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JOINT STANDING COMMITTEE ON TREATIES

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JOINT COMMITTEE ON TREATIES

Monday, 21 October 2002

Members: Ms J.I. Bishop (*Chair*), Mr Wilkie (*Deputy Chair*), Senators Barnett, Bartlett, Kirk, Marshall, Mason, Stephens and Tchen and Mr Adams, Mr Bartlett, Mr Ciobo, Mr Evans, Mr Hunt, Mr P.E. King and Mr Scott

Senators and members in attendance: Senator Kirk, Senator Marshall, Senator Stephens, Senator Tchen, Mr Adams, Ms J.I. Bishop, Mr Ciobo, Mr M. Evans, Mr P.E. King, Mr Wilkie

Terms of reference for the inquiry:

Treaties tabled 15 October 2002.

WITNESSES

BEVEN, Dr Terence Patrick, Director, Nuclear Trade and Security Section, Nuclear Policy Branch, International Security Division, Department of Foreign Affairs and Trade 17

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McBRIDE, Mr Paul, Manager, International Tax and Treaties Division Revenue Group, Department of the Treasury 1

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RAYNER, Mr Craig, Assistant Director, Medicare Eligibility Section, Department of Health and Ageing 10

WALDRON, Ms Biljana, Analyst, International Tax and Treaties Division Revenue Group, Department of the Treasury 1

Committee met at 10.06 a.m.

BOUWHUIS, Mr Stephen, Acting Assistant Secretary, Office of International Law, Attorney-General's Department

FEWSTER, Mr Alan, Executive Director, Treaties Secretariat, Legal Branch, Department of Foreign Affairs and Trade

JUSZCZYK, Mr Jurek, Director, Thailand, Vietnam and Laos Section, Department of Foreign Affairs and Trade

MILNER, Mr Colin, Director, International Law and Transnational Crime Section, Legal Branch, Department of Foreign Affairs and Trade

McBRIDE, Mr Paul, Manager, International Tax and Treaties Division Revenue Group, Department of the Treasury

WALDRON, Ms Biljana, Analyst, International Tax and Treaties Division Revenue Group, Department of the Treasury

Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

CHAIR—I declare open this public hearing of the Joint Standing Committee on Treaties. Today, as part of our ongoing review of Australia's international treaty obligations, the committee will review three treaties tabled in parliament on 15 October 2002. I understand that representatives from the Department of Foreign Affairs and Trade and the Attorney-General's Department will be with us for the proceedings, with witnesses from other departments joining us for discussion of the specific treaties for which they are responsible. To begin our hearing, we will take evidence on the proposed agreement to amend the Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income. I welcome the representatives from the Treasury and the Department of Foreign Affairs and Trade.

Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Would you like to make some introductory remarks before we proceed to questions?

Mr McBride—We welcome the opportunity to present to the committee the benefits to Australia of the Vietnamese exchange of letters and recommend that the members of the committee support the proposed treaty action. Firstly, we would like to say that the exchange of letters is essentially an administrative arrangement which updates the Vietnamese double tax agreement to reflect changes made to the Vietnamese law on foreign investment. The law on foreign investment in Vietnam referred to in the tax sparing provisions of article 23 of the Vietnamese double tax agreement has been repealed and replaced with a new law on foreign

investment in Vietnam. Hence, current references to the old law in the double tax agreement no longer apply. This exchange of letters merely ensures that the tax sparing incentives referred to in the Vietnamese law on foreign investment, which were agreed to in principle in the 1992 double tax agreement and specifically listed in the 1996 exchange of notes, are updated and continue to apply as originally agreed to and intended. There are no substantial changes to these provisions, as the incentives under Vietnamese current law are of the same general type as the original incentives.

Specifically, the exchange of letters referred to the provisions under the Vietnamese law which give exemption or deduction of Vietnamese tax, designed to encourage certain Australian investment for which Australia provides tax sparing. With tax sparing, Australia essentially agrees to give the investor a credit for tax that would have been paid to Vietnam but for the concession, restoring the tax effectiveness of the concession.

These tax sparing provisions were previously agreed to as part of the double tax agreement negotiation between Australia and Vietnam in 1992 and need to be viewed in that context. Tax sparing benefits are provided to Australian residents for the 10 years commencing on the date of the effect of the 1992 agreement—that is, from 1 July 1993 to 30 June 2003. The provisions will then permanently expire.

