

Social Security Agreements

Introduction

- 3.1 Three social security agreements were tabled in the Parliament on 14 May 2003, namely:
- *Agreement on social security between Australia and the Kingdom of Belgium, done at Canberra on 20 November 2002;*
 - *Agreement on social security between the Government of Australia and the Government of the Republic of Chile, done at Canberra on 25 March 2003;*
and
 - *Agreement on social security between the Government of Australia and the Government of the Republic of Slovenia, done at Vienna on 19 December 2002.*
- 3.2 An additional social security agreement was tabled on 17 June 2003:
- *Agreement between the Government of Australia and the Government of Republic of Croatia on Social Security, done at Zagreb on 13 May 2003.*
- 3.3 This chapter reports on the Committee's review of the proposed agreements with Belgium, Chile and Slovenia. The review of the agreement with Croatia will be included in a future report because many of the relevant witnesses were unavailable to appear at the hearings.
- 3.4 The Committee found that some issues which arose in the course of the review are common to all three agreements. This chapter will therefore address general issues relating to the three agreements before commenting on matters which are specific to each individual agreement.

Background

3.5 The three social security agreements included in this chapter are an addition to Australia's existing network of 13 international social security agreements.¹ The Committee has reviewed many of these agreements on previous occasions and reported its findings and conclusions to the Parliament.²

Purpose of the proposed agreements

3.6 The purpose of the proposed agreements is to:

- provide enhanced access to certain social security benefits by addressing gaps in social security coverage for people who live and work in either country;
- to provide for portability of social security benefits from one country to another;
- to assist people to maximise their income and allow them a greater choice of which country to live in or retire in and thus contribute to the overall bilateral relationships between the countries;³
- to remove, in the case of Belgium and Chile, the obligation on employers to make two superannuation contributions for an employee seconded to work in the other country (double coverage). New provisions ensure employer and employee contributions are made only to the relevant superannuation scheme in their home country. There is no double coverage provision in the Agreement with Slovenia.

3.7 The Agreements cover age pensions, disability support pensions for people who are severely disabled and survivors' pensions. Most people benefiting from the agreements will be age pensioners.

1 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 14.

2 See JSCOT, *Fifteenth Report* (New Zealand); JSCOT, *Report 27: Termination of Social Security Agreement with the United Kingdom and International Plant Protection Convention*; JSCOT, *Report 32: Six Treaties Tabled on 7 March 2000* (Denmark); JSCOT, *Report 33: Social Security Agreement with Italy and New Zealand Committee Exchange*; JSCOT, *Report 41: Six Treaties Tabled on 23 May 2001* (New Zealand); JSCOT, *Report 43: Thirteen Treaties Tabled in August 2001* (Canada; Spain; The Netherlands; Austria; Portugal; Germany); JSCOT, *Report 46: Treaties Tabled 12 March 2002* (New Zealand and the United States).

3 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 14.

- 3.8 Estimations of the number of people who, under the agreements, will become eligible to claim benefits include:
- 700 people residing in Australia and Belgium;
 - 600 people residing in Australia and Chile; and
 - 450 people residing in Australia and Slovenia.
- 3.9 The Committee was advised that out of the approximately 1 800 beneficiaries covered by these three agreements, the number of people living in all states and territories of Australia who would immediately benefit is in the order of 250 people.⁴ The Committee was advised that there are 105 626 pensions currently being paid under total agreement countries into Australia.⁵

General issues

Estimations of potential beneficiaries

- 3.10 The Committee was concerned to ensure the reliability of the figures included in the NIA for the potential number of beneficiaries under these agreements.
- 3.11 The Department of Family and Community Services (FACS) advised that many factors affected estimates of numbers of people and costs:
- We use our census data, for example, to determine the number of people of certain ages from certain countries of birth and immigration data to predict duration of time in Australia and age when they left the other country to predict working life contributions. There are also other circumstances that arise after an agreement has been signed that affect migration flow in either direction.⁶
- 3.12 FACS indicated that the estimates were developed in consultation with Centrelink and other agencies on the basis of factual data and likely trends and were accepted by the Department of Finance and Administration as a reasonable basis for budget calculations. In relation to major changes to the agreement with New Zealand:

4 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 16.

5 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 16.

