

Report 66

Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005

United Nations Convention against Corruption

Treaty between Australia and New Zealand Establishing Certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries

Singapore – Australia Free Trade Agreement Amendments

Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources

Agreement concerning the Use of Shoalwater Bay Training Area and Associated Facilities in Australia

Mutual Recognition Agreement on Conformity Assessment in Relation to Medicines Good Manufacturing Practice Inspection and Certification

Amendments to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-03)

Establishment of the Antarctic Treaty Secretariat

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Membership of the Committee

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Deputy Chair	Mr Kim Wilkie (MP)	
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Terms of reference

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

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions 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

ADF	Australian Defence Force
AFFA	Department of Agriculture, Fisheries and Forestry Australia
ASEAN	Association of South East Asian Nations
ATCM	Antarctic Treaty Consultative Meeting
ATS	Antarctic Treaty System
CEP	Committee for Environmental Protection
COP 1	First Conference of Parties
Cth	Commonwealth
DFAT	Department of Foreign Affairs and Trade
EC	Emulsifiable Concentrates
EEZ	Exclusive Economic Zone
EMG	Environmental Monitoring Group
GMP	Good Manufacturing Practice
HPFB	Health Products Food Branch
ICAC	Independent Commission Against Corruption
ITU	International Telecommunication Union
JSG	Joint Sectoral Group
MOU	Memorandum of Understanding

NIA	National Interest Analysis
NICNAS	National Industrial Chemicals Notification and Assessment Scheme
PIC	Prior Informed Consent
PIC/S	Pharmaceutical Inspection Cooperation Scheme
RAAF	Royal Australian Air Force
SAF	Singapore Armed Forces
SAFTA	Singapore-Australia Free Trade Agreement
SWBTA	Shoalwater Bay Training Area
TGA	Therapeutic Goods Administration
UNCAC	United Nations Convention Against Corruption
UNCLOS	United Nations Convention on the Law of the Sea
UNFCC	United Nations Framework Convention on Climate Change
US	United States
USA	United States of America
WRC-03	World Radiocommunication Conference 2003



List of recommendations

United Nations Convention Against Corruption

Recommendation 1

That the Attorney-General advise the Committee in writing of the Australian Government's intention to meet Australia's obligations under the *United Nations Convention Against Corruption* only through the means specified in the National Interest Analysis, particularly as stated in paragraphs 50, 51 and 52.

Recommendation 2

That the Attorney-General advise the Committee in writing that the Australian Government has no intention of using the external affairs power and the *United Nations Convention against Corruption* to pass legislation which has not been foreshadowed in the National Interest Analysis.

Recommendation 3

The Committee supports the *United Nations Convention Against Corruption* (New York, 31 October 2003) and recommends that binding treaty action be taken.

Treaty between Australia and New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries

Recommendation 4

The Committee supports the *Treaty Between the Government of Australia and the Government of New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries* and recommends that binding treaty action be taken.

Singapore–Australia Free Trade Agreement Amendments

Recommendation 5

The Committee supports the *Singapore–Australia Free Trade Agreement Amendments* and recommends that binding treaty action be taken.

Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources

Recommendation 6

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources* (Canberra, 30 August 2004) and recommends that binding treaty action be taken.

Agreement concerning the use of Shoalwater Bay Training Area and associated facilities in Australia

Recommendation 7

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the use of Shoalwater Bay Training Area and the use of associated facilities in Australia* and recommends that binding treaty action be taken.

Mutual Recognition Agreement on Conformity Assessment in relation to Medicines Good Manufacturing Practice Inspection and Certification

Recommendation 8

The Committee supports the *Mutual Recognition Agreement on Conformity Assessment in relation to Medicines Goods Manufacturing Practice Inspection and Certification between the Government of Australia and the Government of Canada* (Canberra 16 March 2005) and recommends that binding treaty action be taken.

Final Protocol and Partial Revision of the 2001 Radio Regulations made at the World Radiocommunication Conference

Recommendation 9

The Committee supports the *Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WTC-03)*, (Geneva on 4 July 2003) and recommends that binding treaty action be taken.

Establishment of the Antarctic Treaty Secretariat

Recommendation 10

The Committee supports *Measure 1 (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003 under the Antarctic Treaty, done at Washington on 1 December 1959* 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 nine proposed treaty actions. Two of these treaty actions were tabled in Parliament on 7 December 2004,¹ one treaty action was tabled on 15 March 2005 and six treaty actions were tabled on 11 May 2005.² These treaty actions are:

7 December 2004

- *Treaty between the Government of Australia and the Government of New Zealand Establishing Certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries (Adelaide, 25 July 2004)*³
- *United Nations Convention Against Corruption (New York, 31 October 2003)*

15 March 2005

- *Singapore – Australia Free Trade Agreement Amendments*

1 The Committee's reviews of other treaties which were also tabled on 7 December 2004 are contained in Reports 63, 64 and 65.

2 *House of Representatives Votes and Proceedings*, 7 December 2004, p. 99; *Senate Journal*, 7 December 2004, p. 233; *House of Representatives Votes and Proceedings*, 15 March 2005, p. 245; *Senate Journal*, 15 March 2005, p. 499; *House of Representatives Votes and Proceedings*, 11 May 2005, p. 304; *Senate Journal*, 11 May 2005, p. 600.

3 This treaty was previously tabled in August 2004. The inquiry lapsed with the prorogation of the 40th Parliament. It was re-tabled in the 41st Parliament.

11 May 2005

- *Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources (Canberra, 30 August 2004)*
- *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Use of Associated Facilities in Australia*
- *Mutual Recognition Agreement on Conformity Assessment in Relation to Medicines Good Manufacturing Practice Inspection and Certification between the Government of Australia and the Government of Canada (Canberra, 16 March 2005)*
- *Amendments to Annex III [2005] ATS 9, and additional Annex VI [2005] ATNIF 5, to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998 (Geneva, 24 September 2004)*
- *Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-03), done at Geneva on 4 July 2003*
- *Measure 1 (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003, under the Antarctic Treaty, done at Washington on 1 December 1959*

Briefing documents

- 1.2 The advice in this Report refers to the National Interest Analyses (NIAs) prepared for the proposed treaty actions. These documents are prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty. Copies of the NIAs may be obtained from the Committee Secretariat or accessed through the Committee's website at

www.aph.gov.au/house/committee/jsct/7dec2004/tor.htm

www.aph.gov.au/house/committee/jsct/15march05/tor.htm

www.aph.gov.au/house/committee/jsct/11may2005/tor.htm

- 1.3 Copies of treaty actions and 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 from <www.austlii.edu.au/au/other/dfat>.

Conduct of the Committee's review

- 1.4 The review contained in this report was advertised in the national press and on the Committee's website.⁴ Letters inviting comment were sent 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 received evidence at public hearings held on 7 and 14 March 2005 and 20 June 2005. A list of witnesses who appeared before the Committee at public hearings is at Appendix B. Transcripts of evidence from the public hearings may be obtained from the Committee Secretariat or accessed through the Committee's website at:

www.aph.gov.au/house/committee/jsct/7dec2004/hearings.htm

www.aph.gov.au/house/committee/jsct/15march05/hearings.htm

www.aph.gov.au/house/committee/jsct/11may2005/hearings.htm

⁴ The Committee's review of the proposed treaty actions was advertised in *The Australian* on 9 February and 15 June 2005. Members of the public were advised on how to obtain relevant information and invited to submit their views to the Committee, both in the advertisement and via the Committee's website.

United Nations Convention Against Corruption

Introduction

- 2.1 The *United Nations Convention Against Corruption* (New York, 31 October 2003) ('UNCAC') is a multilateral agreement designed to enhance international efforts to combat corruption.
- 2.2 UNCAC is the first binding multilateral agreement to comprehensively deal with corruption.¹ UNCAC encourages Parties to adopt anti-corruption measures, provides a standardised approach to criminalisation and ensures Parties have systems in place to facilitate law enforcement cooperation.²

Features of the Agreement

- 2.3 UNCAC provides for a range of measures relating to corruption prevention and criminalisation, international cooperation in combating corruption, asset recovery, training and technical assistance, and the establishment of a Conference of the Parties to the Convention.

1 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 21.

2 National Interest Analysis (NIA), para. 4.

- 2.4 UNCAC contains both mandatory and optional provisions, leaving much of the detailed implementation to the Parties.³

Preventing corruption

- 2.5 With regard to preventing corruption, UNCAC establishes a number of key responsibilities, including the following provisions:
- Parties are required to implement and maintain effective coordinated anti-corruption policies that reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability (Article 5)
 - Parties are required to ensure that recruitment and employment in the public sector are based on principles of merit, accountability and transparency, and that public sector employees are appropriately educated on issues of corruption (Articles 7 and 8)
 - Parties must ensure that the procurement and management of public finances occur in accordance with transparent and accountable processes (Article 9)
 - Parties must take measures to strengthen integrity and prevent opportunity for corruption among members of the judiciary (Article 11)
 - Parties are obliged to enhance accounting and auditing standards in the private sector and where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures (Article 12)
 - Parties are required to implement two measures to prevent money-laundering (Article 14). First, Parties are required to institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or values. Second, Parties must ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering have the ability to cooperate and exchange information at the national and international levels.⁴

3 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 22.

4 NIA, paras 10-13.

Criminalisation

- 2.6 With regard to the criminalisation of corruption, UNCAC establishes a number of key responsibilities, including the following provisions:
- Parties are required to criminalise bribery of national and foreign public officials as well as officials of public international organisations (Articles 15, 16). Parties are also required to criminalise embezzlement and misappropriation of property by a public official (Article 17)
 - Parties are encouraged to criminalise other corruption related offences, such as trading in influence and abuse of functions involving public officials or any other person (Articles 18, 19, 20)
 - Parties are encouraged to criminalise corruption related offences in the private sector (Articles 21, 22).⁵
- 2.7 UNCAC requires Parties to implement a range of procedural measures to assist with the criminalisation of corruption related offences.⁶
- 2.8 In relation to the prosecution of offences, UNCAC requires Parties, as may be necessary, to criminalise obstructions of justice, to adopt measures establishing the criminal or civil liability of legal persons for participation in UNCAC related offences, and to criminalise the participation in, preparation for, or an attempt to commit an offence under UNCAC. States are encouraged to adopt long statute of limitations periods in which to commence proceedings for offences under UNCAC (Articles 25-29).⁷

International cooperation

- 2.9 One of the advantages of a multilateral agreement dealing with corruption is the increased possibility for international cooperation between Parties. UNCAC contains a number of provisions to facilitate cooperation between Parties in order to more effectively prevent and prosecute corruption.
- 2.10 UNCAC includes provisions for extradition based on UNCAC offences. The key provision providing that all offences under UNCAC

5 NIA, paras 14-16.

6 NIA, para. 14.

7 NIA, paras 17-21.

are deemed to be included as extraditable offences in any extradition treaty existing between the Parties (Article 44(4)).⁸

- 2.11 Under UNCAC, Parties are required to provide mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by UNCAC (Article 46).⁹

Recovery of assets

- 2.12 UNCAC contains a number of provisions relating to the recovery of assets obtained through corruption. These include establishing mechanisms for recovery of property directly through a Party's domestic law (Article 53), enhancing recovery and confiscation of property through international cooperation (Article 55), and special cooperation between Parties involving disclosure of information without prior request where it might assist in an investigation, prosecution or judicial proceeding (Article 56).
- 2.13 Under Article 57, Parties must give priority to requests from other Parties for the return of confiscated assets or restoration to legitimate owners to the extent permitted by domestic law. Where property is obtained through embezzlement, the property would be returned to the State requesting it. Where property is obtained through any other means covered by UNCAC, the property would be returned subject to proof of ownership or recognition of damage. In all other cases, priority consideration would be given to the return of confiscated property to the requesting State, to the return of such property to prior legitimate owners or to compensate victims.¹⁰

Scope of Commonwealth power

- 2.14 During the Committee's examination of UNCAC two issues were raised regarding the scope of the Commonwealth's jurisdiction if UNCAC were to be ratified:
- first, to what extent does UNCAC potentially confer on the Commonwealth substantial additional jurisdiction and

8 NIA, para. 28-31.

9 NIA, paras 32-35.

10 NIA, para. 42.

- second, what effect does the mandatory/discretionary language of provisions within UNCAC have on that potential additional jurisdiction?

2.15 In exploring these issues, the Committee considered the potential impact of UNCAC on a number of specific possibilities. For instance, could the Commonwealth:

- establish a national Independent Commission Against Corruption (ICAC)¹¹
- legislate for the funding of candidates for elected office and the funding of political parties, either at a federal, state or local level¹²
- legislate to prevent corruption in the judiciary, either at a Federal or State level?¹³

Additional jurisdiction

2.16 The Committee first considered whether UNCAC potentially confers substantial additional jurisdiction on the Commonwealth. A representative from the Attorney-General's Department advised that:

Australia, under the external affairs power, would have the power to take measures that reasonably implement the obligations under that article.¹⁴

2.17 The conclusion drawn from this advice, and from the provisions of UNCAC itself, is that UNCAC potentially confers on the Commonwealth substantial additional jurisdiction. Whether or not the Commonwealth Parliament chooses to use this additional jurisdiction to implement the terms of UNCAC is a separate issue.¹⁵

11 *Transcript of Evidence*, 7 March 2005, p. 24.

12 *Transcript of Evidence*, 7 March 2005, p. 25.