When the original Vietnamese double tax agreement was signed in 1992, article 23 provided that the Vietnamese tax incentives to be spared would be determined in letters exchanged at a future date for that purpose between the Treasurer and the Vietnamese Minister of Finance. Notes to that purpose listing the then current Vietnamese tax incentives for which Australia would be prepared to provide tax sparing were exchanged in 1996. Subsequently the Vietnamese tax authority notified Australia of changes made to the Vietnamese tax laws specified in the tax sparing provisions as inserted in 1996. The law on foreign investment in Vietnam in 1997 and the 1993 implementing regulations had been repealed and replaced with a law on foreign investment in Vietnam 1997 and the implementing regulations of 2000.

Vietnam is seeking Australia's agreement that the relevant tax incentives in the 1997/2000 laws are substantially the same as those previously agreed between the two countries and that the tax provisions of article 23 of the agreement be amended to apply those replacing incentives. The replacing articles substantially replicate the original articles referred to in the agreement. Accordingly, article 23 of the agreement needs to be updated to restore the operation of the provisions to their pre-1997 position.

If the exchange of letters does not enter into force, Australians will no longer be able to claim the tax sparing provisions agreed to earlier. Australian businesses have made investment decisions and entered into arrangements based on the expectation that the list of concessional activities will apply until the income year ending 2003. Failure to bring the exchange of letters into force will result in Australian businesses paying Australian taxes on profits from their Vietnamese investment activities, contrary to the agreement Australia entered into with Vietnam. Hence the exchange of letters will clarify the operation of the tax sparing provisions to Australian investments and provide certainty.

In the 1997 budget announcement the government indicated that providing tax sparing and double tax agreements was no longer government policy. What we are proposing with Vietnam is not inconsistent with that policy directive as it does not extend the tax sparing provisions

either in time or in substance. It merely ensures that the undertakings we made as part of the negotiations leading up to the 1992 double tax agreement with Vietnam are fulfilled.

The exchange of letters will provide the following benefits: firstly, it fulfils our commitment to tax sparing under the treaty as agreed; secondly, it will continue to promote the already substantial flow of investment and trade between Australia and Vietnam by continuing the existing tax sparing arrangements that are designed to encourage investments into Vietnam; thirdly, it contributes to developing and improving bilateral relations with Vietnam; and, finally, it should provide a reasonable element of legal and fiscal certainty within which cross-border trade and investment can be carried on.

The concessions specified in this exchange of letters are essentially a rewrite of Vietnam's original concessions. As such, what we are proposing comes at no additional cost to revenue as it has already been factored into the forward estimates. This exchange of letters is not expected to result in increased compliance costs for business.

In conclusion, the exchange of letters is not expected to produce any cost to Australian revenue over that which was projected as part of entering into the tax sparing arrangements earlier. The exchange of letters will produce benefits by updating and clarifying the tax sparing provisions and honouring our commitment under the treaty as intended. Therefore, we recommend that the members of the committee support the treaty action as proposed.

CHAIR—Thank you. I have some general questions about Australia's tax treaty network. Point 12 of the NIA refers to the exchange of letters improving the integrity of the tax system. Could you enlarge on how it is accommodating both countries' domestic laws? Secondly, you speak of enhancing the efficiency and effectiveness of Australia's tax treaty network. Could you give us some more information on how broad Australia's tax treaty network is? What are the priority countries? How does this exchange of letters enhance the efficiency and effectiveness of our tax treaty network?

Mr McBride—On the domestic law front, Vietnam has this incentive legislation which is meant to attract investment into Vietnam. It provides a reduced tax rate. For it to be of any benefit to Australians—

CHAIR—What is the tax rate?

Mr McBride—It varies from exemptions to low rates. Given that Australia taxes all of its residents on their worldwide income, if we did not provide tax sparing then the lower rates in Vietnam would just lead to a bigger tax take in Australia. Vietnam has specific legislation to facilitate their incentives legislation and the treaty referred to that legislation in providing tax sparing. They then changed that legislation, and for the treaty to have effect we need to change the treaty to align it with their domestic law. That is what we are trying to do here.

CHAIR—So it is not for Australian domestic law?