6 FACS, *Submission 26*, p. 1.

...we have a specific 'savings monitoring' exercise agreed with Department of Finance and Administration that will answer the question for that agreement. Similarly, with our most recent agreements (with the United States and Germany) we have active plans to evaluate the results of those agreements. It is too early to make any meaningful comparisons (these agreements having commenced only in October 2002 and January 2003 respectively).⁷

- 3.13 In relation to most of the early agreements, however, FACS advised that it was not possible to provide a specific comparison in relation to the original estimates:

primarily because all the original source documentation is no longer available. Relevant estimates were made in the mid to late 1980s and some of the files have been culled/destroyed. There are also limitations on how far back Centrelink data goes.⁸

- 3.14 The problem was compounded by changes in circumstances in countries since the original estimates were done and the inability of some partner countries to reliably disaggregate information on people using the agreement to qualify:

For those countries, the only point that matters to them is that people do or do not qualify, and they do not maintain electronic records of nature of that qualification ... the effect of an agreement may be to increase the amount paid, but this is not necessarily recorded as linked to the agreement and the person is not listed as an 'agreement' pensioner.⁹

- 3.15 FACS provided a table showing the number of pensions paid into Australia by agreement partners, separated into people who do and do not rely on the agreement, and similar figures for Australia.

7 FACS, *Submission 26*, p. 1.

8 FACS, *Submission 26*, p. 2.

9 FACS, *Submission 26*, p. 2.

Table Pensions Paid into Australia by Agreement Countries and into Agreement Countries by Australia (as at 29 June 2003)

Into Australia by Agreement Country			Into Agreement Country by Australia	
<i>Agreement Country</i>	<i>Total pensions paid</i>	<i>Pensions paid under Agreement</i>	<i>Total pensions paid</i>	<i>Pensions paid under Agreement</i>
Austria	6 866	Not available	958	860
Canada	4 106	1 535	1 136	930
Cyprus	1 039	521	782	255
Denmark	471	Not available	74	56
Germany	18 289	Not available	329	100
Ireland	1 370	400	384	185
Italy	54 580	47 434	19 363	16 762
Malta	2 656	2 095	3 713	2 985
The Netherlands	9 156	Not available	4 331	4 093
New Zealand	575	575	560	560
Portugal	502	Not available	1 077	457
Spain	2 127	1 857	3 652	2 767
USA	4 864	Not available	465	46
TOTAL	106 601	54 417	36 824	30 056

Source FACS, Submission 26, p. 3.

3.16 The Committee understands that when an agreement is being negotiated with another country the Government may be unaware of the numbers of people in Australia who are receiving a benefit from that country. Mr Barson explained that:

We may have overall estimates of numbers that are provided to use but, again, the mobility of people means that that may change fairly quickly. We have been reasonably close to our initial estimates in most cases. There have been cases certainly, such as the recent renegotiation with New Zealand, where the numbers of people taking up citizenship and therefore remaining eligible for some social security payments are, at the moment, considerably different from our original estimates. But in terms of pensions, particularly age pensions, we are able to do fairly accurate estimates of the number of people who may be eligible on population data. The problem is once we try to include means test assumptions: until we are actually dealing with the people as potential claimants, it is difficult to know exactly what income they have. We are able to do estimates from the changes to existing

people and we are able to do estimates based on information that we exchange with the other country.¹⁰

Review of Agreements

3.17 In reviewing the three proposed agreements the Committee took the opportunity to explore the effectiveness of existing agreements.

3.18 According to FACS, which was responsible for the negotiation of the agreements, five of the 13 established agreements had been reviewed recently:

There were two things that happened. Firstly, legislation changes in either country can make particular parts of the agreement out of date and requiring revision. Similarly, changes in the arrangements in the countries—such as superannuation guarantee, means tests or other changes—also can require those sorts of alterations. For example, we have been discussing with Malta changes to the agreement there in relation to disability. So, yes, those are constantly under review.¹¹

3.19 FACS explained that the review of the agreement with Malta had not been triggered by a legislative change, but by a routine review of the agreements. FACS advised that Malta and Ireland were two countries currently out of step with Australia's standard agreement approach:

So progressively we have been changing those agreements and Malta was the next one that we started to move on in that revision. Shortly we will be negotiating with Ireland on a similar revision. So those agreements are constantly under review and either country is able to initiate a review and a renegotiation.¹²

Exchange rates

3.20 FACS advised that it obtains feedback from beneficiaries under social security agreements:

The beneficiaries in both countries are in contact with us through Centrelink, and Centrelink International Services, which is based in Hobart, provides regular feedback to us from people born in

10 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 18.