13 *Transcript of Evidence*, 7 March 2005, p. 27.

14 Mr Greg Manning, *Transcript of Evidence*, 7 March 2005, p. 26.

15 The Attorney-General's Department advised the Committee that no exploration has been undertaken of the extent to which the treaty would confer additional legislative power on the Commonwealth and that it is a more usual policy process to first determine the policy objectives to be achieved and then consider what legislative power is available to implement those objectives. Attorney-General's Department, *Submission 7.1*, p. 1.

- 2.18 As way of background, section 51(xxix) of the Australian Constitution enables the Australian Parliament to make laws for peace, order and good government with respect to external affairs.¹⁶
- 2.19 The scope of the external affairs power is considerable. The High Court has held that the Commonwealth Parliament has the legislative power to implement obligations under any treaty, regardless of the subject matter of the treaty.¹⁷ The external affairs power also extends Commonwealth jurisdiction over matters that were traditionally considered State matters.¹⁸
- 2.20 The scope of the external affairs power is limited by:
- express or implied Constitutional limitations¹⁹
 - the requirement that the treaty must be genuine or bona fide
 - the requirement that to the extent that legislation relies on the external affairs power, it must be a reasonable and appropriate means of giving effect to the treaty.²⁰
- 2.21 The Committee received a submission from Dr Simon Evans regarding the *Melbourne Corporation* doctrine and its effect as an implied Constitutional limitation.²¹
- 2.22 Dr Evans suggests that ratification of UNCAC is unlikely to allow the Commonwealth to enact anti-corruption legislation that applied to official conduct by members of state parliaments, state executives and state courts because:

16 Anne Twomey, *Federal Parliament's Changing Role in Treaty Making and External Affairs*, Research Paper 15 1999-2000, Parliament of Australia Parliamentary Library, p. 23.

17 Senate Legal and Constitutional Committee, *Trick or Treaty? Commonwealth Power to Make and Implement Treaties*, November 1999, Chapter 5, p. 76; Anne Twomey, *Federal Parliament's Changing Role in Treaty Making and External Affairs*, Research Paper 15 1999-2000, Parliament of Australia Parliamentary Library, p. 26. *Commonwealth v Tasmania* (1983) 158 CLR 1.

18 Senate Legal and Constitutional Committee, *Trick or Treaty? Commonwealth Power to Make and Implement Treaties*, November 1999, Chapter 5, p. 76.

19 *Horta v The Commonwealth* (1994) 181 CLR, 194-5.

20 *Commonwealth v Tasmania* (1983) 158 CLR 1; *Richardson v The Forestry Commission* (1988) 164 CLR 261; see also *Victoria v The Commonwealth* (1996) 187 CLR 416. Anne Twomey, *Federal Parliament's Changing Role in Treaty Making and External Affairs*, Parliament of Australia Parliamentary Library, Research Paper No. 15 1999-2000, pp. 26-27; Senate Legal and Constitutional Committee, *Trick or Treaty? Commonwealth Power to Make and Implement Treaties*, November 1999, Chapter 5, p. 76.

21 Dr Simon Evans, *Submission 4*, p. 1.

The power to implement the Treaty under s. 51(xxix) would be limited by the *Melbourne Corporation* constitutional implication that preserves the continued existence of the states and their separately organised governments.²²

- 2.23 In *Melbourne Corporation v The Commonwealth*,²³ the High Court held that ‘s. 48 of the *Banking Act 1945* (Cth), which prevented private banks from conducting business with states and their agencies, was invalid as it was inconsistent with the fundamentally federal nature of the Constitution’.²⁴
- 2.24 The High Court stated in a later decision that the *Melbourne Corporation* doctrine is based on ‘the constitutional conception of the Commonwealth and the States as constituent entities of the federal compact having a continuing existence reflected in a central government and separately organised State governments’.²⁵
- 2.25 Dr Evans suggests that the High Court is likely to strike down Commonwealth legislation that purported to define and provide for the regulation, investigation and prohibition of corrupt conduct by members of state parliament, state executives and states courts in *the discharge of their functions as state officials* based on the development of the *Melbourne Doctrine*.²⁶ In Dr Evans’ view UNCAC is therefore unlikely to have such a pervasive impact on states and territories because ‘it is inconsistent with the continuance of state governments “separately organised” in a federal system for the Commonwealth to attempt to discharge the function of the states to define that machinery’.²⁷
- 2.26 Dr Evans suggests that there are two questions concerning UNCAC and the *Melbourne Corporation* doctrine that are more difficult to answer. They are, whether the Commonwealth could validly enact anti-corruption legislation that applied to members of state parliament, state executives and state courts first, for *non-official* conduct and second, in their dealings with the Commonwealth government or exercise of Commonwealth functions.²⁸

22 Dr Simon Evans, *Submission 4*, pp. 1 and 3.

23 *Melbourne Corporation v The Commonwealth* (1947) 74 CLR 31.

24 Dr Simon Evans, *Submission 4*, p. 1.

25 *Queensland Electricity Commission v The Commonwealth* (1985) 159 CLR 192 at 218. Cited in Dr Simon Evans, *Submission 4*, p. 2.

26 Original emphasis. Dr Simon Evans, *Submission 4*, p. 2.

27 Dr Simon Evans, *Submission 4*, p. 3.

28 Dr Simon Evans, *Submission 4*, p. 3.

2.27 Dr Evans notes in conclusion that much depends on the precise form of the legislation and the facts presented to the Court. Where implementing legislation is drafted in a sufficiently general way, and where it did not extend to high level state officials, it is possible that the High Court would consider it compatible with the federal nature of the Constitution.²⁹

Effect of mandatory/discretionary provisions

2.28 The second issue raised by the Committee during its examination of UNCAC was whether the nature of the obligation under UNCAC, that is, whether a provision is mandatory, discretionary or optional, changes the extent of the Commonwealth's power to legislate for it.

2.29 UNCAC contains a number of mandatory, discretionary and optional provisions which provide different levels of obligation for Parties. For example:

- Article 12 states that 'each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector' and is an instance of a mandatory provision.
- Article 6 states that 'each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption' and is an instance of a discretionary provision.
- Article 7(3) states that 'each State Party shall also consider taking appropriate legislative and administrative measures ... to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties' and is an instance of an optional provision.³⁰

2.30 It is likely that the Commonwealth could still legislate to implement discretionary as well as mandatory obligations through the external affairs power. The Attorney-General's Department advised the Committee that the extent of the Commonwealth's power to legislate to give effect to treaty obligations will involve a consideration of the exact nature of the obligations contained in the treaty.³¹ They further advised that:

29 Dr Simon Evans, *Submission 4*, p. 3.

30 Emphasis added for each Article.

31 Attorney-General's Department, *Submission 7.1*, p. 1.

For legislation that implements a treaty to be a valid exercise of the external affairs power, the legislation must be appropriate and adapted to fulfilling the obligations in the treaty. Depending on the exact language used, discretionary treaty language may form the basis of legislation that is a valid exercise of the external affairs power.³²

Summary

- 2.31 The Committee considers that section 51(xxix) ‘the external affairs power’ of the Constitution is not always an ideal basis from which to legislate, particularly where the treaty has the potential to significantly impact on the states and territories. The Committee recognises that there are instances when the external affairs power has been used in conflict with the will of the States and Territories, such as in the *Tasmanian Dams Case*³³ and the *Human Rights (Sexual Conduct) Bill 1994 (Cth)*,³⁴ and the Committee also recognises that the potential exists for this to occur again in the future. The Committee also notes that a framework of negotiation and consultation with the States and Territories, including bodies such as the Standing Committee on Treaties, has been established to more effectively involve states and territories in the treaty making process.³⁵
- 2.32 Moreover, the Committee notes that the issues addressed here could potentially be issues with every treaty that the Commonwealth enters into. However, while the Commonwealth continues to enter into treaties using the external affairs power of the Constitution, the Committee expects that a practical and reasonable approach will be taken when meeting its obligations under that treaty.

32 Attorney-General’s Department, *Submission 7.1*, p. 1.

33 In *Tasmania v Commonwealth* (1983) 158 CLR 1, the Commonwealth enacted the *World Heritage Properties Conservation Act 1983* using the external affairs power and the *World Heritage (Western Tasmania Wilderness) Regulations* which, among other things, prohibited the construction of a dam on the Franklin River in Tasmania without the consent of the Commonwealth Minister.

34 In 1994, the Commonwealth Parliament enacted the *Human Rights (Sexual Conduct) Bill 1994 (Cth)* as a response to Tasmanian laws that criminalised sexual acts “against the order of nature”, in public and in private. The Commonwealth Act did not specifically override the Tasmanian law but rather entrenched the right to sexual privacy through reference to Article 17 of the International Covenant on Civil and Political Rights.

35 The Standing Committee on Treaties consists of senior Commonwealth and State and Territory officers who meet to identify and negotiate treaties that might impact on States and Territories. It was established as part of the 1996 package of reforms to the treaty making process.

Recommendation 1

That the Attorney-General advise the Committee in writing of the Australian Government's intention to meet Australia's obligations under the *United Nations Convention Against Corruption* only through the means specified in the National Interest Analysis, particularly as stated in paragraphs 50, 51 and 52.

Recommendation 2

That the Attorney-General advise the Committee in writing that the Australian Government has no intention of using the external affairs power and the *United Nations Convention against Corruption* to pass legislation which has not been foreshadowed in the National Interest Analysis.

Implementation

- 2.33 Implementation of Australia's obligations under UNCAC was raised in the discussion on the scope of the Commonwealth's power. Representatives of the Attorney-General's Department advised the Committee that no changes to Commonwealth legislation are required to implement Australia's obligations under UNCAC.³⁶ Outlined below is advice from the National Interest Analysis and representatives of the Attorney-General's Department on how Australia's obligations under UNCAC could be met.
- 2.34 The National Interest Analysis and the Attorney-General's Department advised the Committee that all of Australia's obligations under UNCAC can be met through existing legislation or administrative measures.³⁷ Australia has
- systems for the management and accountability of public money at the Commonwealth level under the Financial Management and Accountability Act and the Commonwealth Authorities and Companies Act; regulation of financial institutions and corporations through legislation such as the

³⁶ Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 23.

³⁷ NIA, para. 50 and Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 23.

Corporations Act, the Australian Securities and Investments Commission Act and the Australian Prudential Regulation Authority Act; and also the creation of our anti-money-laundering system under the Financial Transaction Reports Act.³⁸

2.35 Implementation of the mutual assistance extradition provisions in Chapter IV of UNCAC will require regulations to be made under the *Mutual Assistance in Criminal Matters Act 1987* (Cth) and the *Extradition Act 1988* (Cth).³⁹ The Attorney-General's Department informed the Committee that 'these regulations will provide that State Parties to [UNCAC] are declared to be parties with which mutual assistance and extradition can be done'.⁴⁰

2.36 Regarding the criminalisation of corruption and corruption related offences, the Attorney-General's Department advised the Committee that

The primary criminalisation for Australia is through the bribery and foreign bribery offences in the Criminal Code and offences for improperly dealing with public money under the Financial Management and Accountability Act and various provisions of the Corporations Act.⁴¹

Entry into force

2.37 UNCAC will enter into force 90 days after the date from which thirty States have ratified it. As at 29 April 2005 UNCAC had 119 signatories and 13 ratifications.

Costs

2.38 There may be some costs associated with meeting UNCAC obligations. It is likely that the cost of law enforcement activities under UNCAC will be met through existing resources. There may also be costs incurred through activities of the Conference of the

38 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 22.

39 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 23, see also NIA, para. 50.

40 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 23.

41 Ms Joanne Blackburn, *Transcript of Evidence*, 7 March 2005, p. 22.

Parties. However, the rules governing the payment of expenses will be discussed and agreed on by the Conference of the Parties.

Consultation

2.39 Consultation with the States and Territories on UNCAC was undertaken through the Standing Committee on Treaties, relevant ministerial committees and a series of dedicated information sessions.⁴² As part of the consultation process, the states and territories looked at whether their respective legislation complies with UNCAC's obligations.⁴³ Each State and Territory, with the exception of the Australian Capital Territory, found that no new legislation or amendments to existing legislation were required to comply with UNCAC, although some of the legislation could be improved.⁴⁴ The Australian Capital Territory indicated that no new amendments to its legislation were required to comply with UNCAC.⁴⁵

Conclusion and recommendation

2.40 The Committee recognises the destructive effects that corruption can have on society, such as the undermining of democracy and the rule of law, the distortion of market forces and the facilitation of associated activities such as organised crime and terrorism. The Committee believes that UNCAC is an important step in combating corruption and that binding treaty action will further Australia's interests in this area.

42 NIA, para. 56.

43 NIA, Consultation Annex, para. 12

44 NIA, Consultation Annex, para. 12.

45 NIA, Consultation Annex, para. 13.

Recommendation 3

The Committee supports the *United Nations Convention Against Corruption* (New York, 31 October 2003) and recommends that binding treaty action be taken.

Treaty between Australia and New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries

Introduction

- 3.1 The *Treaty between the Government of Australia and the Government of New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries* (Adelaide, 25 July 2004) (the Treaty) will define the Exclusive Economic Zone (EEZ) and continental shelf boundaries between Australia and New Zealand in the Tasman Sea and adjacent areas of the south-western Pacific Ocean. There are currently no agreed maritime boundaries between the two countries.