Mr McBride—No. In terms of our tax treaty network, I think we are at about 42 countries at the moment. The government has recently announced the international tax review, which will look at the priority for Australia's treaty negotiation program over the next few years. We have called for business submissions on that. We also need to consider most favoured nation clauses.

In previous treaties we have given undertakings to go back to countries, particularly if we reduce our withholding tax rates. We have now done that with the US, and once the US has ratified then we are obliged to go back to those countries and enter into negotiations to give them a similar reduction in withholding tax rates.

CHAIR—Has Australia ratified that?

Mr McBride—Australia has done all it has to do on the domestic front but the US has not. Until both countries do the domestic ratification process and then exchange notes, it will not enter into force. So those most favoured nation clauses have not been triggered yet, but when they are there is that obligation on Australia and that will influence our treaty program priority over the next few years. Nonetheless, we have asked for business submissions on that and that will also be taken into account.

CHAIR—So it is possible that we would go back and review this treaty with Vietnam as a result of the international tax review.

Mr McBride—It is possible but, I would think, unlikely. We regularly consult with business directly and through the Tax Treaties Advisory Panel. We have heard nothing from them that would indicate that this treaty is in need of review. But if we do receive submissions as part of the international tax review then we will obviously take that into consideration.

CHAIR—What has been the history of the tax sparing arrangements or double tax agreements with Vietnam?

Mr McBride—The agreement was signed in 1992.

CHAIR—Was that the first?

Mr McBride—Yes. As part of that, we agreed to provide tax sparing. The basis of that was to be an exchange of notes between the minister for revenue in Vietnam and our Treasurer. Subsequently, that happened and was done by an exchange of notes. They then changed their domestic law, so we have been going through a process to realign the treaty with their domestic law.

CHAIR—With regard to your general statement that this will enhance the efficiency and effectiveness of Australia's tax treaty network, do you just mean it will bring it in line?

Mr McBride—For the treaty network to be operating effectively, all its component parts have to do what they are meant to do. With the component part being Vietnam, we are saying that, when we negotiated that agreement, we said we would provide tax sparing to 2003. We are just making sure we do that.

CHAIR—Does this treaty have to specifically accommodate anything in Australia's domestic law?

Mr McBride—No, except to the extent that what happens in the agreements act is reflected in Australian law.

Mr WILKIE—The national interest analysis talks about the benefits of ratifying the treaty. Are there any negatives?

Mr McBride—With tax sparing you cop a hit to revenue. This has already been projected in forward estimates, but in the absence of tax sparing there would be a higher revenue take for Australia. However, that is only a minimal cost.

Mr KING—Are you able to give us an estimate of what the cost per annum to the Australian Treasury would be?

Mr McBride—We did cost tax sparing as part of the broad tax sparing program and we specifically costed Malaysia at being between about \$1 million and \$2 million a year. We asked our estimates people to do a similar costing for Vietnam and they said that, based on the roughly equal levels of trade, they would expect it to be \$1 million to \$2 million a year for this one, as well, which will permanently expire in June 2003.

Mr KING—There is a lot more Australian venture capital in Vietnam than there is in Malaysia, isn't there?

Mr McBride—We relied on our colleagues in revenue analysis to look at that and they said there should not be a substantial difference between the costings provided for Malaysia and the costings provided for Vietnam.

Mr KING—Have you done a historical analysis? Let us not worry about future projections. Have you done any historical analysis over the past five years, or since 1997—let us take that year—of the impact on the Australian tax dollar per annum?

Mr McBride—For Vietnam, specifically?

Mr KING—Yes.

Mr McBride—Not that I am aware of.

Mr KING—Those figures would be available, wouldn't they?

Mr McBride—Possibly. As I said, as part of this process we asked for costings. To the extent that they came back and said that they could not be specifically costed, I am assuming that they are not readily available. However, we can follow that up with our revenue estimate people if you wish.

Mr KING—Where is the impetus for this tax treaty in particular coming from? Does it come from DFAT or does it come from Treasury?

Mr McBride—Vietnam approached us back in the days when the tax office used to do treaty negotiations. We received a letter via the post from Vietnam notifying us that they had changed their domestic law and they asked us to realign the treaty with that domestic law.

Mr KING—So they contacted you directly, not DFAT?