11 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 15.

12 Roger Barson, *Transcript of Evidence*, 16 June 2003, pp. 15-16.

those countries or people who are in receipt of an agreement pension through those countries.¹³

3.21 FACS reported relatively frequent misunderstandings and complaints about the impact of exchange rates under these agreements:

The exchange rates have had two impacts. Obviously they have an impact on the amount of foreign pension that a person receives in Australia as the interest rates fluctuate up and down—that is something that is not within our control, of course, because that is a commercial matter—but they also have an impact on Australian pensions that are paid because any change in the income received by a person impacts, through the means test, on the amount of Australian pension.¹⁴

3.22 Other issues that have been raised with FACS include subjects such as how the exchange rates work, what happens in a more volatile exchange rate climate and why a person is given a different rate by their bank than the rate which they are deemed to have received in the means test process. FACS emphasised the logistical difficulties involved in processing these payments:

I think you would appreciate that it is difficult, with that number of pensions coming into Australia, to deal with individual exchange rates, individual banking arrangements and the exchange rate actually received on the day.¹⁵

3.23 The Committee was informed that the process currently in place is that a notional exchange rate is taken, which normally is based on the Commonwealth Bank rate five days before the beginning of the month, which had been shortened from 15 days.¹⁶ As for the reason for the change from 15 days to five days:

We managed, with Centrelink, to bring the calculation date closer to the start of the month through technological improvements, basically. That is the rate that applies for that month. Where a customer is concerned that the actual rate received varies considerably from that, by five percent or more, they are able to have a review of their circumstances and that rate, and a change is made if necessary. It is a compromise solution to try to keep a relatively stable exchange rate rather than have day-to-day

13 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 16.

14 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 16.

15 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

16 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

variations, but one that is as close as possible to the period of payment.¹⁷

Whole of government approach

- 3.24 The NIA referred to the fact that the Queensland Government mentioned the desirability of a 'whole of government approach' in negotiations for these social security agreements. FACS added that not only Australia but other countries had also raised it:

The agreement with Belgium, for example, came out of discussions between the two countries on health and social security arrangements. In many of these countries the health insurance system is funded and dealt with as part of the social security system, so, yes, a number of the countries are negotiating combination agreements with each other. We have not done that yet. I think we considered that in the case of Belgium. The two negotiations on agreements proceeded at the same time with the same intent but, because of the different administration arrangements and very different nuances between the two systems, they actually went forward as separate agreements. It has mostly been raised simply because the other countries have combined those systems and they find it easier to deal with both.¹⁸

- 3.25 FACS has said that they were certainly willing to do that in any case where it was feasible at the time:

At times social security arrangements have a different priority for us and the country than perhaps do health insurance arrangements: social security arrangements for us have a far greater level of reciprocity and are, therefore, more important to us in terms of a mobile society.¹⁹

- 3.26 Mr Barson from FACS added: 'I can certainly see the time coming where we negotiate these as one parcel. It simply has not happened yet.'²⁰

17 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

18 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

19 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

20 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 17.

Future Agreements

- 3.27 Given that Australia has signed an agreement with Slovenia, the Committee inquired as to whether a similar agreement would be negotiated with other countries in the region.
- 3.28 FACS informed the Committee that they were discussing with the Minister the priorities that should be put on other potential agreement countries, including other countries in that region, such as the Czech Republic and Slovakia. However, no decision had been made on those priorities yet. FACS stated that they would be in a better position to answer once they had set out priorities for the next 12 months:

The negotiation of agreements is a fairly fluid matter because, while in principle it may be a good thing for the two countries to do, in Europe particularly a lot of the countries have been preoccupied with their own internal arrangements. For example, while it was agreed some time ago that our agreement with Switzerland would be a good thing to do, it has had to wait until other priorities have been dealt with.²¹

Budgetary concerns

- 3.29 The Committee noted that the ACT Government had expressed concern over the impact social security agreements have on State and Territory budgets.²²
- 3.30 Mr Barson indicated that FACS had invited further information from the ACT Government:
- I understand, although I cannot be certain, that the concern was about an expansion in the number of eligible pensioners and therefore costs to a state or territory in terms of concessions that the state or territory may extend to people. I think the reality with these agreements is that around 120 people nationally will become eligible for the first time.²³
- 3.31 FACS expressed the view that these agreements do not create a great impost on states and territories and that the impost would be far greater from changes in population or migration.²⁴

21 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 19.