Background

- 3.2 The NIA provides that under the 1982 United Nations Convention on the Law of the Sea (UNCLOS) coastal States are entitled to a continental shelf and EEZ of up to 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.¹

¹ National Interest Analysis (NIA), para. 7.

Where the natural prolongation of a coastal State's landmass extends beyond 200 nautical miles, the State is entitled to an additional area of shelf within limits established under UNCLOS. The maximum extent of the continental shelf in these circumstances is determined by a complex set of rules, but in no one case can it exceed the greater of 350 nautical miles from the baseline or 100 nautical miles from the 2500-metre isobath (a line connecting all points lying at a depth of 2500 metres).² Where the entitlements of States overlap, as they do with Australia and New Zealand, it becomes necessary to delimit maritime boundaries in order to provide certainty of jurisdiction and thus a secure basis for the resources of the maritime zones to be exploited.³

Features of the Agreement

- 3.3 The Department of Foreign Affairs and Trade informed the Committee that the EEZ boundaries between Australia and New Zealand are delimited in six places along the line of equidistance:

Firstly, the EEZ between Norfolk Island and Three Kings Island; the EEZ between Macquarie Island and Campbell and Auckland islands; the small area of extended continental shelf north of Macquarie Island and west of Auckland Island; another small area of extended continental shelf south-east of Macquarie Island and south-west of Auckland island; the extended continental shelf between Lord Howe Island and New Zealand, including the area of extended shelf associated with West Norfolk Ridge to the south of Norfolk Island; and the extended continental shelf on Three Kings Ridge east of Norfolk Island.⁴

- 3.4 However, not all of the boundary runs along the equidistance line. Where an isolated island of one country lies close to the much longer coastline of another country, it is consistent with international law and practice for the boundary to be located closer to the isolated island.⁵ The Department of Foreign Affairs and Trade went on to explain that:

2 NIA, para. 7.

3 NIA, para. 9.

4 Mr James Larsen, *Transcript of Evidence*, 14 March 2005, p. 3.

5 NIA, para. 18.

The extended continental shelf between Lord Howe Island and New Zealand is divided in such a way as to give some weight to Lord Howe Island, although less than the full weight the line of equidistance between the nearest points of Australian and New Zealand territory would have represented. Even so, this is an equitable result for Australia, given that the international law on maritime delimitation gives less weight to small isolated islands than to mainland territory.⁶

- 3.5 Concerning the maritime boundaries between Macquarie, Auckland and Campbell Islands being drawn back along Australia's EEZ, the Committee heard evidence that:

It would be very difficult for Australia to argue – in fact, it cannot argue – that it is the natural prolongation of Macquarie Island, because it does not actually have any connection with it. That is the reason why Australia would not get a larger part of that area.⁷

- 3.6 The Treaty does not delimit the maritime boundaries (territorial sea, EEZ and continental shelf) between the Australian Antarctic Territory and New Zealand's Ross Dependency. New Zealand, which has not yet declared an EEZ in this area, was not willing to delimit these boundaries for the time being.⁸

- 3.7 Comparisons between the New Zealand-Australia maritime boundary negotiation and the East Timor-Australia maritime boundary negotiation arose during the course of the public hearing. The Attorney-General's Department outlined the general differences between the two negotiations:

Australia does have a claim to an extended continental shelf as a natural prolongation of its land territory in the area between Timor Leste and Australia. The other significant difference ... is that in that case there is, of course, the so-called Timor Trough, which in our view divides the continental shelf. In other words, there are two continental shelves. That is not the case in relation to the boundary between New Zealand and Australia. So there is that

6 Mr James Larsen, *Transcript of Evidence*, 14 March 2005, p. 4.

7 Mr William Campbell, *Transcript of Evidence*, 14 March 2005, p. 7.

8 National Interest Analysis (NIA), para. 12.

difference as well. These considerations of natural prolongation of land territory were taken into account in the New Zealand treaty.⁹

3.8 The Attorney-General's Department later remarked that:

... the circumstances of each maritime delimitation are unique for a number of reasons – geographical and geomorphological considerations are one aspect of it. Under international law we are required to come to an equitable solution by agreement, taking into account certain considerations ... We do not see a distinction between what we have done in relation to New Zealand and the way we are negotiating the treaty with Timor Leste.¹⁰

3.9 Articles 2 and 3 of the Treaty establish the areas in which each country may exercise sovereign rights and jurisdiction. In the EEZ, the coastal state exercises sovereign rights to explore and exploit, conserve and manage the living and non-living natural resources. It also has jurisdiction to protect and preserve the marine environment and to undertake marine scientific research. On the continental shelf extending beyond 200 nautical miles from the respective baselines, these sovereign rights are confined to non-living resources and to sedentary living organisms. Australia and New Zealand would be bound to respect each other's sovereign rights and jurisdiction on their respective sides of the boundary.¹¹

3.10 Under Article 4 of the Treaty, where petroleum or mineral deposits extend across the maritime boundaries established in this Treaty, the two Parties will seek to reach agreement on how the accumulation of petroleum or deposits will be most effectively exploited and equitably shared.¹²

3.11 In summary, the Department of Foreign Affairs and Trade noted that the Treaty is a good outcome for Australia:

The treaty settles Australia's longest remaining undelimited maritime boundary. It is evidence of the good relations that we have with one of our most important neighbours and highlights the importance the government attaches to its relations with New Zealand. It also exemplifies the way in

9 Mr William Campbell, *Transcript of Evidence*, 14 March 2005, p. 8 and 9.

10 Mr William Campbell, *Transcript of Evidence*, 14 March 2005, p. 11.

11 NIA, para. 20.

12 NIA, para. 21.

which we can work together. It demonstrates that complex maritime boundaries can be delimited by negotiation.¹³

Consultation

3.12 The proposed action will have an impact on Norfolk Island, New South Wales (in respect of Lord Howe Island) and Tasmania (in respect of Macquarie Island). The impact is expected to be largely economic, generated by persons or companies based either on the islands in question, or, in the case of Macquarie Island, on the main island of Tasmania.¹⁴ The Commonwealth Government advised that it consulted regularly throughout the negotiations that led to the Treaty with the States and Territories likely to be affected by it.¹⁵

Implementation and entry into force

3.13 Under Article 5 of the Treaty, the Treaty will enter into force when both parties have notified each other in writing that they have completed their requirements for bringing the Treaty into force.

3.14 Adoption of the maritime boundaries between Australia and New Zealand as contained in the Treaty, will require amendment of the EEZ outer limit Proclamation under the *Seas and Submerged Lands Act 1973* (Cth). Consequential minor amendments to the adjacent area boundaries in the *Petroleum (Submerged Lands) Act 1967* (Cth) would be desirable but not essential and need not have commenced before binding treaty action is taken.¹⁶

Conclusion and recommendation

3.15 The Committee recognises that the settling of the maritime boundary between Australia and New Zealand greatly reduces the potential for

13 Mr James Larsen, *Transcript of Evidence*, 14 March 2005, p. 4.

14 NIA, para. 24.

15 NIA, Consultation Annex, p. 1.

16 NIA, para. 22.

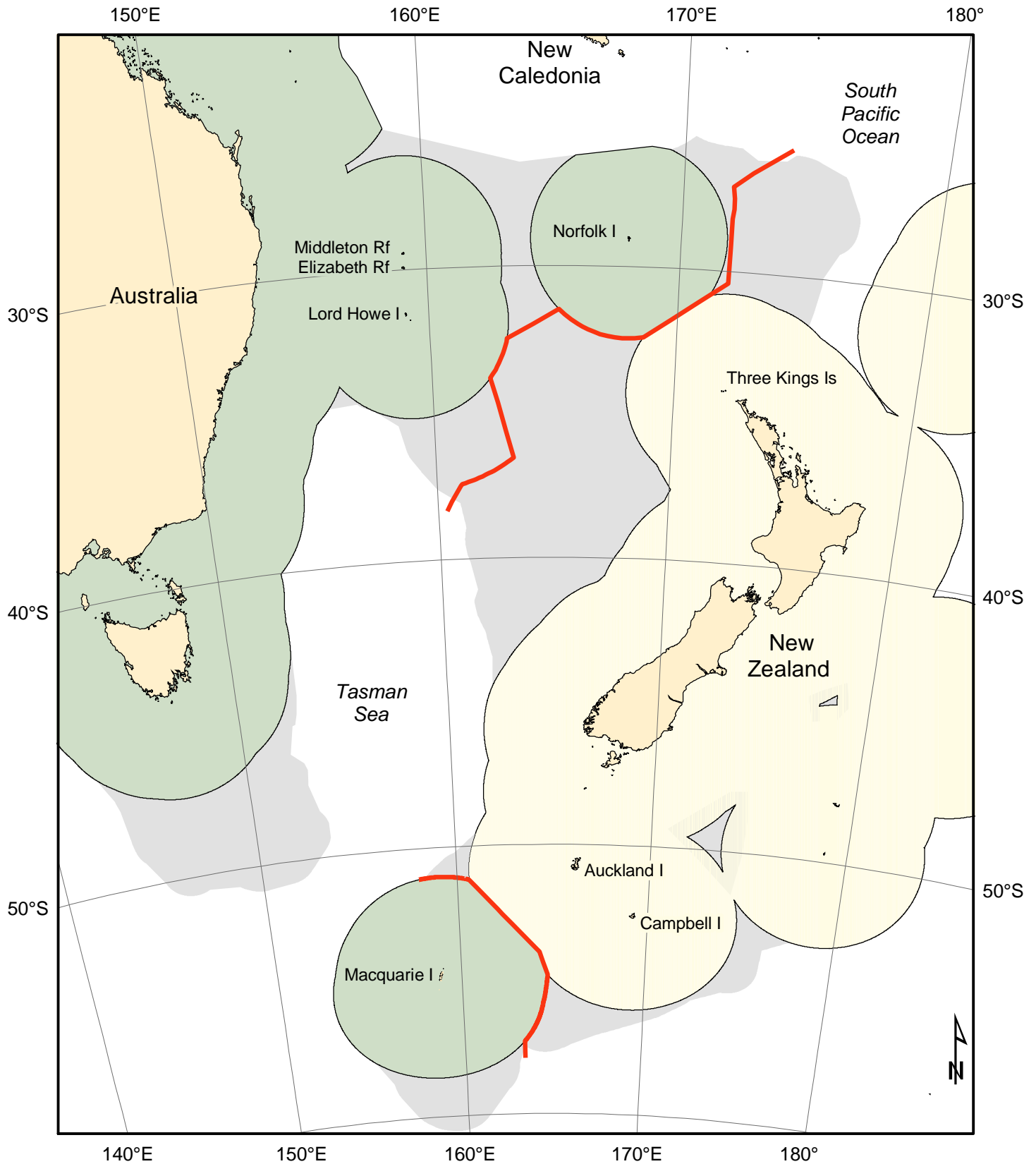
future disputes and serves as a model of bilateral cooperation in the region.

Recommendation 4

The Committee supports the *Treaty Between the Government of Australia and the Government of New Zealand establishing certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries* and recommends that binding treaty action be taken.



Australia - New Zealand Maritime Boundary



Legend

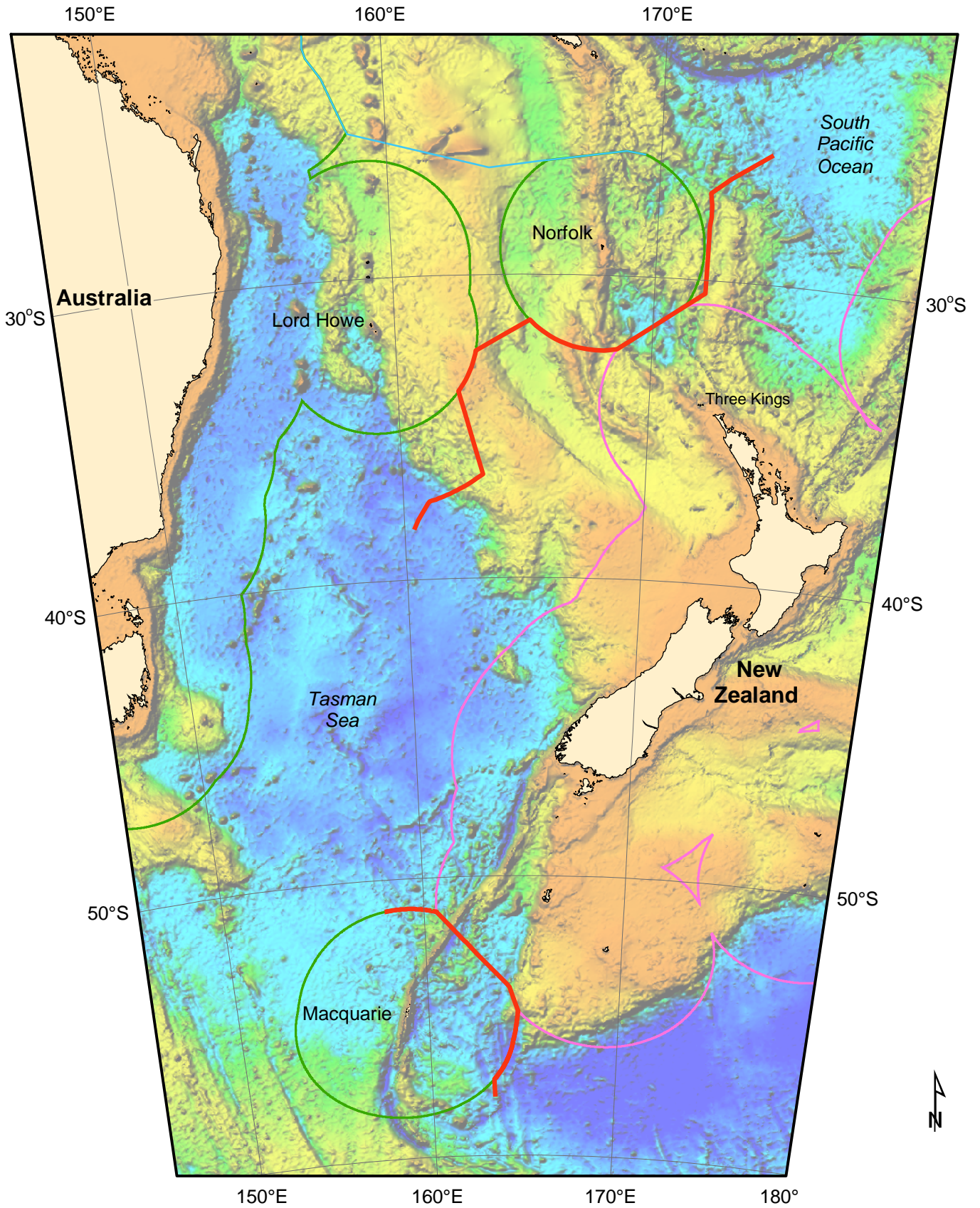
- Australian Exclusive Economic Zone
- New Zealand Exclusive Economic Zone
- Indicative areas of continental shelf
- Australia - New Zealand treaty