Mr McBride—They may have come through DFAT, but it was an approach to us.

Mr KING—What did DFAT recommend?

Mr Juszczyk—As far as I am aware, the approach was a direct one. We were not asked for a recommendation. We have not given any recommendation.

Mr KING—You have not recommended either for or against it?

Mr Juszczyk—We subscribe to the statements in the national interest analysis which indicate that this would contribute to Australia's bilateral relationship with Vietnam, so we are in favour of it.

Mr KING—The exemptions sought and the dispensations credited in various tax returns do not give you any figures on the cost on a historical basis?

Mr McBride—I cannot answer that with any degree of certainty but, as I said, I would assume that our costings people would look into that in trying to provide a costings going forward. The fact that they have not been able to do it specifically for Vietnam or for the other treaties which involve tax sparing provisions would indicate that they probably cannot, but I can follow that up if you wish.

Mr KING—Are you able to give us an indication of the range of businesses or business sectors in Vietnam that are generally affected or advantaged by this proposal?

Mr McBride—I can give you a broad outline of the things that are tax spared—perhaps not broad; it is quite detailed—and I can list a few of them, if you wish.

Mr KING—Yes, please.

Mr McBride—They are: construction of infrastructure facilities; communications; power production and supply; construction of infrastructure facilities; plantation of new forests and commercial exploitation thereof; exploitation of natural resources; heavy industry projects, including metallurgy, mechanical engineering production, base chemical production, cement production and electrical materials manufacturing; plantation of long-term industrial crops; activities in mountain areas; and projects carrying out infrastructure activities within a defined time period.

Mr KING—Thank you.

Mr ADAMS—So the companies pay tax on their worldwide income for the work they have done in Vietnam—

Mr McBride—Australian residents do.

Mr ADAMS—except for the write-down that we allow them through the agreement about what they pay in Vietnam. Is that right?

Mr McBride—Yes. If an Australian company made \$100 in Vietnam and Vietnam taxed at 30 per cent, then when it came to that company lodging their Australian tax return they would declare \$100 income and we would give them a credit of \$30, so effectively they would pay no tax in Australia. If Vietnam taxes them at 10 per cent, then they pay \$10 in Vietnam, they lodge their Australian tax return for \$100 and there would be only \$10 paid in tax. Normally, Australia would tax them for the other \$20, but with tax sparing we say, ‘We will credit you that extra \$20.’

Mr ADAMS—You can see that this committee has to work out what is in the public interest and what is in Australia’s interest here. We have to work out what the criteria are for going into double taxation agreements in various parts of the world. We do not have one and I do not think we have one as a country. What are the criteria? Who says that this is good for the country and who says it is not? Who is making those critical decisions?

Mr McBride—On treaties broadly or on tax sparing specifically?

Mr ADAMS—On tax sparing—giving up tax.

Mr McBride—I think the government said in 1997 that, as far as tax policy going forward, tax sparing is not part of their program. We are fulfilling our commitments under the treaty to do tax sparing until 2003, but other than that we would not agree to tax sparing going forward.

Mr ADAMS—I am not a tax expert; I am not an accumulator of wealth, so I have not spent my life looking at the tax act. You are using a bit of jargon there that I do not understand.

Mr McBride—Tax sparing is good for countries like Vietnam in that it helps build their infrastructure, and it also gives an opportunity for Australian companies to invest offshore. It is bad to the extent that, if a company has made an investment decision on a pure tax policy perspective, they should do it based on the facts as presented. Tax sparing tends to steer them down a particular course. It is bad tax policy for that reason. It also encourages a race to the bottom. If we get into a competitive spiral internationally in which every country tries to reduce taxes, then there will be no revenue left to pay for infrastructure.

Mr ADAMS—So how do we make those judgments? When other countries are competing for building that infrastructure in Vietnam and Vietnam is trying to encourage that foreign capital, how do we as a country make sure that we are doing the right thing by Australia?

Mr McBride—Like all policy decisions, we look at costs and benefits. We are also a member of the OECD; the OECD has reflected on tax sparing and generally suggests that there are costs and benefits but on balance it is probably not a good idea. So what we do is consistent with our major trading partners in the OECD.

Mr ADAMS—Does the OECD have a comment on tax sparing?

Mr McBride—Yes.

