing of responsibility between the Parties in providing adequate social security coverage for current and former residents of both countries.
9. Under the Agreement individuals may be eligible for benefits from both countries if they meet certain criteria and have lived and/or worked in both countries during their working lives. Residents of Australia and Greece will be able to move between these countries knowing that their right to benefits continues to be recognised.
10. In March 2007, the Australian Government was paying Age Pension to 56,328 Greek-born pensioners. As at 26 June 2007, there were 5,750 residents of Greece (not necessarily Greek-born) receiving Age Pension.
11. The Department of Families, Community Services and Indigenous Affairs estimates that, through the Agreement, approximately 50,000 people residing in both countries will benefit when the Agreement comes into force, by being able to claim payments from Australia and Greece to which they currently do not have access.

Obligations

12. Part I (Articles 1 to 5) of the Agreement sets out general obligations, including to limit the scope of the Agreement to each country's age pensions and the avoidance of 'double coverage' (Article 2), to treat people covered by the Agreement equally in respect to the payment of benefits (Article 4) and to remove restrictions on the payment of benefits based on residency in the other country (Article 5).
13. Part II (Articles 6 to 9) provides that an employer and employee will be subject only to the legislation of their home country with respect to compulsory contributions where the employee has been temporarily seconded to work in the other country. This arrangement is restricted to four years for private sector employees.
14. Part III (Articles 10 to 12) applies to benefits payable by Australia. It:
 - obliges Australia to regard residents of Greece as Australian residents for the purpose of claiming and qualifying for Australian Age Pension, provided the person lived in Australia for at least one year (pursuant to Australian legislation this period must accrue while the person is between the ages of 16 and Age Pension age (Articles 10 and 11));

- provides that periods of insurance in Greece will be counted as periods of residence in Australia for the purpose of meeting the ten year qualifying period of residence for Age Pension and also sets out the formula for calculating the rate of Australian Age Pension that is payable only by virtue of the Agreement (Article 12);
- provides that Australian Age Pensions in Greece will be based on a person's period of 'Australian Working Life Residence' (the period between age 16 and Australian Age Pension age);
- offers all Australian residents who return to live permanently in Greece after the Agreement starts, an Australian Age Pension, subject to the means test, based on their Australian Working Life Residence over a denominator of 25 years (Article 12);
- offers, for the first time, former Australian residents already living permanently in Greece without Australian Age Pension when the Agreement commences the ability to claim an Australian Age Pension, subject to the means test, based on their Australian Working Life Residence over a denominator of 44 years (Article 12).

15. Part IV (Article 13) applies to benefits under Greek legislation, and therefore creates no obligations for Australia. The provisions are reciprocal to Australia's in that claims for the Greek old age pension will be able to be lodged in Australia and certain periods of residence in Australia will be counted as periods of insurance in Greece for the purpose of meeting minimum qualifying periods of insurance for a Greek old age pension. The rate of Greek pension will generally be based on a person's period of insurance and their pensionable earnings in Greece.

16. Part V (Articles 14 to 20) sets out various administrative obligations, including:

- to regard the date of claim lodgement in one country as the date of lodgement in the other and in certain circumstances to regard a claim for age pension in one country as a claim for the equivalent payment in the other (Article 14);
- to guarantee payments in the event that currency controls are imposed and to guarantee payment without deductions for government fees or charges (Article 15);
- to assist each other in the recovery of a debt owed to one Party, where arrears are owed by the other (Article 16);
- a general obligation for the parties to assist each other in implementing the Agreement, to communicate with each other, to exchange information and to protect the confidentiality of personal data (Article 17);
- for the 'Competent Authority' of both Parties to conclude an administrative arrangement and designate liaison agencies to implement and administer the Agreement (Article 18); and
- provision to resolve disputes and review the Agreement upon request by either Party (Articles 19 and 20).

17. Article 21 contains transitional provisions that ensure relevant periods completed before the Agreement commences will be taken into consideration and protects existing entitlements at the commencement. Article 22 provides that the Agreement will enter into force at the beginning of the second month after diplomatic notes are exchanged. Article 23 protects existing rights in the event of termination of the Agreement.

Implementation

18. A new Schedule containing the full text of the Agreement will be added to the *Social Security (International Agreements) Act 1999*. The regulation making powers contained in sections 8 and 25 of that Act will be used to implement the Agreement.

19. Provisions relating to double superannuation coverage are automatically given effect in domestic law once the Agreement is scheduled to the *Social Security (International Agreements) Act 1999*. This is pursuant to the *Superannuation Guarantee (Administration) Act 1993* (paragraph 27(1)(e)) and the *Superannuation Guarantee (Administration) Regulations 1993* (regulation 7AC), which have the effect that payment of salary or wages to an employee who has been sent temporarily to work in Australia will not give rise to a superannuation guarantee obligation for the overseas employer, provided that a scheduled social security agreement is in place.