0 100 200 400 Nautical Miles

Projection: Albers equal-area
 Central Meridian: 165° E
 Standard Parallel 1: 40° S
 Standard Parallel 2: 30° S
 Datum: ITRF2000 @ 1 Jan 2000
 Map produced by Geoscience Australia
 MP JSCT Map 2



Australia - New Zealand Maritime Boundary



Legend

- Australian Exclusive Economic Zone
- New Zealand Exclusive Economic Zone
- Australia - New Zealand treaty
- Australia - France Treaty

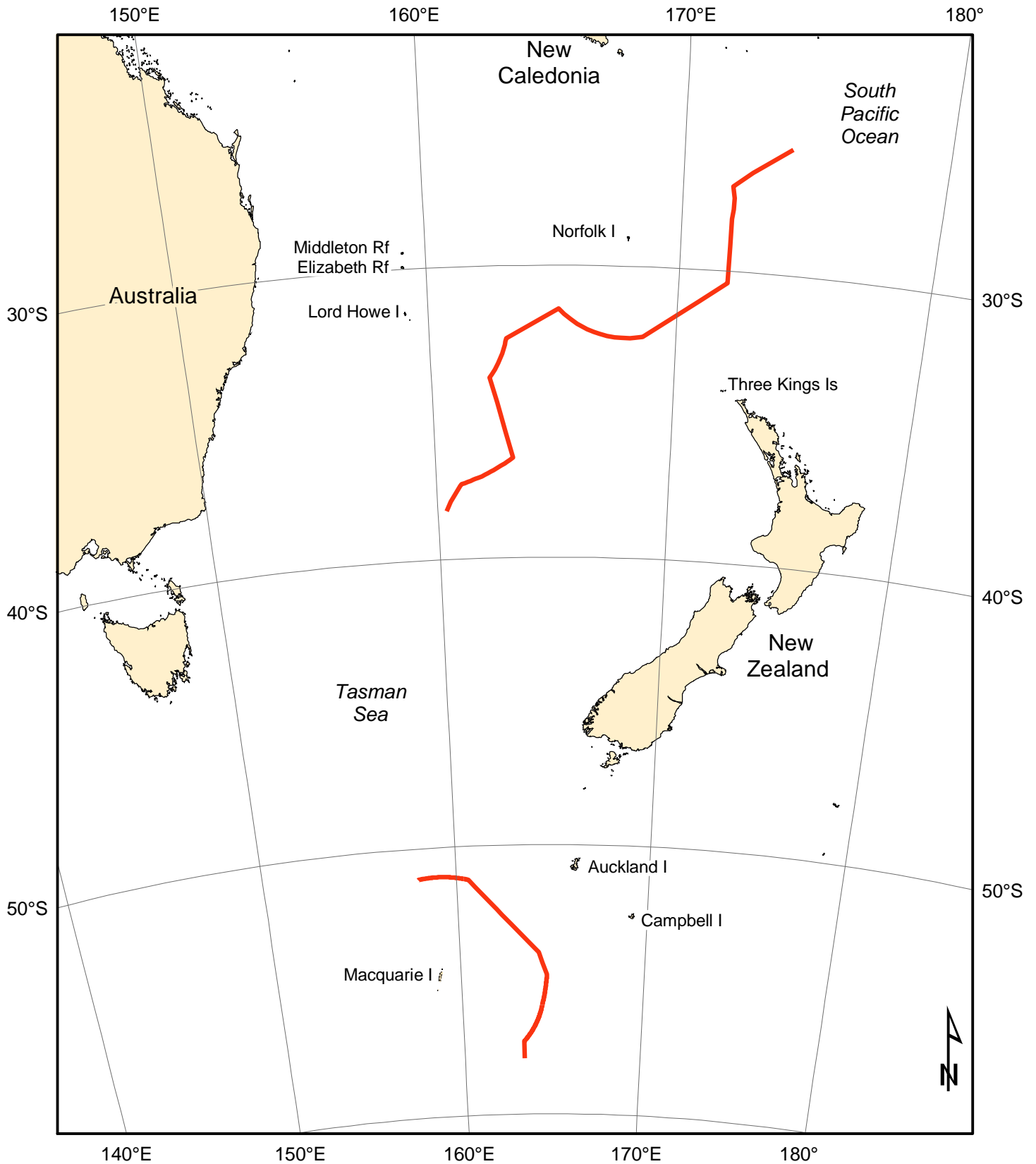
0 100 200 400 Nautical Miles

Projection: Albers equal-area
 Central Meridian: 165° E
 Standard Parallel 1: 40° S
 Standard Parallel 2: 30° S
 Datum: ITRF2000.0
 Map produced by Geoscience Australia
 MP JSCT Map 1





Australia - New Zealand Maritime Boundary



0 100 200 400 Nautical Miles

Legend

— Australia - New Zealand treaty

Projection: Albers equal-area
 Central Meridian: 165° E
 Standard Parallel 1: 40° S
 Standard Parallel 2: 30° S
 Datum: ITRF2000 @ 1 Jan 2000
 Map produced by Geoscience Australia
 MP JSCT Map 3

Singapore–Australia Free Trade Agreement Amendments

Introduction

- 4.1 The *Singapore-Australia Free Trade Agreement Amendments (the Amendments)* make four general amendments to the *Singapore-Australia Free Trade Agreement (SAFTA)*. The Amendments relate to the recognition of law degrees from two additional universities, the national treatment provision on government procurement, rules of origins, and the conclusion of two Sectoral Annexes on food standards and horticultural goods.

Background

- 4.2 Under Article 3 of Chapter 17 of SAFTA, a Ministerial Review was to be conducted a year after its entry into force and biennially thereafter. SAFTA entered into force on 28 July 2003. The first Ministerial Review took place in Sydney on 14 July 2004, resulting in the proposed Amendments.
- 4.3 The next Ministerial Review is scheduled for July 2006.¹

¹ Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, p. 2.

The Amendments

Law degrees

- 4.4 Under SAFTA, Singapore recognises law degrees from eight Australian universities for admission as qualified lawyers in Singapore. These universities are the Australian National University, Flinders University, Monash University, University of Melbourne, the University of New South Wales, the University of Queensland, the University of Sydney and the University of Western Australia. The Amendments add two more universities to this list – Murdoch University and the University of Tasmania.
- 4.5 This provision allows students who are citizens or permanent residents of Singapore graduating from these universities to have their law degree recognised for practice in Singapore. Students seeking recognition of their law degree in Singapore must have graduated in the top 30 percent of their year and must also obtain the Diploma in Singapore Law.
- 4.6 The recognition of only certain law degrees is not necessarily a reflection on the quality or the standing of the university.² Rather, it is a result of the original negotiating process and consultation undertaken by the Attorney-General's Department in determining which universities had a strong interest in recognition, as well as a desire to ensure a geographic spread of universities from across Australia.³
- 4.7 Representatives of the Department of Foreign Affairs and Trade informed the Committee that the recognition of more Australian law degrees is likely to occur gradually:
- We are trying to obtain recognition of all 29 law degrees ... Singapore has indicated a preference for a phased approach, we expect at the next review, which is due in the middle of next year, we possibly will only be able to get a couple more accepted.⁴
- 4.8 Recognising Singapore's wish to limit the number of lawyers working in Singapore, the requirement for Singaporean citizens and permanent residents to graduate within the top 30 percent of their

2 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005 pp. 4-5.

3 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, p. 4.

4 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, p. 3.

year is not a reciprocal provision for Australian citizens or permanent residents wanting to have their law degree recognised from the National University of Singapore.

- 4.9 However, as part of a wider push towards further liberalising legal services in Singapore, Australia will seek to have that requirement removed.⁵

Government procurement

- 4.10 The Amendments add four new entities to the list of Australian government agencies subject to the national treatment provision on procurement. These agencies are the Inspector General of Taxation, the Office of Renewable Energy Regulator, the Seafarers Safety, Rehabilitation and Compensation Authority, and the National Blood Authority.
- 4.11 The national treatment provision on procurement obliges each Party to afford suppliers of the other Party no less favourable treatment than treatment afforded domestic suppliers in procurement by a specified list of agencies. These agencies are listed at Annexes 3A and 3B of SAFTA.

Rule of origin

- 4.12 Article 11 of Chapter 3 of SAFTA will be amended to incorporate changes to Certificates of Origin.
- 4.13 At present an Australian importer needs a Declaration, issued by the Singapore exporter, and a Certificate of Origin, issued by the Government of Singapore, to claim a preferential rate of customs duty under SAFTA.⁶ A Certificate of Origin can be used for multiple shipments within two years of its issue, provided that the first shipment occurs within the first year of issue.⁷ A Declaration is required for each shipment. Both documents must be issued before the goods are exported from Singapore to Australia.⁸
- 4.14 Following the SAFTA Amendments, an Australian importer would be required to have either a Certificate of Origin for each shipment (provided that the Certificate was used within one year of issue) or, a

5 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, pp. 4 and 8.

6 Australian Customs Service, *Submission 5*, p. 1.

7 Australian Customs Service, *Submission 5*, p. 1.

8 Australian Customs Service, *Submission 5*, p. 1

Certificate of Origin for multiple shipments (provided that the Certificate was used within two years of the date of issue and the first shipment occurred within the first year) and a Declaration.⁹

- 4.15 Where a Certificate of Origin is to be used for multiple shipments, a Declaration would not be required for the first shipment but would be required for all subsequent shipments.¹⁰
- 4.16 At a practical level, the changes mean that a Declaration and a Certificate of Origin will not both be required for the initial shipment of goods. Instead, a Certificate of Origin is required for the initial shipment of goods, and for each subsequent shipment, a Declaration is required that states that the goods are identical to the first shipment.¹¹
- 4.17 Following the changes, importers of goods need only possess a Declaration before the goods enter the territory of the importing country for the goods to be afforded preferential treatment. This will give exporters roughly a week of extra time and will reduce delays in situations where it is difficult to determine the quantity of bulk cargo – a requirement for the Declaration – until after the cargo has been loaded onto a vessel.¹²
- 4.18 The revised arrangements relating to Certificates of Origin will facilitate the movement of goods from Singapore to Australia and help to reduce administrative costs for Australian manufacturers.¹³

Sectoral annexes on food standards and horticultural goods

- 4.19 Under Article 10, Chapter 5 of SAFTA, the Parties can conclude Sectoral Annexes. Following the first Ministerial Review, Australia and Singapore have concluded Sectoral Annexes on food standards and horticultural products.
- 4.20 Under the Sectoral Annex of food standards, Australia and Singapore will recognise the other's food standards as equivalent, even if that standard differs from its own, once it is demonstrated that the food standard achieves the same purpose, i.e. the same level of sanitary protection or regulatory objectives.

9 Australian Customs Service, *Submission 5*, p. 1

10 Australian Customs Service, *Submission 5*, p. 2.

11 Mr Wayne Baldwin, *Transcript of Evidence*, 20 June 2005, p. 5.

12 Mr Wayne Baldwin, *Transcript of Evidence*, 20 June 2005, p. 5.

13 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, p. 2.

- 4.21 The Sectoral Annex on horticultural products provides for the trade in certain horticultural goods. A list of horticultural goods for which trade is permissible is listed in the Schedule to the Annex and includes fresh cut flowers, cut foliage without roots, aquarium plants without soil as a growing medium, and ornamental plants without soil as a growing medium.
- 4.22 The incorporation into SAFTA of these Sectoral Annexes will provide for streamlined compliance and inspection arrangements for approved products.¹⁴

Consultation

- 4.23 The Department of Foreign Affairs and Trade consulted with other interested Australian Government Departments. The Minister for Trade wrote to Federal Ministers whose portfolios were directly affected by the SAFTA Amendments and to State and Territory Trade Ministers, Premiers and Chief Ministers.¹⁵
- 4.24 Business consultation meetings were held in all State capitals, with the exception of Tasmania, to seek feedback on additional issues to be addressed at the first review of SAFTA and in the SAFTA forward work program.¹⁶

Implementation and costs

- 4.25 Amendments to the *Customs Acts 1901 (Cth)* are required to incorporate the Certificate of Origin amendments to Articles 11 and 12 of SAFTA.
- 4.26 The SAFTA Amendments will not introduce additional costs above those associated with SAFTA.