22 National Interest Analysis (NIA): Agreement with Belgium, Annexure A; Agreement with Slovenia, Annexure A.

23 Roger Barson, *Transcript of Evidence*, 16 June 2003, pp. 19-20.

24 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 20.

- 3.32 The Committee was advised that as yet no response had been received from the ACT Government:

We responded to them when we received their concern and we will continue to talk with them. That is my understanding of it. If it is different then we will have to work with them on what it is.²⁵

- 3.33 The Committee notes that this issue arose in a previous report of this Committee.²⁶ In that instance the Committee stated:

We note the ACT and WA Government's concerns about the potential cost of concessions under these agreements and encourage the Commonwealth when negotiating future agreements to take this issue into account.²⁷

- 3.34 The Committee notes the absence of further concerns from the WA Government. Furthermore, the ACT Government, in response to an invitation by the Committee to comment on the proposed agreement, indicated that it would 'not be making a submission to the Committee on these matters at this time.'²⁸

Community awareness

- 3.35 The Committee believes that it is important that Australian residents are made aware of their rights under these agreements.²⁹ The Committee was interested to ascertain what steps FACS would take in implementing the agreements, to ensure that all interested beneficiaries were notified. Mr Barson responded that:

...Centrelink has country of birth information on its customers. Centrelink through its own correspondence with those people will draw attention to it. We will have an advertising program prior to the introduction of each of these agreements, informing the public generally that they will be coming into place. We are also writing and sending publicity material to the relevant community groups.³⁰

25 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 20.

26 JSCOT, *Report 43: Thirteen Treaties Tabled in August 2001*, paras. 2.17-2.19.

27 JSCOT, *Report 43: Thirteen Treaties Tabled in August 2001*, para. 2.25.

28 ACT Government, *Submission 19*, p. 1.

29 In particular, the Committee notes that it has flagged this issue in a previous report, where the expatriate Southern Cross Group expressed concern at its findings that the vast majority of expatriates had no knowledge of the network of social security agreements being developed by the Australian Government. JSCOT, *Report 43: Thirteen Treaties Tabled in August 2001*, para. 2.22.

30 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 19.

- 3.36 The Committee inquired as to whether there were any gaps in this notification process that could be improved.
- 3.37 Mr Barson conceded that some people who had come into contact with Centrelink had said that they did not know about the agreements. While acknowledging this was an issue, he informed the Committee of the sometimes considerable difficulties involved in contacting people who may be eligible for benefits but who had not previously come into contact with Centrelink:

I think all we can do there is to continue to provide the information to the public. Of course, there are cases where people are out of the country and come into Australia and miss that publicity campaign, and we pick them up through their identifying their country of birth on first contact with Centrelink. But I must admit that it is difficult for us to bring it to somebody's attention unless we know they exist. Certainly there will be people who are future beneficiaries who will not have seen this as relevant to them at the time that it was advertised ... If we know they exist, they will get notification of it. If we do not know they exist, they will be notified the first time they come into contact with Centrelink.³¹

Agreement with Belgium

Currency controls

- 3.38 The Committee notes that the Chilean and Slovenian agreements contain a currency control provision but that there is not one in the agreement with Belgium.
- 3.39 While the negotiations with Belgium had commenced on the basis of Australia's typical agreements, a large number of the wordings in this agreement were not Australia's normal text as the agreement with Belgium had been negotiated in English from the Belgian side. Further, a currency control clause was not seen as being relevant to the particular situation in Belgium, and Belgium did not propose it in their English version of the text.³²

31 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 19.

32 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 20.

