

Introduction

Purpose of the Report

- 1.1 This Report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of nine proposed treaty actions tabled in the 40th Parliament on 12 May¹ and 22 June 2004,² and subsequently in the 41st Parliament on 7 December 2004,³ specifically

12 May 2004

- *Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands (Canberra, 24 November 2003)*
- *Australia-Thailand Free Trade Agreement*

22 June 2004

- *Agreement between the Government of Australia and the Government of the United Arab Emirates relating to Air Services (Dubai, 8 September 2002)*

1 *Senate Journal*, 12 May 2004, p. 3387 and *House of Representatives Votes and Proceedings*, 12 May 2004, p. 1600.

2 *Senate Journal*, 22 June 2004, p. 3603 and *House of Representatives Votes and Proceedings*, 22 June 2004, pp. 1723-4.

3 *Senate Journal*, 7 December 2004, p. 233 and *House of Representatives Votes and Proceedings*, 7 December 2004, p. 100.

- *Agreement between Australia and Nauru concerning additional police and other assistance to Nauru (Melbourne, 10 May 2004)*
- *Agreement on Mutual Acceptance of Oenological Practices (Toronto, 18 December 2001)*
- *Constitution of the Asia Pacific Telecommunity (Bangkok, 1976) as amended (Colombo, 1991) as amended in New Delhi in 2002*
- *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000)*
- *WIPO Copyright Treaty (Geneva, 20 December 1996)*
- *WIPO Performances and Phonograms Treaty (Geneva, 20 December 1996).*

Briefing documents

- 1.2 The advice in this Report refers to the National Interest Analyses (NIAs) prepared for these proposed treaty actions. Copies of the NIAs are available from the Committee's website at <http://www.aph.gov.au/house/committee/jsct/index.htm> or may be obtained from the Committee Secretariat. These documents were prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty.
- 1.3 Copies of treaty actions and NIAs can also be obtained from the Australian Treaties Library maintained on the internet by the Department of Foreign Affairs and Trade (DFAT). The Australian Treaties Library is accessible through the Committee's website or directly at <http://www.austlii.edu.au/au/other/dfat>.

Conduct of the Committee's review

- 1.4 The Committee's review of the proposed treaty actions canvassed in this Report was advertised in the national press and on the Committee's website.⁴ In addition, letters inviting comment were sent
-

4 The Committee's review of the Australia-Thailand Free Trade Agreement and Maritime Agreement with France were advertised in *The Australian* on 26 May 2004 and 21 July 2004. Members of the public were advised on how to obtain relevant information and invited to submit their views to the Committee.

to all State Premiers and Chief Ministers and to individuals who have expressed an interest in being kept informed of proposed treaty actions such as these. A list of submissions and their authors is at Appendix A.

- 1.5 The Committee also took evidence at public hearings held on 26 July 2004 and 9 and 10 August 2004. A list of witnesses who gave evidence at the public hearing is at Appendix B. A transcript of evidence from the public hearing can be obtained from the Committee Secretariat or accessed through the Committee's internet site at <http://www.aph.gov.au/house/committee/jsct/index.htm>. The Committee in the 41st Parliament resolved that the evidence from the previous Parliament be used as a basis for this Report.

Committee comment

- 1.6 The Committee notes that, once again, legislation giving effect to treaty obligations has been introduced into the Parliament prior to the conclusion of the Committee's review of a proposed treaty action. The Committee has expressed its concern about this practice in reports tabled during the 40th Parliament and has made comments and recommendations accordingly.
- 1.7 Nonetheless, in relation to the *Australia-Thailand Free Trade Agreement* (TAFTA), legislation was introduced into the House of Representatives on 17 November 2004 and passed by the Senate the following day. This was prior to the Committee being formed in the 41st Parliament and completing its inquiry.
- 1.8 The Committee recognises that the expected entry into force of TAFTA on 1 January 2005 imposed strict deadlines that meant it was necessary for the legislation to be introduced the day after the opening of the 41st Parliament to enable its passage into law, and for relevant parties to prepare for its implementation.
- 1.9 However, the Committee reiterates its concern that the practice of introducing enabling legislation prior to the completion of any of the Committee's reviews could undermine its work, and requests that the practice be avoided where possible.