14 Mr Graeme Lade, *Transcript of Evidence*, 20 June 2005, p. 2.

15 National Interest Analysis (NIA), Consultation Annex, paras 1 and 2.

16 NIA, Consultation Annex, para. 3.

Entry into force

- 4.27 The SAFTA Amendments will enter into force with an Exchange of Notes following the completion of the Parties' respective domestic procedures.¹⁷

Conclusion and recommendation

- 4.28 The Committee recognises that the SAFTA Amendments will enhance Australia's broader trade, economic and security interests in the region.¹⁸
- 4.29 The Committee supports regular reviews of SAFTA as a means to identify emerging issues and further build on the opportunities provided by it.¹⁹

Recommendation 5

The Committee supports the *Singapore-Australia Free Trade Agreement Amendments* and recommends that binding treaty action be taken.

17 NIA, para. 1.

18 NIA, para. 11.

19 NIA, para. 8.

Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources

Introduction

- 5.1 The *Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources* (Canberra, 30 August 2004) (the Agreement) provides a cooperative framework to pursue areas of mutual benefit and interest with regard to energy and minerals products.¹
- 5.2 The Agreement will formalise the Memorandum of Understanding (MOU) that currently exists between the Government of the Republic of Korea and the Government of Australia and will also demonstrate Australia's regard for bilateral cooperation.²

1 National Interest Analysis (NIA), para. 4.

2 NIA, paras 6 and 10.

Features of the Agreement

- 5.3 The obligations contained in the Agreement do not commit Australia to specific or detailed actions but rather are designed to encourage and facilitate particular activities and broad goals relating to energy and mineral resources.³
- 5.4 Article 1 of the Agreement includes provisions on:
- exchange of energy and mineral resources information between Australia and the Republic of Korea in accordance with their respective laws and regulations and taking full account of the need to ensure personal privacy and commercial confidentiality. This may include information on energy policies and regulations, current and future trends of the coal, oil, gas and electricity industries, trade in the fields of energy and mineral resources and scientific and technological data
 - promotion and facilitation of technical cooperation in the fields of energy and mineral resources between Australia and the Republic of Korea. This may include exchanging relevant public and private sector personnel, organising seminars, symposiums and exhibitions and promoting and undertaking joint research for the exploration, exploitation, development, processing or transportation of energy and mineral resources
 - cooperation and facilitation of bilateral trade and investment in energy and mineral resources, including value added products and services, between Australia and the Republic of Korea. This may include facilitating administrative procedures for investment in major projects dealing with energy and mineral resources, which includes governmental coordination and access to any governmental programs on an equitable and transparent basis, fostering partnerships for the exploration, development and processing of energy and mineral resources among the business circles of both countries and promoting the conclusion of contracts or other agreements which promote long term certainty for the business and organisations of each country
 - development and implementation of greenhouse gas mitigation projects in the context of the United Nations Framework Convention on Climate Change (UNFCCC)

3 NIA, para. 15.

- 5.5 Under Article 2 of the Agreement, Australia and the Republic of Korea will each retain intellectual property rights of any information provided pursuant to the Agreement. Any restrictions or conditions placed on information exchanged under the Agreement will be enforced in accordance with the respective laws and regulations of Australia and the Republic of Korea. Each Party is also obliged to take all reasonable measures to protect personal privacy and commercial confidentiality.
- 5.6 A Joint Committee will be established under Article 3 to ensure the effective implementation of the Agreement. A Joint Committee, which is administered by the Australian Government Department of Industry, Tourism and Resources and the Government of the Republic of Korea, currently exists under the MOU.⁴

Consultation

- 5.7 The National Interest Analysis states that extensive consultation was undertaken in consideration of the Agreement and that all state, federal and industry stakeholders consulted support the Agreement.⁵
- 5.8 The Queensland Government expressed concern that the reference to uranium in the Agreement was inconsistent with its policy. The Department of Industry, Tourism and Resources advised that the Agreement did not require Queensland to amend its legislation to allow mining or uranium treatment of processing.⁶
- 5.9 A number of industry leaders responded that they were in favour of the Agreement and welcomed stronger relations with the Republic of Korea.⁷
- 5.10 The Committee wrote to the industry leaders who had responded to the consultation in consideration of the Agreement, inviting the corporations/organisations to comment further on the level and

4 NIA, para. 16.

5 NIA, Consultation Annex, para. 2.

6 NIA, Consultation Annex, para. 3.

7 NIA, Consultation Annex, para. 4. Industry corporations/groups that responded: Rio Tinto, Australia LNG, Australian Magnesium Corporation, Pritchard Vdovenya-International Lawyers, Minerals Council of Australia, Exxon Coal and Minerals.

adequacy of the consultation that occurs during the treaty negotiation phase.⁸ The Committee also invited further comments on the Agreement itself.

- 5.11 A response was received from Rio Tinto informing the Committee of its satisfaction with the level of consultation concerning the Agreement.⁹ Rio Tinto supports the Agreement, noting that its trade with the Republic of Korea has been successful and that Rio Tinto has excellent relations with its Korean customers.¹⁰

Costs and implementation

- 5.12 There are no additional costs associated with Australia's entry into the Agreement. Pre-existing costs, arising as a result of the current MOU, are likely to carry over into the operation of the Agreement. This may include, for instance, the operating costs associated with holding periodic Joint Committee meetings (Article 3). These would be met through existing departmental resources that currently facilitate cooperation under the MOU.¹¹
- 5.13 No changes to Australia's regulatory framework or new legislation will be required to give effect to Australia's obligations under the Agreement.

Entry into force

- 5.14 The Agreement will enter into force when Australia and the Republic of South Korea exchange diplomatic notes informing each other that domestic requirements for its entry into force have been fulfilled.

Conclusion and recommendation

- 5.15 The Committee recognises the Agreement is an effective means of strengthening and developing the existing cooperation between

8 The Committee wrote to Rio Tinto, Australia LNG, Australian Magnesium Corporation, Resources Law International, Minerals Council of Australia, Exxon Coal and Minerals.

9 Rio Tinto Australia, *Submission 10*, p. 1.

10 Rio Tinto Australia, *Submission 10*, p. 1.

11 NIA, para. 19.

Australia and the Republic of South Korea. The Agreement will provide both government and industry with the opportunity and information to make decisions that are in Australia's national interest.

Recommendation 6

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources (Canberra, 30 August 2004)* and recommends that binding treaty action be taken.

Agreement concerning the use of Shoalwater Bay Training Area and associated facilities in Australia

Introduction

- 6.1 The *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the use of Shoalwater Bay Training Area and the use of associated facilities in Australia* (the Agreement) will replace the 1999 agreement which expired on 31 December 2004.¹

Overview

- 6.2 The Agreement will enable the Singapore Armed Forces (SAF) to continue to have access to the Shoalwater Bay Training Area, Queensland (SWBTA) and associated use of storage facilities in Australia. The SAF have had access to SWBTA since 1995.²
- 6.3 Singapore does not have access to domestic training areas and values access to SWBTA. The Agreement is expected to:

1 As the 1999 agreement has expired, the Parties implemented an interim agreement which mimics the terms of the final agreed text of the proposed Agreement. The interim agreement allows for short term planning of the use of the Shoalwater Bay Training Area. National Interest Analysis (NIA), para. 5.

2 The SAF also have access to RAAF Base Pearce (Western Australia) for pilot training, the Army Aviation Centre at Oakey (Queensland) for helicopter training, and conduct fighter deployments to Darwin, Townsville and Amberley. NIA, para. 6.

- contribute to the Australia-Singapore bilateral defence relationship
 - improve the effectiveness of SAF as an exercise and training partner
 - promote Australia's policy of increasing regional security.³
- 6.4 SAF training exercises conducted at SWBTA under the Agreement are unilateral with no immediate benefit to the Australian Defence Force (ADF). The SAF possess highly sophisticated technology from which the ADF benefits from exercising with them. Many of the assets used at SWBTA, in particular aircraft, are employed elsewhere in bilateral and multilateral exercises involving Australia. The SAF's defence capability contributes to regional security and to its effectiveness as a coalition partner. The proposed Agreement will also benefit local industry through increased access to commercial arrangements with the SAF.⁴
- 6.5 In relation to the benefits of unilateral exercises under the Agreement, the Department of Defence commented:
- At a practical level, there is a lot of information sharing between Australia and Singapore, and I think what this activity does for us is allows us to build trust in other areas. It allows us to talk about advances in defence scientific cooperation and meet either at Shoalwater Bay, where sometimes things are tested, or, more frequently in Singapore and elsewhere. We do not have any issues where we would think the visiting forces had access to something that we might not necessarily wish them to, nor would we expect that we would in their case either.⁵
- 6.6 As the proposed Agreement is broadly similar to the 1999 Agreement, non renewal of the proposed Agreement could jeopardise Australia's long standing political, defence and trade relationship with Singapore.
- 6.7 The proposed Agreement will maintain the existing requirements of the 1999 Agreement, including: elements relating to notification and approval of a detailed concept of training prior to the planned SWBTA utilisation dates; environmental assessment of training and environmental restoration works on completion to ensure the sustainable use of SWBTA; and full cost recovery.⁶

3 NIA, para. 7.

4 NIA, paras 8-9.

5 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 16.

6 NIA, para. 10.

6.8 The Agreement also maintains the limit of 6600 troops. The number of vehicles that may be deployed to SWBTA will increase slightly.⁷

6.9 This Agreement also establishes an Environmental Monitoring Group (EMG). The purpose of the EMG is to monitor environmental compliance and provisions on training and workplace safety.⁸ In relation to the environmental management of SWBTA, the Department of Defence stated:

The Department of Defence has a positive history of environmental management at Shoalwater Bay and we are committed to responsible environmental management. Rehabilitation processes are in place, monitored by both the department and the Singaporean armed forces. While normal range control restrictions apply, the Environmental Advisory Committee members have opportunities to inspect training areas during the exercise if required.⁹

6.10 The Department of Defence also informed the Committee that it has implemented three recommendations made by the Committee (39th Parliament) in relation to the 1999 agreement.¹⁰ The first recommendation related to consultation with the local business community during preparation of any future agreements to ensure that its interests were incorporated where possible. Two other recommendations related to the environmental impact of major exercises and meetings and circulation of documents to the Environmental Advisory Committee.¹¹

6.11 The Australian Government is not considering entering into similar agreements with other ASEAN¹² countries. The Department of Defence stated:

The Singaporeans are the ones most in need of training area—most in need of land and operating space. Both the training that you mentioned in Oakey and the training you mentioned in Pearce are important to them, but the field training environment that we provide is important. I do not believe

7 NIA, para. 11.

8 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 14; NIA, para. 11.

9 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 15.

10 Joint Standing Committee on Treaties, *Report 29*, December 1999, pp. 37, 40.

11 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 14.

12 The Association of South East Asian Nations (ASEAN) includes: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

that we have had any requests from other nations to do anything of this scale, and I am not convinced that many regional nations would be able to operate at the high end-the end at which Singapore operates. Within the agreement, over 6000 troops can be deployed. We have not considered inviting anyone else, mainly because there is no one else operating at quite that level. The relationship provides us with the opportunity to do something special for Singapore.¹³

Implementation and costs

- 6.12 The Agreement does not require any change to legislation and will not impose any foreseeable direct financial costs to Australia. Australian support provided under the Agreement is on a full cost recovery basis.¹⁴

Consultation

- 6.13 States, Territories and the local Rockhampton and surrounds business community were consulted about the proposed Agreement. Responses received were either supportive or provided no comment about the proposed Agreement. The Rockhampton and Capricorn Coast Chambers of Commerce requested an increase in business opportunities for the local area.¹⁵

Withdrawal

- 6.14 The Agreement may be terminated by either or both Parties if they give written notice twelve months prior to the intended date of termination. The Agreement remains in force until 31 December 2009 unless otherwise agreed by the Parties.¹⁶
- 6.15 Concerns were raised about the provision of immediate withdrawal where unexpected issues arose. The Department of Defence stated

13 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 15.

14 NIA, paras 30-31.

15 NIA, Consultation Annex.

16 NIA, para. 34.

that under Article 5 of the Agreement an ADF Liaison Officer has the power to intervene for safety or security reasons.¹⁷

- 6.16 Further, the Department noted that SAF only have access to SWBTA for a certain amount of time during any year and the withdrawal provisions of the Agreement could adequately address any security problems which could arise.¹⁸

Conclusion and recommendation

- 6.17 The Committee supports and believes the proposed Agreement will continue to strengthen the Australia-Singapore bilateral defence relationship. More broadly, the Agreement will also promote Australia's policy of increasing regional security. The Committee also welcomes the implementation of the recommendations made by its predecessor.

Recommendation 7

The Committee supports the Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the use of Shoalwater Bay Training Area and the use of associated facilities in Australia and recommends that binding treaty action be taken.

