

The Hon Kelvin Thomson MP  
Chair  
Joint Standing Committee on Treaties  
Parliament House  
CANBERRA ACT 2600

Dear Mr Thomson

I refer to Report 116 of the Joint Standing Committee on Treaties (JSCOT), which was presented to Parliament on 11 May 2011.

Report 116 considered 15 treaty actions and made formal recommendations concerning the exchanges of letters amending Article 3 and Annex G of the *Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA)*; amendments to the Annex of the Protocol of 1978 relating to the *International Convention of the Prevention of Pollution from Ships (MARPOL)*; amendments to the *Convention Establishing the Multilateral Investment Guarantee Agency* and to the *International Finance Corporation Articles of Agreement*; and Australia's accession to the Council of Europe *Convention on Cybercrime*.

I enclose for your information the Government response to Report 116, which has been approved by the Prime Minister and appropriate Ministers.

Yours sincerely

Kevin Rudd

**JOINT STANDING COMMITTEE ON TREATIES**

**REPORT 116: REVIEW INTO TREATIES TABLED ON 24 AND  
25 NOVEMBER 2010, 9 FEBRUARY AND 1 MARCH 2011;  
TREATIES REFERRED ON 16 NOVEMBER 2010**

**GOVERNMENT RESPONSE**

**Joint Standing Committee on Treaties**  
**Report 116: Review into treaties tabled on 24 and 25 November 2010,**  
**9 February and 1 March 2011; Treaties referred on 16 November 2010**

**Government Response**

**Recommendation 4**

**The Committee supports the Exchange of Letters implementing Amendments to Article 3, and to Annex G, of the *Australia New Zealand Closer Economic Relations trade Agreement* (ANZCERTA) and recommends binding treaty action be taken.**

**Recommendation 5**

**The Committee recommends the Minister of Innovation, Industry, Science and Research report to the Committee on the measures implemented to address the impact of “duty drawback” on Australia’s structured apparel sector under the amendments to Article 3 and to Annex G of ANZCERTA, and monitor the ongoing effects on the sector after 2012.**

The Department of Foreign Affairs and Trade (the Department) notes the Recommendations in Item 6 of the Joint Standing Committee on Treaties (JSCOT) Report 116 concerning the *Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement*, and *Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Annex G of the Australia New Zealand Closer Economic Relations Trade Agreement*.

The Department is pleased that JSCOT’s Recommendation 4 of Item 6 supports the *Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Annex G of the Australia New Zealand Closer Economic Relations Trade Agreement* (ANZCERTA) and recommends binding treaty action be taken. Action to amend ANZCERTA is at an advanced stage. The amendments will reduce the administrative burden on businesses, facilitate eligibility of duty-free entry of goods into both markets, and provide greater consistency between the ANZCERTA Rules of Origin and those of other trade agreements negotiated by Australia. It will ensure ANZCERTA remains the benchmark for Australia’s free trade agreements.

In relation to JSCOT’s Recommendation 5 of Item 6, the Department notes that it is the principle agency responsible for implementing Australia’s obligations as a signatory to ANZCERTA. The Department notes that New Zealand and Australia both have duty drawback schemes. The Department of Innovation, Industry, Science and Research (Innovation) and the Treasury are the principle agencies responsible for policy oversight of Australia’s Duty Drawback Scheme, which is administered by the Australian Customs and Border Protection Service (Customs and Border Protection).

Duty drawback payments enable Australian exporters to obtain a refund of customs duty paid on imported goods where those goods will be treated, processed or incorporated in other goods for export; or are exported without being used or consumed while in Australia. Innovation advises that Australian exporters are able to apply for duty refunds under duty drawback arrangements, including duty paid on imported inputs to goods exported to New Zealand under ANZCERTA.

The Department and Innovation have an ongoing commitment to monitoring the effects of ANZCERTA on all Australian industry and will continue to monitor the ongoing effects on Australia's structured apparel sector after 2012. Innovation advises that successive Governments have demonstrated their commitment to an internationally competitive Australian Textile, Clothing and Footwear (TCF) industry. The latest TCF innovation package is designed to provide incentives to promote innovation and associated investment to those sectors of the industry facing the greatest adjustment in the context of trade liberalisation. It is expected that this investment in innovation will lead to the development of a sustainable and internationally competitive Australian TCF industry, by supporting the development of new products and processes, particularly at the high-tech, high-value end of the market. Innovation continues to work with the TCF industry to facilitate the implementation of the TCF innovation package.

#### **Recommendation 10**

**The Committee recommends that all future amendments to the *International Convention for the Prevention of Pollution from Ships 1973 (MARPOL)* be tabled in Parliament in sufficient time for the view of Parliament to be taken into consideration before the period for objections to the amendment ends.**

Noted.

Most amendments to MARPOL enter into force automatically. These amendments are usually technical in nature and are aimed at improving or formalising international standards. There is no requirement for States Parties to MARPOL to ratify them or to otherwise do anything for the amendments to enter into force. Amendments to MARPOL are usually adopted at meetings of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) which are held three times in each biennium. States Parties usually have a period of about 12 months following adoption during which time they can lodge objections to the amendments with IMO. To date Australia has not seen the need to object to any amendments to MARPOL. Australia has been involved in the work to develop the amendments.

The Department of Infrastructure and Transport (the Department) acknowledges that the amendments to MARPOL considered at the Committee's hearing on 25 March 2011 were tabled after the period during which Australia could lodge an objection to the amendments had passed. The Department will endeavour to ensure that all amendments to MARPOL which are adopted at future MEPC meetings are tabled prior to the expiration of the period during which Australia could lodge an objection.

## **Recommendation 11**

**The Committee recommends that all future amendments to the *Convention Establishing the Multilateral Investment Guarantee Agency and International Finance Corporation Articles of Agreement* be tabled in Parliament in sufficient time for the view of Parliament to be taken into consideration before the amendments come into force.**

The Government accepts this recommendation. The Government shares the Committee's desire to have amendments to these Acts considered by Parliament before they come into force. As noted in the Committee's report, there was insufficient time for the current amendments to receive parliamentary consideration due to the voting schedule at the World Bank and the 2010 Federal Election. As far as possible, future amendments will be provided to the Committee before they come into force.

## **Recommendation 14**

**The Committee recommends that the Attorney-General report to the Committee on any proposed amendments to the Commonwealth or State and Territory law in support of the Council of Europe *Convention on Cybercrime*.**

Done.

The Attorney-General wrote to the Chair of JSCOT on 1 July 2011 reporting on the Cybercrime Legislation Amendment Bill 2011, which contains the measures necessary for Australia's accession to the Council of Europe *Convention on Cybercrime*.