Costs

20. The Agreement is expected to increase administered outlays by around \$143.7 million (cumulative cost) over the period 2008-11. The Department of Families, Community Services and Indigenous Affairs, and Centrelink departmental costs of \$21.5 million (cumulative) during 2007-11 represent the cost of implementing and administering the Agreement.

Regulation Impact Statement

21. The Treasury has assessed the implementation of the Agreement against criteria in *The Best Practice Regulation Handbook*. This regulatory option will have a low impact on business and individuals or on the economy and a Regulation Impact Statement or Business Cost Calculator Report is not required.

Future treaty action

22. As noted above, Article 20 obliges the Parties to review the Agreement when requested by either Party. An 'Administrative Arrangement' will be entered into by the Competent Authorities pursuant to Article 18, which will not have treaty status and will therefore not be subject to Australia's treaty-making process.

23. The Agreement may be amended at any time by agreement between the Parties in accordance with Article 39 of the Vienna Convention on the Law of Treaties. Any such amendment would constitute a treaty action, and would therefore be subject to Australia's domestic treaty-making process, including tabling and consideration by the Joint Standing Committee on Treaties.

Withdrawal or denunciation

24. Article 23 provides that the Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through diplomatic channels indicating its intention to terminate the Agreement. In the event of termination, Article 23 also preserves the rights of those people who are receiving benefits or who have claimed and would have been entitled to benefits under the Agreement, and those people affected by the double coverage provisions of Part II.

25. Any termination of this Agreement by Australia would be subject to Australia's domestic treaty-making process.

Contact details

International Agreements
International Branch
Department of Families, Community Services and Indigenous Affairs.

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CONSULTATION

1. Four groups were consulted by the Department of Families, Community Services and Indigenous Affairs (FaCSIA) and the Department of the Treasury: relevant community groups, welfare organisations, State and Territory Governments, employer groups and the superannuation industry.

2. FaCSIA wrote to provide information and to invite the views and comments of 382 Greek community groups across Australia, including the peak groups the Australian Hellenic Council and the World Council of Hellenes Abroad (SAE). FaCSIA officials also met with representatives from the Australian Hellenic Council and, at their request, addressed members of the Greek Orthodox community in Sydney. Information has also been distributed by the Southern Cross Group, a lobby group representing the needs of the Australian expatriate community.

3. Responses were received from four correspondents: two in Australia and two in Greece. While some respondents were supportive, concerns were also raised about the formula (the 44 year denominator) for calculating the rate of Australian pension for former Australian residents who returned to live permanently in Greece before qualifying for Age Pension and before the Agreement commences. Clarification was also sought about the impact on pension entitlement, health and pharmaceutical benefits for those who divide their time between the two countries.

Welfare organisations consulted were:

Ethnic Communities Council of QLD	ACT Multicultural Community Council
Ethnic Communities Council of WA	Australian Council of Social Services
Multicultural Council of NT Inc	Southern Cross Group
Welfare Rights Centre	Ethnic Communities Council of NSW
Multicultural Communities Council of SA	Ethnic Communities Council of Victoria
Multicultural Council of Tasmania	FECCA

State/Territory Governments consulted were:

ACT Chief Minister's Department
QLD Department of Premier and Cabinet
VIC Department of Premier and Cabinet
NT Department of Chief Minister
SA Department of Premier and Cabinet
TAS Department of Premier and Cabinet
WA Federal Affairs
NSW The Cabinet Office, Inter-Governmental & Regulatory Reform Branch

Organisations consulted by Treasury were:

Institute of Chartered Accountants in Australia
Australian Chamber of Commerce and Industry
Industry Funds Forum Inc
A.C.T.U.
Council of Small Business Organisations of Australia
Association of Superannuation Funds of Australia
Investment and Financial Services Association
CPA Australia

4. Since negotiations commenced in the early 1990s, this treaty has been included on the schedule of treaties under negotiation, consideration or review by the Australian Government which schedule the Department of Prime Minister and Cabinet distributes twice a year to representatives of the Commonwealth-State/Territory Standing Committee on Treaties.

Political Brief on Greece

Bilateral Relations

1. Greece and Australia enjoy a close and constructive relationship based on strong community ties. Large numbers of Greeks migrated to Australia during the 1950s and 1960s; the 2001 Census records 116,431 Greece-born migrants, and 375,703 people of Greek ancestry living in Australia (including second and third generations). Some estimates suggest the Greek community in Australia could be as large as 600,000. The Greek population is concentrated in Melbourne (47 per cent) and Sydney (29 per cent). Melbourne, Sister City to Thessaloniki, has been claimed to be the third largest 'Greek city' in the world and is an important overseas centre of Hellenism.