- 3.40 Further, while currency control provisions have been in previous agreements, they do not have a day-to-day impact and – overall – they are ‘not one which we see is necessary for including in future agreements’.³³

‘Inside’ and ‘Outside’ Australia rates

- 3.41 The Committee was interested in Article 17 of the Agreement with Belgium, which enables people in Australia to be paid the ‘outside Australia rate’ of pension if that rate was higher than the ‘inside Australia rate’. Mr Hutchinson described the operation of the two tests:

For people in Australia who do not have 10 years residence and who use their periods of insurance or contributions in the other country to get early access to an Australian age pension, until they have 10 years Australian residence any foreign pension they receive is directly deducted from the rate of Australian pension otherwise payable. So if the maximum Australian pension rate is \$10,000 and they are getting a \$6,000 Belgian pension, we would pay them \$4,000, subject to their having no other income. Inside Australia everybody is paid based on a flat rate subject to the income test. Outside Australia we proportionalise pensions, so that somebody who has lived in Australia for less than 25 years will get a pro rata Australian pension. So someone living in Belgium would get 15/25th of an Australian pension if they had had 15 years of working life residence.³⁴

- 3.42 By allowing payment of the outside Australia rate where this was higher than the inside Australia rate, article 17 was a concession given by Australia:

What we have done in some agreements—and it has been a negotiated process—is to say that, if the rate the person would get outside Australia, under that pro rata calculation, is higher than the rate that they would get in Australia under a direct deduction method, then we will pay the person in Australia the higher outside Australia rate. It is possible that somebody on X level of foreign pension income could get more outside Australia because of the way the income test is applied outside Australia compared with the direct deduction method. It is a concession we give to

33 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 20.

34 Peter Hutchinson, *Transcript of Evidence*, 16 June 2003, pp. 20-21.

ensure that the person gets the benefit of the higher outside Australia rate.³⁵

Agreement with Chile

Chilean pension of mercy payments

3.43 The Agreement with Chile refers to Chilean pension of mercy payments, which relate to issues in Chile between 11 September 1973 and 10 March 1990. The Committee was informed that there is a fixed group of around 400 people in Australia who are entitled to receive a Chilean pension of mercy, but that this group would decline over time:

Of those, 70 are currently in receipt of social security income support in Australia. So, depending on their other income, we would expect those 70 people and perhaps a few more to benefit from that particular provision.³⁶

3.44 The Agreement obliges Australia to disregard, from all its social security income tests, Chilean pension of mercy payments. According to Mr Barson, any income received has an impact on a person under the Australian pension system through the means test:

This means that there are people who have been receiving the Chilean pensions of mercy and have had those pensions treated as income for Australian means test purposes; therefore, the Australian pension that would be payable to that person has been reduced accordingly.³⁷

3.45 FACS advised that there had been 'quite a bit of dissatisfaction' with this from the community on the grounds that these particular payments were not made in the nature of a pension, or with the intention of being a pension:

They are reparations for human rights abuse or political violence, and it is not appropriate to treat those payments as income.³⁸

3.46 This agreement resolves this issue through clauses which exclude the pensions of mercy from treatment as income for the purpose of the

35 Peter Hutchinson, *Transcript of Evidence*, 16 June 2003, p. 21.

36 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 22.

37 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 21.

38 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 21.

Australian means tests. FACS saw this as an appropriate way of dealing with those particular payments. FACS told the Committee that Australia had been assured by Chile during negotiations that the payments did not represent income forgone or a payment for income that was lost, but were treated as an ex gratia payment relating to people who were victims of human rights abuse or political violence.³⁹ FACS also advised the Committee that the basis of the agreement was that wherever payments could be identified as separate from any other pension payment the person may have been receiving, then the Chilean pension of mercy would not be treated as income:

So it is incumbent on the person to be able to demonstrate that a particular part of the payment is a pension of mercy, and they are able to do that with documentation from the Chilean government.⁴⁰

- 3.47 The Committee was advised that the mercy pensions were not lump sum payments and that it was not possible for a Chilean to choose a lump sum rather than a pension-style payment under Chilean law:

They are made in a similar way to a pension, and this has been part of the confusion about its treatment. One way of looking at these payments is as a regular source of income. However, we have been convinced that the appropriate way to regard them is as a payment of reparation for previous damage.⁴¹

- 3.48 Mr Barson advised the Committee that calculation of the amount was variable 'based on a rather complex calculation', but which would probably amount to under \$1 000 per year.⁴²

Amnesty concerns

- 3.49 The Committee sought comment in relation to concerns raised by the forum organised by the Chilean community in New South Wales and the ACT which studied the agreement. The concerns related to the provision exempting pensions of mercy for social security rate calculation purposes, as the exemption was not retrospective and that there was no amnesty for those who may not have declared that they receive Chilean pensions

39 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 21.