Mr ADAMS—Could you let the committee have a copy? I would be very interested to see that.

Mr McBride—Certainly.

Mr ADAMS—Is the international tax review dealing with double taxation?

Mr McBride—It is dealing with international taxation—double taxation is a component of that.

Mr ADAMS—What are the criteria or the terms of reference for the international tax review?

Mr McBride—They are quite broad. It would take me quite some time to lead you through them—and I did not bring them with me.

Mr ADAMS—That is going on now, is it?

Mr McBride—Yes. The government has released a consultation paper and I think submissions close by the end of October.

Senator TCHEN—Mr Juszczuk or Mr McBride, you said in the NIA that the agreement was brought about because the Vietnam government changed the concessions specified in the agreement. They made a concession in their tax regime. Is that right? It says here that the new concessions specified in the exchange letter are essentially a rewrite of Vietnam's original concessions.

Mr McBride—It is just a rejigging of the whole incentives act, of which the bits that the treaty refers to are a component part; so, in rejigging their domestic act, it was no longer aligned with our treaty.

Senator TCHEN—You told the committee that the initiative for this exchange of letters came from the Vietnam government.

Mr McBride—As we understand it, yes.

Senator TCHEN—Can you surmise for this committee what brought about this approach from the Vietnam government?

Mr McBride—It was simply the fact that they recognised that for tax sparing to work there needed to be an alignment between their domestic legislation and the treaty. They realised that once they changed that domestic legislation there was no longer alignment and the tax sparing provisions would not work in practice, so they approached us to change the treaty so that they worked in practice again.

Senator TCHEN—That seems to show a very acute sensitivity on the part of the government of Vietnam to what the investment community needs, don't you think?

Mr McBride—I think it was an awareness that everything that they can do to attract investment for Vietnam is probably a good thing for them, and they were conscious of that in approaching Australia.

Senator TCHEN—They were not encouraged by representations from the investment community?

Mr McBride—I could not tell you.

Senator TCHEN—I understand that this provision applies only until 30 June 2003. What will happen after 2003?

Mr McBride—Tax sparing will be no more. If they continue to offer these low tax incentives, Australia will pick up the difference. In the example I gave before, instead of giving them a credit for that extra \$20, we would take it as revenue.

Senator TCHEN—And that is not negotiable?

Mr McBride—It is not negotiable.

CHAIR—Thank you for appearing before the committee this morning and for presenting your evidence. I am sure it will be most useful to us.

[10.31 a.m.]

BOUWHUIS, Mr Stephen, Acting Assistant Secretary, Office of International Law, Attorney-General's Department

BURNESS, Mr Mark, Director, Medicare Eligibility Section, Department of Health and Ageing

RAYNER, Mr Craig, Assistant Director, Medicare Eligibility Section, Department of Health and Ageing

FEWSTER, Mr Alan, Executive Director, Treaties Secretariat, Legal Branch, Department of Foreign Affairs and Trade

MILNER, Mr Colin, Director, International Law and Transnational Crime Section, Legal Branch, Department of Foreign Affairs and Trade

An Exchange of Letters between Australia and the Republic of Ireland constituting an agreement to amend the 1997 Agreement on Medical Treatment for Temporary Visitors

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament. Mr Burness or Mr Rayner, I invite either of you to make some introductory remarks, after which we can proceed to questions.

Mr Burness—I will be fairly succinct because I do not think we need to take up too much of the committee's time in terms of the background detail. This is an adjustment to the Agreement with the Republic of Ireland on Medical Treatment for Temporary Visitors, which came into effect in 1997. The substantive reason for coming before the committee today is that our domestic law has changed. It is referred to for you in the NIA in paragraph 11. As you have probably all experienced over the last little while, when obtaining pharmaceutical benefits in Australia we are now clearly required to produce a Medicare card with a Medicare number.

The introduction of that new legislation overlays a circumstance whereby prior to that anybody who entered Australia who had a prescription, on a valid prescription form, could access the Pharmaceutical Benefits Scheme in Australia. The tightening of that arrangement needed to be reflected in the agreement which we have with Ireland to enable the Irish citizens to continue to access the Pharmaceutical Benefits Scheme in alignment with the agreement as it was prior to the domestic arrangements in Australia changing. So it is just bringing the 1997 agreement with Ireland up to date through correspondence between the competent authorities as our domestic law has changed affecting that agreement.