2. Greek Prime Minister, H.E. Mr Kostas Karamanlis, Foreign Minister H.E. Ms Dora Bakoyannis and a delegation of Greek officials and media visited Australia in May 2007. The Social Security Agreement between Australia and Greece was signed during the visit. Discussions were also held on a range of topics including the stalled negotiations over a bilateral Working Holiday Maker Arrangement and the possibility of cooperation to resolve the issue of the mutual recognition of family law orders.

Political Overview

3. The current President of Greece, Mr Karolos Papoulias, was sworn in as Greece's sixth President on 12 March 2005, and is serving a five-year term. The President has no powers to initiate legislation and is required to appoint as Prime Minister the leader of the political party with an absolute majority of seats in Parliament.

4. The unicameral parliament consists of 300 members, elected under a system of reinforced proportional representation. Each Parliament is elected for a maximum of four years. In the most recent parliamentary elections (March 2004), the New Democracy party led by Kostas Karamanlis was elected, claiming 165 of the 300 seats in Parliament. The Panhellenic Socialist Movement (PASOK) remains the principal opposition party under the leadership of Mr George Papandreou. The next elections are due by March 2008, though many observers expect them to be held in late 2007.

5. Greece is a member of the European Union and last held the Presidency from January to July 2003. In the June 2004 European Parliament elections, the New Democracy party won 43 per cent of the Greek vote (or 11 out of the 24 Greek seats). Greek voter participation (63 per cent) in the European Parliament elections was slightly higher than the European average.

6. Greece has a long-established political and cultural relationship with the Republic of Cyprus. Resolution of the Cyprus issue remains a key foreign policy priority of the Greek Government. While the relationship between Greece and Turkey has historically experienced difficulties, in the past few years bilateral cooperation between the two has improved with the establishment of a Greek-Turkish Steering Committee which explores avenues for cooperation in fields such as the economy, trade, tourism, environment, culture and combating crime.

Economic Overview

7. Greece had an estimated GDP per capita for 2006 of US\$27,610. In 2006, real GDP growth was estimated to have accelerated to 4.2 per cent from 3.7 per cent in 2005. The main engine of the Greek economy is the services sector, although manufacturing accounts for 22 per cent of GDP. Agriculture remains of major socio-economic importance to Greece (8 per cent of GDP), with approximately 11 per cent of the population employed in the sector.

8. Australia has a modest commercial relationship with Greece and two-way trade in 2006 was A\$202 million. Exports to Greece were worth A\$51 million in 2006 and imports were worth A\$152 million.



GREECE

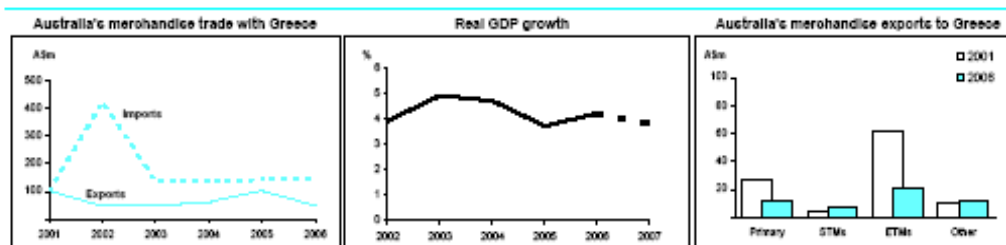
Fact Sheet

General information:

Fact sheets are updated biannually; May and September

Capital:	Athens	Head of State:	H.E. President Mr Karolos Papoulias
Surface area:	132 thousand sq km		
Official language:	Greek	Head of Government:	H.E. Prime Minister Mr Kostas Karamanlis
Population:	11.1 million (2006)		
Exchange rate:	A\$1 = 0.5984 Euros (Feb 2007)		

Recent economic indicators:	2002	2003	2004	2005	2006(a)	2007(b)
GDP (US\$bn) (current prices):	170.9	222.3	264.5	284.2	307.7	341.8
GDP PPP (US\$bn) (c):	220.6	236.0	254.1	271.3	289.5	305.6
GDP per capita (US\$):	15,473	20,075	23,832	25,560	27,610	30,603
GDP per capita PPP (US\$) (c):	19,967	21,309	22,891	24,399	25,975	27,360
Real GDP growth (% change YOY):	3.9	4.9	4.7	3.7	4.2	3.8
Current account balance (US\$m):	-9,653	-12,489	-13,325	-18,235	-29,684	-31,795
Current account balance (% GDP):	-5.6	-5.6	-5.0	-6.4	-9.6	-9.3
Goods & services exports (% GDP):	17.6	18.6	18.5	18.2	18.7	19.3
Inflation (% change YOY):	3.9	3.4	3.0	3.5	3.3	3.2



Australia's trade relationship with Greece (d):