40 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 22.

41 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 22.

42 Roger Barson, *Transcript of Evidence*, 16 June 2003, pp. 22-23.

(including pensions of mercy), as required by the Australian Social Security Law.⁴³

- 3.50 Mr Barson contested this view on the grounds that the Government had a general social security amnesty from 20 September 2000 to 19 January 2001 under which people were able to declare the receipt of a foreign pension without penalty:

The view of the government is that that was an appropriate amnesty and there is no need for a further amnesty on this occasion because it is assumed that people will have already declared under the previous amnesty any income that they are receiving. Some 284 people declared for the first time as part of that previous amnesty that they were receiving Chilean pensions.⁴⁴

- 3.51 The Committee inquired as to what would happen if someone came forward now.

- 3.52 Mr Barson responded that as the amnesty was no longer in place people who had not declared the payment could be liable for a debt:

We would be happy to discuss with them what income they have been receiving from Chile and how that would affect their Australian pension. There is of course an existing obligation that people declare their income from all sources. Centrelink would be talking with them about what impact, if any, receipt of that money should in retrospect have had on their Australian pension, and there may be a debt.⁴⁵

Exemptions in other social security agreements

- 3.53 The Committee was interested to find out whether any of the other 13 social security agreements that are in force contain an exemption similar to that given to the Chilean pension of mercy payment.

- 3.54 Mr Hutchinson from FACS indicated that there was an exemption in the Italian agreement for a welfare supplement that Italy pays into Australia, which was not considered as income because:

... it is a welfare supplement that Italy pays—and most countries have a welfare type payment similar to our payments. To the best of my knowledge, Italy is the only country that actually pays it

43 Annexure A, tabled with the NIA and Treaty text, p. 1.

44 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 23.

45 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 23.

outside Italy. What we do when we pay our payments into other countries is we normally exempt the welfare payments that they may make, because they are generally means tested as well and it is obviously necessary to avoid circularity in income testing... I guess Italy would be subsidising our welfare payments if we did not do it.⁴⁶

- 3.55 Mr Barson noted the existence of an exemption that exists in law for Holocaust payments by several countries to people who are victims of the Holocaust in Europe:

That was recently extended to include payments made by two other countries ... France and the Netherlands. That is an exception that has existed for some time in law but has not been done as part of a social security agreement. It was also done that way, I understand, because it was a payment that was made across a range of countries for a single event; so it was more appropriate at the time to deal with it in the law rather than in an agreement.⁴⁷

- 3.56 Concerned that there might be comparisons between communities, the Committee inquired as to whether there were any other countries with whom Australia has an existing agreement where an exemption issue had arisen and has not been able to negotiate it.

- 3.57 FACS was not aware of any countries where that had happened. However, countries where that may have happened in different circumstances, such as Austria and Germany, had already been addressed through the legislative arrangement for Holocaust victims.

- 3.58 The Committee was advised that there was some interest in other countries such as Uruguay for a similar exemption:

If we were to proceed with an agreement with them, I am told by community groups that there are [reparation] payments that they would wish to see exempted...but we are not in negotiations with Uruguay so at the moment it is not an issue.⁴⁸

- 3.59 The Committee considers the inclusion of this clause to be appropriate, especially in light of the human rights abuses that occurred in Chile. It also seems to be consistent with the approach taken in relation to the exemption in the agreement with Italy referred to above and the exemptions that Australia provides for Holocaust victims.
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46 Peter Hutchinson, *Transcript of Evidence*, 16 June 2003, p. 24.

47 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 24.

48 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 24.