17 Ms Anne Sheehan, *Transcript of Evidence*, 20 June 2005, p. 17.

18 Mr Shane Carmody, *Transcript of Evidence*, 20 June 2005, p. 17.

Mutual Recognition Agreement on Conformity Assessment in relation to Medicines Good Manufacturing Practice Inspection and Certification

Introduction

- 7.1 The *Mutual Recognition Agreement on Conformity Assessment in relation to Medicines Good Manufacturing Practice Inspection and Certification between the Government of Australia and the Government of Canada* (the Agreement) will provide for the mutual recognition of certification and for the acceptance of Certificates of Good Manufacturing Practice (GMP) of manufacturers of medicines between Canada and Australia.¹
- 7.2 This means that Australia will recognise Canada's GMP certificates of manufacturers of medicines as acceptable forms of evidence in support of applications for entry on the Australian Register of Therapeutic Goods and Canada will recognise the Therapeutic Goods Administration's (TGA) GMP certifications.

1 The term Good Manufacturing Practice (GMP) is used internationally to describe a set of principles and procedures which, when followed by manufacturers of therapeutic goods, helps ensure that the products manufactured will have the required quality and therefore be safe and reliable. Compliance with specified GMP requirements is used by most countries as the basis for licensing manufacturers of medicines.

Background

- 7.3 At present, information about manufacturers' GMP compliance, GMP inspections, acceptance of inspection reports and certificates is shared through membership of the Pharmaceutical Inspection Cooperation Scheme (PIC/S).² However, under the PIC/S regulatory authorities of respective countries are not legally obliged to supply information nor are any time frames imposed on providing information requested by another party.³
- 7.4 This is not viable in the long term, and one of the central advantages of concluding a treaty level agreement is the certainty it affords Australian exporters of medicinal products.⁴ Canada currently requires that all imported batches of medicinal products be reanalysed before entry onto the market.⁵ The proposed Agreement would eliminate uncertainty and any delays or costs associated with re-testing batches of medicines on import into Canada.⁶
- 7.5 In 2004, trade between Australia and Canada in regulated medicines for human use totalled \$67 million, up from \$44 million in 2000/2001.⁷

The Agreement

- 7.6 The Agreement is a single sector bilateral agreement that provides for the mutual recognition of the certification and acceptance of the certificates of GMP of manufacturers of medicines issued by the TGA and the Health Products and Food Branch of Health Canada.⁸
- 7.7 It will replace the current PIC/S arrangement with a formal government to government level treaty.⁹ The Agreement will reduce time delays, increase certainty for manufacturers and is seen as an overall step towards greater market access through the reduction of barriers to trade.¹⁰

2 National Interest Analysis (NIA), para. 6.

3 Regulation Impact Statement (RIS), p. 7.

4 RIS, p. 7.

5 RIS, p. 7.

6 RIS, p. 7.

7 NIA, para. 7.

8 Mr Terry Slater, *Transcript of Evidence*, 20 June 2005, p. 19.

9 Mr Terry Slater, *Transcript of Evidence*, 20 June 2005, p. 20 and see also the NIA, para. 6.

10 NIA, para. 5.

- 7.8 The central obligation of the Agreement is found in Article 4 which obliges Australia and Canada (the Parties) to accept the other's GMP Compliance Certification without re-control at import.
- 7.9 Article 2 limits the scope of the Agreement to the territories of each Party and only to medicines which are subject to a GMP Compliance Program. These include:
- human pharmaceuticals such as prescription and non-prescription medicines and medical gases
 - human biologicals including vaccines, immunologicals and biotherapeutics
 - human radiopharmaceuticals.
- 7.10 The Agreement does not apply to blood and blood components, tissues and organs of animal and human origin, official batch release of biologicals, stable medicines derived from human blood or plasmas, or veterinary pharmaceuticals, including sterile and non-sterile veterinary pharmaceuticals.¹¹ Nor does the Agreement apply to vitamins, minerals, herbal remedies and homeopathic medicines as Canada does not audit manufacturers of complementary medicines.¹²
- 7.11 Under the Agreement, the Parties are obliged to exchange information concerning their Mandatory GMP Requirements and GMP Compliance Programs, including any new technical guidance of inspection procedure.¹³ Each Party must notify the other of any significant changes to the GMP Requirements and GMP Compliance Program within 60 days before the changes enter into force, unless health, safety and environmental protection considerations warrant a more urgent notification.¹⁴
- 7.12 A Joint Sectoral Group (JSG), to be responsible for the effective functioning of the Agreement, is established under Article 7. The JSG will function as an alert system in the case of batch recalls, quality defects or other problems with quality and will.¹⁵
- 7.13 Under Article 16 of the Agreement, the JSG is also responsible for the settlement of differences between the Parties. Where the JSG is unable
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11 Article 2(4) of the Agreement.

12 Mr Terry Slater, *Transcript of Evidence*, 20 June 2005, p. 20.

13 Article 3(1) of the Agreement.

14 Article 3(2) of the Agreement.

15 Article 15 of the Agreement.

to resolve the differences, the Parties will settle them through direct bilateral discussions. The Queensland Government sought clarification on the way that 'direct bilateral discussions' will work, particularly with regard to the deciding authorities, participants and suggested process for the dispute settlement discussions.¹⁶ The TGA advised the Committee that although the TGA and Health Products Food Branch (HPFB), Health Canada are yet to finalise the details of the arrangements for the bilateral discussions:

It is envisaged that the direct bilateral discussions would be between senior representatives not included on the JSG from the Australian and Canadian Government, for example senior officials from the TGA, HPFB, the Department of Foreign Affairs and Trade, the Attorney-General's Department and the Canadian equivalent. Any decisions made at the bilateral discussions would be at the agreement of all participants.¹⁷

- 7.14 Parties are not obliged to disclose confidential proprietary information to the other unless it is necessary to demonstrate the competence of its Regulatory Authority to conduct GMP Inspection and GMP Compliance Program activities.¹⁸
- 7.15 Each Party retains the authority to interpret and implement its own mandatory requirements as well as to determine the level of protection it considers necessary with regard to health, safety and the environment.¹⁹ Where a Party ascertains that products may not conform with its Mandatory GMP Requirements, it is able to take measures, such as withdrawing, recalling or prohibiting the importation of medicines.²⁰

Implementation and costs

- 7.16 To implement the Agreement, the Minister is required to make a declaration under section 3B of the *Therapeutic Goods Act 1989* (Cth) to the effect that Canada is a country covered by a Mutual Recognition Agreement.²¹ It is also necessary for the Secretary of the Department of Health and Ageing to approve in writing that Health Canada is a
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16 Queensland Government, *Submission 5*, p. 2.

17 Department of Health and Ageing, *Therapeutic Goods Administration, Submission 8*, p. 1.

18 Article 8(1) of the Agreement.

19 Article 9(1) and (2) of the Agreement.

20 Article 9(3) of the Agreement.

21 NIA, para. 29, see also Mr Terry Slater, *Transcript of Evidence*, 20 June 2005, p. 20.

conformity assessment body that can issue attestations of conformity for the purposes of the Act.²²

- 7.17 There is unlikely to be any extra costs as a result of the Agreement as it is replacing a pre-existing, voluntary PIC/S arrangement.²³ Costs associated with the JSG will be incorporated into other similar work undertaken by the TGA or met from TGA's existing budget.²⁴

Consultation

- 7.18 State and Territory representatives, individual Premiers and Chief Ministers of all States and Territories and relevant industry associations, such as Medicines Australia (formerly the Australian Pharmaceutical Manufacturers Association), and the Australian Self Medication Industry, were consulted and all supported entering into the Agreement.²⁵
- 7.19 The Complementary Healthcare Council of Australia raised concerns about the Agreement in relation to complementary medicines. As Canada does not require GMP certification for natural health products and Australia does, these products have been excluded from the scope of the Agreement.²⁶ However, Canada has indicated that natural health products will not require retesting at import so Australian manufacturers should not be disadvantaged by this exclusion.²⁷

Conclusion and recommendation

- 7.20 The Committee supports a stronger health regulatory cooperation and trade relationship between Australia and Canada and believes that the Agreement will formalise current arrangements, improve market access and increase certainty for Australian manufacturers.

22 Mr Terry Slater, *Transcript of Evidence*, 20 June 2005, pp. 20-21.

23 NIA, para. 31.

24 NIA, para. 32.

25 NIA, Consultation Annex, paras 1-2.

26 NIA, Consultation Annex, para. 3.

27 NIA, Consultation Annex, para. 3.

Recommendation 8

The Committee supports the *Mutual Recognition Agreement on Conformity Assessment in relation to Medicines Goods Manufacturing Practice Inspection and Certification between the Government of Australia and the Government of Canada* (Canberra 16 March 2005) and recommends that binding treaty action be taken.

Amendments to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

Introduction

- 8.1 The proposed treaty action (the Amendments) amends the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Rotterdam Convention).
- 8.2 The Amendments make three general changes to Annex III and inserts a new Annex VI.

Background

- 8.3 The Rotterdam Convention entered into force generally on 24 February 2004 and for Australia 18 August 2004. The first Conference of the Parties (COP 1) took place on 24 September 2004. The Amendments are a result of COP 1.

- 8.4 The primary purpose of the Rotterdam Convention is the implementation of the Prior Informed Consent (PIC) procedure. This means that the export of a chemical covered by the Rotterdam Convention can only take place with the prior informed consent of the importing Party. The Rotterdam Convention establishes a means for formally obtaining and disseminating the Parties' import/export decisions and health and safety data on the hazardous industrial chemicals and pesticides listed in Annex III.

The Amendments

- 8.5 The Amendments make three general changes to Annex III and insert a new Annex VI.
- 8.6 Tetraethyl lead and tetramethyl lead were added to Annex III following agreement amongst the Parties at COP 1 that tetraethyl lead and tetramethyl lead meet the criteria listed in Annex II of the Rotterdam Convention.¹
- 8.7 Australia does not use, import or export tetramethyl lead but does export a small amount of tetraethyl lead in aviation fuel.²
- 8.8 The second amendment to Annex III changes the listing of parathion from the 'severely hazardous pesticide formulation' category to the 'pesticide' category.
- 8.9 Chemicals listed in the 'pesticide' category have generally undergone a more rigorous assessment than those chemicals listed in the 'severely hazardous pesticide formulation' category. This is because the 'severely hazardous pesticide formulation' category is aimed primarily at developing countries who are unable to undertake a robust risk assessment in the way that developed countries are able to.³
- 8.10 Chemicals listed as in the 'pesticide' category must have undergone a full risk assessment by two different countries in two different PIC regions.⁴ The Chemical Review Committee examines the notifications

1 National Interest Analysis (NIA), para. 10.

2 NIA, para. 10.

3 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, pp. 28-29.

4 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, p. 28. There are 6 PIC regions established under the Rotterdam Convention: Southwest Pacific (includes Australia),

received from the two countries, ensures that those risk assessments meet a series of tests and that the chemical therefore warrants a full listing.⁵

- 8.11 The third amendment to the Rotterdam Convention involves a number of minor descriptive changes to four chemicals listed in Annex III. The chemicals now include all their salts and esters:⁶
- '2,4,5-T': The entry to Annex III is to be amended to read '2,4,5-T and its salts and esters'
 - 'pentachlorophenol': The entry to Annex III is to be amended to read 'pentachlorophenol and its salts and esters'
 - 'dinoseb and its dinoseb salts': The entry to Annex III is to be amended to read 'dinoseb and its salts and esters'
 - 'methyl-parathion': The entry in Annex III is to be amended to read 'methyl parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient.
- 8.12 The fourth and final amendment is the adoption of Annex VI which contains dispute settlement procedures for matters arising under the Rotterdam Convention. Annex VI sets out the rules on arbitration and conciliation.
- 8.13 Representatives of the Department of the Environment and Heritage informed the Committee of an error in paragraph 17 of the National Interest Analysis (NIA) which states that Parties are obliged to make a declaration in relation to their preferred method of dispute settlement under the Rotterdam Convention. This is not obligatory and is at the discretion of the Party. Australia is currently considering whether to make this declaration and accept either arbitration in accordance with the Rotterdam Convention or adjudication by the International Court of Justice, or both.⁷

North America, Near East, Europe, Asia, and Africa. See
<<http://www.pic.int/en/ViewPage.asp?id=106>> for more information.

5 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, p. 28.

6 NIA, paras 11 and 12.

7 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, p. 26.

- 8.14 The Department of the Environment and Heritage advised that it is unaware of any disputes under the Rotterdam Convention that may have occurred prior to Annex VI and advised the Committee that it was unlikely that many would occur in the future.⁸ However, the Department did suggest that the kinds of disputes which might arise under the Convention could relate to the incorrect exportation of a chemical to a country that has restricted the use of this chemical.⁹

Implementation

- 8.15 The listing of tetraethyl and tetramethyl lead on Annex III will require Australia to prepare an import response, as required under Article 10 of the Rotterdam Convention, regarding the future import of these chemicals.¹⁰ The listing will also require regulations under section 106 of the *Industrial Chemicals (Notification and Assessment) Act 1989*. The export regulations will require authorisation from the Director of National Industrial Chemicals Notification and Assessment Scheme (NICNAS), a statutory scheme administered by the Australian Government Department of Health and Ageing, prior to export to ensure that the chemicals are only exported to countries that have agreed to accept them.¹¹
- 8.16 The movement of parathion to the 'pesticide' category will not require legislative or administrative changes as parathion is already controlled under Schedule 1 of the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* and Schedule 2 of the *Customs (Prohibited Exports) Regulations 1958*.¹² In addition, Australian Customs Service, under the *Customs (Prohibited Exports) Regulations*, maintain complementary border controls to ensure export of the chemicals listed in Annex III comply with Australia's obligations.¹³
- 8.17 The descriptive changes to four chemicals listed in Annex III will only require minimal changes to Schedule 1 of the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* and Schedule 2

8 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, p. 26.