CHAIR—I have not come across one of these before as chair of the committee, so could you explain to me how this system operated prior to this proposed amendment. Are you saying that anybody from anywhere with a prescription could access the Pharmaceutical Benefits Scheme?

Mr Burness—Correct.

CHAIR—Was there any monitoring of that?

Mr Burness—The monitoring of the cost of it was very relevant to the government's decision in 2000 to introduce the **National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill**. I am not an expert in the area of the Pharmaceutical Benefits Scheme, but I understand they are currently monitoring the situation to see what savings flow from that and in what context they arise.

CHAIR—I am not sure that I picked it up, but was it in the national interest analysis—how much that was costing the Australian taxpayer under the PBS? Do we have an estimate?

Mr Burness—No. We have not outlined in the NIA the scheme as it was or the budget arrangements that took place for the 2000 amendment of the Pharmaceutical Benefits Scheme. We have concentrated on the agreement.

CHAIR—But those figures are available?

Mr Burness—As I understand it, they were in the budget papers when the initiative was put in place in 2000.

CHAIR—So that would tell us—

Mr Burness—The intended savings that would flow from the introduction of that change.

CHAIR—But it would not tell us specifically the impact from Ireland—it is not country specific?

Mr Burness—No, it would not get down to that detail.

CHAIR—How many other countries are we having to initiate these exchanges of letters with?

Mr Burness—In terms of the pharmaceutical benefits issue, this is the only one.

CHAIR—Why is that?

Mr Burness—Simply because when it was initially negotiated—and it took some years to implement—it was decided to go forward with the wording of the broader agreement as it was in 1997, as there had at that stage been no indication that there would be a change of the nature that we are talking about here.

CHAIR—So if I were an Irish traveller in Australia and I needed access to the health system, what would happen?

Mr Burness—You would simply go to a pharmacist, and the pharmacist would sight your passport and then provide you with the pharmaceutical benefit.

CHAIR—Is there any record kept of that?

Mr Burness—Yes.

CHAIR—So there is an obligation on the pharmacist to maintain a record of the prescription and the passport?

Mr Burness—Yes, it is the same as for an Australian citizen.

CHAIR—They would take the passport details?

Mr Burness—They would. I expect they would be looking at your full name, your address and your date of birth. They would be the key aspects of that passport—and the validity of that passport, obviously.

CHAIR—And where does that information go?

Mr Burness—That is held within the health database in relation to the payment for a pharmaceutical benefit.

CHAIR—Is that going to apply across the board? What if I were a visitor from South Africa—what happens in that situation?

Mr Burness—If you do not have access to a pharmaceutical benefits scheme—which you would not have in South Africa—you would have to pay full price for that drug.

CHAIR—So it is only for specific countries?

Mr Burness—Yes.

CHAIR—And you have provided a list of those?

Mr Burness—There is a list of the current reciprocal health care agreements at paragraph 10 of the national interest analysis.

CHAIR—So this agreement was prompted purely by the changes to the National Health Act?

Mr Burness—Correct.

Mr WILKIE—I do not have a problem with that. I am curious as to whether we have ever tried to negotiate an agreement with the United States.

Mr Burness—We have, over a period of time, looked at that continent, as in Canada and the United States. The United States health system is complex in that their Medicare system is of no comparison to our Medicare system in terms of access and services. Therefore, it would be in no way advantageous to us to have an agreement with their national system. The only alternative would be to have 52 separate agreements with each of the states of the United States. There again you would be in a situation where a lot of it is based on a purely private arrangement, not

on a state or national health system. Therefore, you would be trying to align a national health system with a private, state set-up, which is far more complex.

Mr WILKIE—The other question I had was for Mr Milner. Mr Milner, you are from the criminal investigation branch—was that it?

Mr Milner—I am from the legal branch of the department, but there is a legal branch section which is the international law and transnational crimes section. The transnational crime work, as I understand it, essentially came about after the events of 11 September last year in a much more concentrated way than was previously the case.

Mr WILKIE—I was trying to understand your department's role in this treaty.

Mr Milner—As I understand it, we have been involved in providing the political brief element in the national interest analysis. I am not aware of what communications there would have been in terms of the policy side of things. I would have to take a question on notice if you wished me to pursue that.