Australian merchandise trade with Greece, 2006:		Total share:	Rank:	Growth (yoy):
Exports to Greece (A\$m):	51	0.0%	70th	-50.7%
Imports from Greece (A\$m):	152	0.1%	47th	5.3%
Total trade (exports + imports) (A\$m):	202	0.1%	60th	-18.1%

Major Australian exports*, 2006 (A\$m):		Major Australian imports, 2006 (A\$m):	
Crustaceans	8	Conveyer or transmission belts	23
Starches, inulin & wheat gluten	7	Aluminium	18
Medicaments (incl. veterinary)	6	Vegetables	18
Coated flat-rolled steel	2	Cheese and curd	12

*Includes A\$11m of confidential items, 21% of exports

Australia's trade in services with Greece, 2006:		Total share:
Exports of services to Greece (A\$m):	31	0.1%
Imports of services from Greece (A\$m):	258	0.6%

Major Australian service exports, 2006 (A\$m):		Major Australian service imports, 2006 (A\$m):	
Personal travel excl. education	20	Personal travel excl. education	218
Government services	6	Transportation services	8
		Business travel	8

Greece's global merchandise trade relationships:

Greece's principal export destinations, 2005:			Greece's principal import sources, 2005:		
1	Germany	12.5%	1	Germany	13.3%
2	Italy	10.5%	2	Italy	12.3%
3	United Kingdom	6.7%	3	Russian Federation	7.7%
32	Australia	0.6%	66	Australia	0.1%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) All recent data subject to revision; (b) IMF/EU forecast; (c) PPP is purchasing power parity; (d) Total may not add due to rounding.

Other Treaties with Greece

1. Agreement [between United Kingdom and Greece] for Regulating the Position of Joint Stock Companies **[1901] ATS 55**
2. Convention [between United Kingdom and Greece] regarding Legal Proceedings in Civil and Commercial Matters **[1938] ATS 1**
3. Exchange of Notes constituting an Agreement with Greece concerning the Release of Greek Assets held under Australian Statutes **[1948] ATS 1**
4. Agreement with the Government of the Kingdom of Greece Relating to Air Services **[1971] ATS 12**
5. Agreement with the Government of the Hellenic Republic for the Avoidance of Double Taxation of Income Derived from Air Transport **[1981] ATS 10**
6. Agreement with the Government of the Hellenic Republic on Cultural Cooperation **[1981] ATS 16**
7. Treaty on Extradition with the Hellenic Republic **[1991] ATS 27**
8. Treaty with the Hellenic Republic (Greece) on Mutual Assistance in Criminal Matters **[2005] ATS 4**

Australian Social Security Agreements with Other Countries

1. Agreement with the Republic of Austria on Social Security **[1992] ATS 35**
2. Protocol to the Agreement with the Republic of Austria on Social Security of 10 April 1992 **[2002] ATS 20**
3. Agreement on Social Security with the Kingdom of Belgium **[2005] ATS 14**
4. Agreement on Social Security with Canada **[2003] ATS 4**
5. Agreement on Social Security with the Republic of Chile **[2004] ATS 18**
6. Agreement with the Republic of Croatia on Social Security **[2004] ATS 19**
7. Agreement on Social Security with the Republic of Cyprus **[1993] ATS 5**
8. Agreement with the Kingdom of Denmark on Social Security **[2001] ATS 2**
9. Agreement on Social Security with the Federal Republic of Germany **[2003] ATS 7**
10. Supplementary Agreement, Concluding Protocol and Implementing Arrangement on Social Security with the Federal Republic of Germany **[2007] ATNIF 6**
11. Agreement on Social Security with the Republic of Ireland **[2005] ATS 26**
12. Agreement on Social Security with the Republic of Italy **[2000] ATS 29**
13. Exchange of Notes constituting an Agreement with the Republic of Italy amending and clarifying the Agreement on Social Security of 13 September 1992 **[2000] ATS 29**
14. Agreement on Social Security with Japan **[2007] ATNIF 4**
15. Agreement on Social Security between the Government of Australia and the Government of the Republic of Korea **[2006] ATNIF 27**
16. Agreement with Malta on Social Security **[2005] ATS 16**
17. Agreement with the Kingdom of the Netherlands on Social Security **[2003] ATS 12**
18. Agreement on Social Security with New Zealand **[2002] ATS 12**
19. Exchange of Notes amending the Agreement on Social Security with New Zealand of 28 March 2001 **[2002] ATS 12**
20. Agreement on Social Security with the Kingdom of Norway **[2007] ATS 1**
21. Agreement with Portugal on Social Security **[2002] ATS 21**
22. Agreement on Social Security with Slovenia **[2004] ATS 2**
23. Agreement between Australia and Spain on Social Security **[2003] ATS 3**
24. Agreement with the Swiss Confederation on Social Security **[2006] ATNIF 23**
25. Agreement with the United States of America on Social Security **[2002] ATS 18**