9 Mr Mark Hyman, *Transcript of Evidence*, 20 June 2005, p. 26.

10 NIA, para. 10.

11 NIA, para. 21.

12 NIA, para. 10.

13 NIA, para. 20.

of the *Customs (Prohibited Exports) Regulations 1958*.¹⁴ All forms of these chemicals are listed in Schedule 1 and 2 but the entry for methyl-parathion on Annex III was simplified to the above entry from 'emulsifiable concentrates (EC) with 19.5%, 40%, 50% and 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient'.¹⁵

Costs and consultation

- 8.18 The financial costs to industry will be minimal and any expenses related to making regulations in order to comply with the Amendments will be absorbed by Australian Government departmental budgets.¹⁶
- 8.19 Stakeholders, including State and Territory government representatives, industry and community groups with an interest in chemical management were invited to attend the COP 1. The only response was received from the National Toxics Network and their representative attended the meeting as part of the Australian delegation.¹⁷
- 8.20 Following COP 1, a letter was sent to State and Territory governments, industry and community groups informing them of the Amendments.¹⁸ No concerns were raised by stakeholders regarding the Amendments.¹⁹
- 8.21 NICNAS publicised the listing of tetraethyl and tetramethyl lead in Annex III via a notice in the Chemical Gazette of November 2004. NICNAS also contacted specifically nominated Rotterdam Convention contacts in the States and Territories on 8 November 2004 to advise them of the listing.²⁰

14 NIA, para. 12.

15 NIA, para. 12.

16 NIA, para. 25.

17 NIA, Consultation Annex, para. 2.

18 NIA, Consultation Annex, para. 3.

19 NIA, Consultation Annex, para. 3.

20 NIA, Consultation Annex, para. 4.

Automatic entry into force

- 8.22 The Amendments automatically enter into force on 1 February 2005 with obligations for Parties due to take effect from December 2005. The new Annex VI on arbitration and conciliation enters into force for all Parties on 11 January 2006.²¹
- 8.23 As a consequence of the Amendments automatically entering into force, the Minister for the Environment and Heritage, Senator the Hon Ian Campbell, wrote to the Chair of the Joint Standing Committee on Treaties in August 2004 providing details of the Amendments in advance and advising that the NIA would be forwarded following COP 1.²²
- 8.24 The Committee notes that the Amendments were adopted at COP 1 on 24 September 2004. However, the Committee also notes that the NIA was not tabled until 11 May 2005.
- 8.25 The Committee recognises that the election may have caused some delays in the tabling of the NIA. Notwithstanding these delays, given that the Joint Standing Committee on Treaties was re-established in the 41st Parliament on 18 November 2004, the Committee would have expected a more timely tabling.
- 8.26 The Committee reiterates that every effort should be made to ensure that the Committee has an opportunity to review proposed treaty actions prior to entering into force.

Conclusion

- 8.27 The Committee appreciates that improving knowledge and information about these chemicals protects human health and the environment and, as a result, continues to support the Rotterdam Convention. The Committee recognises that the Amendments are relatively minor in nature and do not impose many additional obligations or costs on Australia. The Committee supports the Amendments to the Rotterdam Convention.

21 NIA, para. 1.

22 NIA, para. 2.

Final Protocol and Partial Revision of the 2001 Radio Regulations made at the World Radiocommunication Conference

Introduction

- 9.1 The Australian Government has proposed that Australia be bound by the *Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union¹ Final Acts of the World Radiocommunication Conference (WRC-03)², done at Geneva on 4 July 2003 (the Agreement)*. At the time of signing, Australia lodged a reservation to the revision of the ITU Radio Regulations, indicating that it does not recognise the claims by equatorial countries to preferential rights to the geostationary satellite orbit. Australia proposes to maintain this reservation.³

1 The International Telecommunication Union (ITU) is a specialised United Nations agency with 189 members (189 governments and about 500 non government entities). The ITU is concerned with international cooperation in the use of telecommunications and the radio-frequency spectrum. The ITU establishes treaties and recommends world standards for telecommunication and radiocommunication, including satellite services. National Interest Analysis (NIA), para. 6; Dr Greg Terrill, *Transcript of Evidence*, 20 June 2005, p. 29.

2 Radio Regulations are periodically reviewed and revised by a World Radiocommunication Conference to ensure that they facilitate the introduction of technical advances.

3 NIA, para. 1.

- 9.2 The Radio Regulations contain allocations for over 40 radiocommunication services and ensure the rational, efficient and equitable use of the radio frequency spectrum. The Radio Regulations do this by providing technical, operational and regulatory conditions for the use of the radio frequency spectrum and satellite orbits.⁴

Overview

- 9.3 Australia has been a member of the ITU and its predecessors since the 19th Century. Australia, as an ITU member, is bound by the ITU Constitution, the Convention and the Administrative Regulations, which include the Radio Regulations. The WRC-03 Revision does not substantively alter Australia's basic obligations relating to the use of radio-frequency spectrum. ITU members are required to ensure that the radio spectrum is used internationally in a manner that will prevent harmful interference to services, and which will allow distress calls and messages to be freely conveyed.⁵

Features of the treaty action

- 9.4 The proposed WRC-03 Revision would bring Australia into line with international regulation of the radio-frequency spectrum. Under the proposed WRC-03 Revision Australia would retain rights to control transmissions within and into its territory and to protect Australian users from interference from foreign systems. The WRC-03 Revision would also allow Australia to maintain its status in the ITU and hold its position of non recognition of claims by equatorial countries of preferential rights to geostationary satellite orbit.⁶
- 9.5 Further, the WRC-03 Revision will ensure that the radio regulations relevant to Australia keep pace with technological developments such as satellite delivered broadband services, protection of rural telephony services from potential satellite interference, satellite navigation systems and protection for meteorology and radioastronomy observations.⁷

4 NIA, para. 8.

5 NIA, paras 6-7.

6 NIA, para. 5.

7 NIA, para. 10.

- 9.6 The WRC-03 revision will provide the following benefits for Australia:
- improve access to global positioning systems planned or operated by the USA, Europe and Russia
 - ensure the spectrum sharing arrangements between aviation navigation radars and other radars
 - provide protection of naval radars while allowing satellite operators to use small antennas in most situations
 - provide regulations to improve the safety of aviation navigation and airborne systems around airports
 - allocate the satellite spectrum for airline passengers and crew to connect to the Internet in flight
 - provide refinements to international shortwave broadcasting arrangements which will benefit shortwave broadcasters in Australia.⁸

Australia's reservation

- 9.7 In addition to other countries, Australia has lodged a reservation to the revision of the ITU Radio Regulations. The reservation indicates that Australia does not recognise the claims by equatorial countries to preferential rights to the geostationary satellite orbit.⁹
- 9.8 In explanation of the preferential rights sought by equatorial countries to the geostationary satellite orbit, the Department stated:

Some of the equatorial countries have decided that, because they live on the equator, they should therefore own the airspace above them or the geostationary orbit. So they put reservations into the final acts to try and get hold of it. Where you can put satellites is quite valuable real estate and they feel that they can make some mileage from it. They do not get any support from the filing nations. Usually the nations that

8 NIA, para. 11.

9 Other countries that have also lodged the same reservation are: the Federal Republic of Germany, Belgium, the Republic of Cyprus, Denmark, the United States of America, France, Greece, the Republic of Hungary, Ireland, Japan, the Principality of Lichtenstein, Luxembourg, Malta, the Federated States of Micronesia, Norway, New Zealand, the Kingdom of the Netherlands, Portugal, the Slovak Republic, the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Sweden and the Confederation of Switzerland. Australian Communications Authority, *Submission 6*, p. 1.

are doing this are the poorer nations of the northern South America region. Of course, the US, France, Europe and Australia, who are filing the satellites, do not recognise their sovereignty over the geostationary arc.¹⁰

Implementation and costs

- 9.9 Australia's obligations under the Radio Regulations are implemented through the Australian Radiofrequency Spectrum Plan in accordance with sections 30 and 34 of the *Radiocommunications Act 1992*. The Australian Radiofrequency Plan has been updated in accordance with the WRC-03 Revision.¹¹
- 9.10 There are no direct costs associated with adoption of the WRC-03 Revision.¹²

Consultation

- 9.11 Australian industry¹³ and government representatives were invited to participate in the preparation of the Australian brief for attendance at WRC-03. These groups were also represented at the WRC-03. During the course of revising and drafting the Australian Radiofrequency Spectrum Plan,¹⁴ debriefings and further consultations were held over the period 1 August 2003 to 15 October 2004. Comments were received from the Australian Broadcasting Authority and the Bureau of Meteorology. There is general support for the proposed treaty action from relevant stakeholders including all State and Territory Governments, and acknowledgment of the benefits of the WRC-03 Revision to Australia.¹⁵

10 Dr Greg Terrill, *Transcript of Evidence*, 20 June 2005, p. 29.

11 NIA, para. 17.

12 NIA, para. 18.

13 These groups were drawn from: Australian telecommunications and satellite operators, commercial television and radio groups, aerospace organisations and amateur radio groups. Dr Greg Terrill, *Transcript of Evidence*, 20 June 2005, p. 30.

14 The Australian Radiofrequency Spectrum Plan incorporates the WRC-03 Revisions.

15 NIA, paras 23-25.

Entry into force and future treaty action

- 9.12 The WRC-03 Revision will automatically enter into force at the end of the 36-month provisional application period.¹⁶
- 9.13 The next World Radiocommunication Conference will be held in 2007. It is likely that further changes to the Radio Regulations will be considered at that meeting.¹⁷

Withdrawal

- 9.14 To withdraw from the Radio Regulations, Australia would be required to denounce the ITU Constitution and Convention by notification to the Secretary General of the ITU, 12 months prior to the date of denunciation.¹⁸

Conclusion and recommendation

- 9.15 The Committee supports the proposed treaty action and believes that it will provide a number of significant benefits for Australia. Namely, ensuring that the radio regulations relevant to Australia keep pace with technological developments. The Committee agrees with Australia's reservation to not recognise the claims by equatorial countries to preferential rights to the geostationary satellite orbit, as geographical location unfairly disadvantages the majority of nations in this case.

Recommendation 9

The Committee supports the *Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WTC-03)*, (Geneva on 4 July 2003) and recommends that binding treaty action be taken.

16 NIA, para. 12.

17 NIA, para. 20.

18 NIA, para. 21.

Establishment of the Antarctic Treaty Secretariat

Introduction

- 10.1 *Measure 1¹ (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003 under the Antarctic Treaty, done at Washington on 1 December 1959 will establish a permanent and independent Secretariat to administer the Antarctic Treaty Consultative Meeting (ATCM) and its Committee for Environmental Protection (CEP). Measure 1 outlines the functions, legal capacity and budget of the Secretariat and the role of the Executive Secretary. The Secretariat will be based in Buenos Aires, Argentina.²*
- 10.2 *Measure 1 is the result of several years of formal and informal negotiations and is expected to improve the efficiency of the Antarctic Treaty System (ATS).³*

1 Under the Antarctic Treaty, a measure is a recommendation made to Governments by Parties participating in an Antarctic Treaty Consultative Meeting (ATCM). A measure, once approved by a Government is legally binding.

2 National Interest Analysis (NIA), paras 4-5.

3 The ATS is the whole complex of arrangements made for the purpose of coordinating relations among states with respect to Antarctica. This includes: the Antarctic Treaty, recommendations adopted by the Antarctic Treaty Parties, the protocol on Environmental Protection to the Antarctic Treaty, and two separate conventions for the Conservation of Antarctic Seals and the Conservation of Antarctic Marine Living Resources. The Convention for the Regulation of Antarctic Mineral Resource Activities has not been ratified by any state, but is part of the body of documents produced by Antarctic Treaty Parties. U.S. Department of State, *Handbook of the Antarctic Treaty System*, Chapter II - The Antarctic Treaty System: Introduction, <<http://www.state.gov/g/oes/rls/rpts/ant/>>.

- 10.3 Australia has been committed to the ATS⁴ since its inception, and to the establishment of a secretariat to support the activities of the ATCM.⁵
- 10.4 Prior to Measure 1, each ATCM hosting country would provide a secretariat function. This meant that there was no central organisation recording proceedings or maintaining records of annual meetings.
- 10.5 A provisional Secretariat has been established in anticipation of adoption of Measure 1. The Department of Foreign Affairs and Trade (DFAT) has stated of the provisional secretariat that:
- Although only functional for the past five months, [the provisional secretariat] has already significantly improved the flow of information between parties and improved the efficiency of the last treaty meeting.⁶

Overview

- 10.6 Australia has a large territorial claim and extensive research program in Antarctica. Australia undertook a leading role in developing the ATS, and successive Australian governments have viewed maintenance of the ATS as a high priority. The Antarctic Treaty ensures that Antarctica is used for peaceful, scientific research and associated purposes through promoting international scientific cooperation and regular meetings between Treaty Parties. The ATS does not recognise, dispute, or establish territorial claims. Further, no new claims may be asserted while the Treaty is in force.⁷

Role of the Secretariat

- 10.7 Measure 1 provides that the Secretariat's role is to:
- administer annual and inter-sessional meetings of the ATCM and the CEP

4 Original signatories to the Antarctic Treaty have automatic consultative party status. These Parties are: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, Russia, South Africa, United Kingdom and the United States of America. Other Consultative Parties include: Brazil, Bulgaria, China, Ecuador, Finland, Germany, India, Italy, Korea, the Netherlands, Papua New Guinea, Peru, Poland, Sweden and Ukraine. NIA, Signatories of the Antarctic Treaty.