Agreement with Slovenia

Negotiations

- 3.60 The Committee was interested in how negotiations progressed with Slovenia. FACS responded that there were no disagreements on matters of any substance:

The answer is that the negotiations were—one should never say ‘very easy’—not difficult. We found that the government of Slovenia was very interested and very positive about the value of this agreement. In fact, it was anxious to see it concluded earlier rather than later.⁴⁹

Double coverage

- 3.61 The Committee inquired as to why there was a double coverage provision in the Belgian and the Chilean agreements, but not in the Slovenian agreement.

- 3.62 Mr Barson informed the Committee that the inclusion of double coverage provisions had been a recent issue for FACS and there were only three existing agreements that had included double coverage provisions. The Slovenian agreement did not include a double coverage provision because the negotiations had started some years earlier:

In that initial round of negotiations, the countries that we were dealing with did not, at that stage, want to include superannuation guarantee under the arrangements that applied. So the Slovenian agreement just followed through on that.⁵⁰

- 3.63 FACS advised that it may review arrangements with some of these countries over the next few years where the superannuation guarantee was raised and discussed but had not been included in the agreement for various reasons:

I expect that we will be approaching those countries over the next few months and asking whether they would like now to reopen those discussions, at some future time, and include superannuation guarantee. So it is simply a matter of timing.⁵¹

49 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 18.

50 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 25.

51 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 25.

Implementation

Enabling legislation

- 3.64 The Committee was advised that the only legislative amendment required to implement the proposed treaty actions will be the annexure of the social security agreements to the Social Security (International Amendments) Act.⁵²

Entry into force

- 3.65 The Committee observed that the start date for each of the proposed treaty actions was different. While the proposed date for the Belgium agreement was 1 July 2005, the proposed date for both the Chile and Slovenia agreements was 1 January 2004.

- 3.66 The Committee inquired as to the reason for the difference in the start dates. Mr Barson from FACS advised the Committee that:

The only differences are processes that need to be completed in both countries. Some countries need a longer lead time for their own parliamentary and approval processes.⁵³

Consultation

- 3.67 The Committee was advised that, in relation to the three social security agreements, FACS had sought the views of relevant community groups and State and Territory Governments, including consultation with the Australian Council of Trade Unions (ACTU) over double coverage principles.⁵⁴

- 3.68 The Committee was interested in the consultation process in relation to these social security agreements. FACS advised the Committee that:

We rely on our own state officers, who have contact with a large number of community organisations and with the embassies for those countries, to identify cultural groups or groups with a large

52 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 15.

53 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 15.

54 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 14.

constituency that it would be useful to write to. We identify as many as we can, and we spread the word as widely as we can. That is not to say that there are not individuals who are not affiliated with those community groups who may not have an interest, but simply that we try and spread the word through the community as best we can. It is not only our consultation process; the embassies also have contact with their own former residents and have their own mechanisms for advising people of these. Increasing use of the Internet means that we are increasingly now getting inquiries from all over the world from people who have found out about this agreement and had three years employment there in 1972. We are getting better at doing it or the communication system is getting better at ensuring that people have that understanding.⁵⁵

- 3.69 The Committee was also advised that ‘the community is generally supportive of the agreements and that no significant issues or concerns have been raised’.⁵⁶
- 3.70 The Committee was satisfied with the level of consultation in relation to the three agreements presented before the Committee.

Concluding remarks and recommendations

- 3.71 The Committee supports binding treaty action in relation to the four social security agreements. The Committee agrees with the view that these agreements ‘can boost the benefits of expatriates and save money for employers’.⁵⁷ The Committee continues to support the Government’s efforts to expand the network of social security agreements, in particular the inclusion of double coverage provisions in the agreements with Belgium and Chile. Furthermore, the Committee encourages the Government to pursue the inclusion of a double coverage provision in the upcoming review of the Slovenian agreement.

55 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 25.

56 Roger Barson, *Transcript of Evidence*, 16 June 2003, p. 14.

57 Paul Wastell, “Benefits abroad”, *HR Monthly*, May 2003, p. 42.

Recommendation 2

The Committee supports the proposed *Agreement with Belgium on Social Security* and recommends that binding treaty action be taken.

Recommendation 3

The Committee supports the proposed *Agreement with Chile on Social Security* and recommends that binding treaty action be taken.

Recommendation 4

The Committee supports the proposed *Agreement with Slovenia on Social Security* and recommends that binding treaty action be taken.