5 NIA, para. 5.

6 Ms Marina Tsirbas, *Transcript of Evidence*, 20 June 2005, p. 36.

7 NIA, para. 7.

- facilitate contact between Treaty Parties and with international organisations
 - develop and maintain databases relevant to the operation of the Antarctic Treaty.⁸
- 10.8 The ATCM appoints the Executive Secretary⁹ and determines and approves the Secretariat's budget. Half the budget is contributed equally by all Consultative Parties. The remaining half of the budget is contributed by Consultative Parties' national Antarctic activities, with respect to their capacity to pay.¹⁰
- 10.9 Secretariat staff members' privileges and immunities are defined by a Headquarters Agreement between the ATCM and the Government of the Argentine Republic.¹¹

Implementation and costs

- 10.10 Adoption of Measure 1 will not require amendment to legislation.
- 10.11 Australia will be obliged to pay a contribution to the Secretariat's budget. Under the formula agreed at ATCM XXVII, Australia's contribution to the Secretariat's budget will be US\$48 122.¹² Until ratification of Measure 1, Parties will pay voluntary contributions.¹³
- 10.12 The budget of the Australian Antarctic Division will provide for Australia's contribution. Australia's annual payment to the Antarctic Treaty Secretariat will be organised through DFAT. DFAT will seek an appropriation as an administered item when Measure 1 comes into force.¹⁴

Consultation

- 10.13 Consultative forums were held before each annual ATCM. Consultative forums have occurred with the Australian Antarctic

8 NIA, para. 9.

9 The appointed Executive Secretary is Mr Johannes (Jan) Huber of the Netherlands. In September 2004, the Secretariat located to an office in Buenos Aires provided by the Government of the Argentine Republic. NIA, para. 11.

10 NIA, para. 9.

11 NIA, para. 10.

12 Where AUD 1 = USD 1.34953, Australia's contribution would be approximately A\$64 942, www.x-rates.com as at 11 July 2005.

13 NIA, para. 13.

14 NIA, para. 15.

Division of the Department of the Environment and Heritage, the Attorney-General's Department, the Department of Industry, Tourism and Resources and non government organisations.

- 10.14 Before ATCM XXVI in May 2003, the consultative forum was attended by the Antarctic and Southern Ocean Coalition, the University of Tasmania, Greenpeace, and the Whale and Dolphin Conservation Society.¹⁵ Views expressed at forums were taken into account in developing Australia's position on the proposals for consideration at the ATCM.¹⁶
- 10.15 The financial contribution required under the proposed treaty action will be borne by the Australian Government. The Australian Government has informed States and Territories of the proposed treaty action through the Commonwealth-State Standing Committee on Treaties.¹⁷

Withdrawal

- 10.16 Measure 1 does not provide for withdrawal except where a proposed modification or amendment is not yet approved by Contracting Parties.¹⁸ In order to withdraw from Measure 1 Australia would have to withdraw from the Antarctic Treaty.¹⁹

Conclusion and recommendation

- 10.17 The Committee supports the establishment of a permanent secretariat dedicated to administering the ATCM and the CEP. The Committee believes that the Secretariat will improve the administrative efficiency of meetings and the flow of information between consultative parties.

15 A representative of the Antarctic and Southern Ocean Coalition was elected to participate as a member of the Australian delegation at the 2003 ATCM. The Director of the Office of Antarctic Affairs of the Government of Victoria also attended as a state representative to the ATCM. NIA, Consultation Annex, paras 1-2.

16 NIA, Consultation Annex, para. 1.

17 NIA, Consultation Annex, para. 3.

18 Australia could withdraw from the Treaty under Article XII(2)(c) by giving notice to the depository Government. The withdrawal would take effect two years after receipt of notification. NIA, para. 22.

19 NIA, paras 21-22.

Recommendation 10

The Committee supports *Measure 1 (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003 under the Antarctic Treaty, done at Washington on 1 December 1959* and recommends that binding treaty action be taken.

**Dr Andrew Southcott MP
Committee Chair**



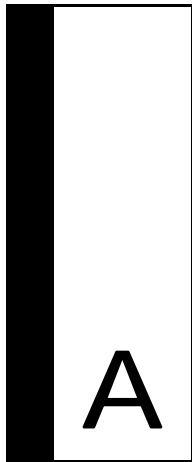
Additional Comment

I support the Committee's recommendations that binding treaty action be taken in regard to all the Treaties considered in this report. However, I believe the comments in paragraph 2.31, combined with recommendations 1 and 2, give an unnecessarily negative view about the potential use of the external affairs power by the Commonwealth.

Whilst I agree that a practical and reasonable approach should always be followed in the use of this power by the Commonwealth, I also believe that when Australia takes binding treaty action, Parliament should not be apologetic if it decides it is necessary to implement legislation at the federal level that reflects the provisions of those treaties.

The current government should certainly be up-front if there is any legislation it intends to put forward using the external affairs power under the *United Nations Convention against Corruption* (or any other Treaty). However, it will always be the prerogative of the Senate and the Parliament as to whether it passes such legislation.

Senator Andrew Bartlett



Appendix A - Submissions

Treaties tabled on 7 December 2004

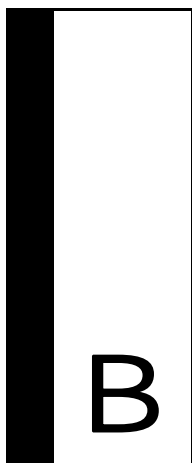
- 1 Government of Western Australia
- 2 Australian Patriot Movement
- 2.1 Australian Patriot Movement (supplementary)
- 2.2 Australian Patriot Movement (supplementary)
- 2.3 Australian Patriot Movement (supplementary)
- 2.4 Australian Patriot Movement (supplementary)
- 2.5 Australian Patriot Movement (supplementary)
- 2.6 Australian Patriot Movement (supplementary)
- 2.7 Australian Patriot Movement (supplementary)
- 3 Queensland Government
- 4 Dr Simon Evans
- 5 Department of Foreign Affairs and Trade
- 5.1 Department of Foreign Affairs and Trade (supplementary)
- 6 Minister for the Environment and Heritage
- 7 Attorney-General's Department
- 7.1 Attorney-General's Department (supplementary)
- 8 Hon Philip Ruddock MP, Attorney-General

Treaties tabled on 15 March 2005

- 1 Government of Western Australia
- 2 ACT Government
- 3 South Australian Government
- 4 Queensland Government
- 5 Australian Customs Service
- 6 Department of Foreign Affairs and Trade

Treaties tabled on 11 May 2005

- 1 Australian Patriot Movement
- 1.1 Australian Patriot Movement (supplementary)
- 1.2 Australian Patriot Movement (supplementary)
- 1.3 Australian Patriot Movement (supplementary)
- 1.4 Australian Patriot Movement (supplementary)
- 1.5 Australian Patriot Movement (supplementary)
- 2 NSW Government
- 3 Government of Western Australia
- 4 Legislative Council, Tasmania
- 5 Queensland Government
- 6 Australian Communications Authority
- 7 Department of Defence
- 8 Therapeutic Goods Administration
- 9 ACT government
- 10 Rio Tinto Australia



Appendix B - Witnesses

Monday, 7 March 2005 - Canberra

Attorney-General's Department

Mr Bruce Bannerman, Principal Legal Officer, Funding and Assets of Crime Section, Criminal Law Branch, Criminal Justice Division

Ms Joanne Blackburn, First Assistant Secretary, Criminal Justice Division

Mr Greg Manning, Principal Legal Officer, Advising Section, Public International Law Branch, Office of International Law

Mr William McFadyen Campbell, General Counsel, International Law

Ms Kate Westmoreland, Legal Officer, International Legal Cooperation Team, International Crime Branch, Criminal Justice Division

Australian Agency for International Development

Mr Mark Palu, Director, Coherence and Strategic Issues, Policy and Multilateral Branch

Australian Federal Police

Mr Peter Drennan, National Manager, Economic and Special Operations

Australian Public Service Commission

Mr David Bohn, Group Manager, Policy

Department of Finance and Administration

Mr Marc Mowbray-d'Arbela, Branch Manager, Legislative Review Branch

Department of Foreign Affairs and Trade

Ms Patricia Holmes, Director, New Zealand Section

Mr James Larsen, Assistant Secretary and Legal Adviser, Legal Branch

Mr Andrew Serdy, Executive Officer, Sea Law, Environment Law and Antarctic Policy Section, Legal Branch

Ms Marina Tsirbas, Director, Sea Law, Environment Law and Antarctic Policy Section, International Organisations and Legal Division

Department of the Treasury

Mr Matthew Brine, Manager, Governance and Insolvency Unit, Corporations and Financial Services Division

Geoscience Australia

Mr William Hirst, Project Manager, Maritime Boundaries and Advice

Mr Philip Symonds, Senior Adviser, Law of the Sea, Petroleum and Marine Division

Monday, 14 March 2005 – Canberra**Attorney-General's Department**

Mr Greg Manning, Principal Legal Officer, Advising Section, Public International Law Branch, Office of International Law

Mr William McFadyen Campbell, General Counsel, International Law

Department of Foreign Affairs and Trade

Ms Patricia Holmes, Director, New Zealand Section

Mr James Larsen, Assistant Secretary and Legal Adviser, Legal Branch

Mr Michael Jonathan Thwaites, Executive Director, Treaties Secretariat, Legal Branch, International Organisations and Legal Division

Ms Marina Tsirbas, Director, Sea Law, Environment Law and Antarctic Policy Section, International Organisations and Legal Division

Geoscience Australia

Mr William Hirst, Project Manager, Maritime Boundaries and Advice

Mr Philip Symonds, Senior Adviser, Law of the Sea, Petroleum and Marine Division

Tuesday, 31 May 2005 – Canberra

Attorney-General's Department

Mr William McFadyen Campbell, General Counsel, International Law

Department of Foreign Affairs and Trade

Mr Andrew Serdy, Executive Officer, Sea Law, Environment Law and Antarctic Policy Section, Legal Branch

Mr Michael Jonathan Thwaites, Executive Director, Treaties Secretariat, Legal Branch, International Organisations and Legal Division

Ms Marina Tsirbas, Director, Sea Law, Environment Law and Antarctic Policy Section, International Organisations and Legal Division

Monday, 20 June 2005 – Canberra

Attorney-General's Department

Mr Mark Zanker, Assistant Secretary, International Trade and Environment Law Branch, Office of International Law

Australian Communications Authority

Mr Andrew Kerans, Executive Manager, Radiofrequency Planning Group

Mr Wayne Morris, Assistant Manager, International Radiocommunications Team

Australian Customs Service

Mr Wayne Baldwin, Manager, Valuation and Tariff Branch

Department of Communications, Information Technology and the Arts

Dr Jason Ashurst, Acting Manager, ITU Governance and Policy Section, International Branch

Dr Greg Terrill, General Manager, International Branch

Department of Defence

Mr Shane Carmody, Deputy Secretary, Strategy

Mr Benedict Coleman, Assistant Secretary, ASIA, International Policy Division

Mr Mark Cunliffe, Head, Defence Legal

Mr Martin Kennedy, Assistant Director, North ASEAN, International Policy Division

Ms Anne Sheehan, Senior Legal Officer, Directorate of Agreements, Defence Legal

Mr Paul Watson, Regional Manager, Corporate Services and Infrastructure, South Queensland

Department of Environment and Heritage

Mr Mark Hyman, Assistant Secretary, Environment Protection Branch

Mr Warren Papworth, Acting Manager, Antarctic and International Policy Section

Department of Foreign Affairs and Trade

Mr John Bailey, Executive Officer, Korea Section

Ms Louise Hingee, Executive Officer, FTA Commitments and Implementation Section, Trade Commitments Branch, Office of Trade Negotiations

Mr Graeme Lade, Director, Malaysia, Singapore and Brunei Section

Dr Joanne Loundes, Executive Officer, Malaysia, Brunei, Singapore Section

Ms Jacqueline McConnell, Executive Officer, Canada Desk, US and Canada Section

Mr Joshua Meltzer, Executive Officer, FTA Commitments and Implementation Section, Office of Trade Negotiations

Mr Michael Jonathan Thwaites, Executive Director, Treaties Secretariat, Legal Branch, International Organisations and Legal Division

Ms Marina Tsirbas, Director, Sea Law, Environment Law and Antarctic Policy Section, International Organisations and Legal Division

Mr Damian White, Executive Officer, Legal Branch

Mrs Chulee Vo-Van, Singapore Desk Officer, Malaysia, Brunei, Singapore Section

Department of Health and Ageing

Dr Sneha Satya, Senior Manager, Review and Treaties Team, National Industrial Chemicals Notification and Assessment Scheme

Department of Industry, Tourism and Resources

Mr Neil Richardson, Manager, International Co-operation Section

Therapeutic Goods Administration

Mr Anthony Gould, Chief GMP Auditor, Office of Devices, Blood and Tissues

Ms Rita Maclachlan, Director, Office of Devices, Blood and Tissues

Mr Terry Slater, National Manager, Therapeutic Goods Administration