Mr WILKIE—I was after something more general than specific.

Mr Milner—Our involvement in the legal branch has to do with executive council treaty action, essentially, in matters of this kind.

Senator KIRK—I see that we are amending the agreement here with Ireland. I wonder whether or not it is going to be necessary to amend the agreements with the other countries so that citizens of those countries also can just present a passport.

Mr Burness—With the other countries, the structure of their agreements is broad enough to cover this change. For various reasons, references in those treaties, which I will not go into in detail, have picked up the National Health Act sufficiently to accommodate the changes.

CHAIR—Turning to the costs of this agreement, the NIA repeatedly states that the costs and benefits cannot be quantified for a number of reasons—insufficient data and financial analysis, that the state and territory data on hospital usage is not comprehensive and a number of issues. Then you mention the intangible factors in paragraph 27. Is there any cost-benefit analysis that can be done? We just seem to be dealing with assumptions.

Mr Burness—I do not in all honesty believe that we are in a position to get a serious cost-benefit analysis between two countries when we are dealing with such a small number of people in the total ambit of travellers around the world and the movements between countries. But a lot of that is outweighed by the fact—and we have tried to present this as evenly and openly as we can in the NIA and as fully as we can at this time for you—that it is fair to say that there is a huge revenue influx to Australia from the groups of people we are dealing with as against the numbers of people who would seek to access the health systems on either side of the world. You are dealing with a reasonably large number of people, but a very small number of them access the system in any way, shape or form. In terms of the benefits they seem to bring for tourism, business and otherwise, there are various attempts at trying to give figures on that. We have given one in here in terms of the \$17.1 billion for international tourists to Australia, which comes out of various reports of the department of tourism, et cetera. It appears to us that the

only thing you can do is look at it in a very broad context, which is the issue you are raising, I think, Madam Chair. In the broad context, it is a very small group who would be accessing it and the benefits that flow seem to be huge. Therefore, as against what might be a cost, you are looking at attributably \$5.1 billion worth of revenue in terms of tourism.

CHAIR—But you are asking us to make an assumption that there is some connection between tourist behaviour—where tourists are going to visit—and the availability of a pharmaceutical benefits scheme to a tiny percentage who might ever access it. We have to make an assumption that Irish travellers will come to Australia because there is this availability of medical care.

Mr Burness—They may or they may not. The general overall government policy on the agreements is primarily to provide us—the Australian population—with an extension of our health system to countries around the world where that can be done within the sorts of constraints which are outlined in here. It is to ensure that the 75-year-old, perfectly fit Australian who is unable to get private insurance because of their age is able to go to London, spend some time in London and be secure knowing that, if anything goes wrong, they are covered for their health. It is primarily driven from that point of view. That is the main driver.

CHAIR—So it is really for the benefit of Australian travellers.

Mr Burness—That is right.

CHAIR—And the reciprocal nature of it is really a consequence of the benefit that it will give to Australia.

Mr Burness—The benefit that it will give to Australians is the primary reason. There are certain groups of people—one of which I have just outlined to you—which are disadvantaged by the private arrangement. If I go and buy private health insurance, they ask me whether I have any pre-existing conditions. If those pre-existing conditions are notified on that insurance policy, then, if anything happens that can be attributed to that, I am liable for those costs. The agreements are negotiated in a manner which says that, provided I am fit to travel and I have no intention of seeking treatment in that country, and that pre-existing condition happens to unfortunately arise—

CHAIR—‘I have no intention of seeking treatment.’ How are we to determine that?

Mr Burness—There are certain circumstances where you would go to a country for a heart-lung transplant or something like that, or you may directly seek treatment and you would come into Australia on a treatment visa, a medical visa. Those sorts of things are excluded from the agreement. If I am over there and that pre-existing condition happens to unfortunately arise, I am at least protected. It is a supplement—a very strong supplement—for the protection of Australians over and above the private capacity of people to insure.

CHAIR—Do you see it being open to abuse—of either the Australian health system or the reciprocal country?

Mr Burness—It is a pretty big flag fall cost to try and uplift yourself to go to a country to get into their health system and to enter it to abuse it. We certainly do adjust the agreements where

things change in terms of the overall access. Where a country changes in a way that would exclude us from, for instance, accessing their PBS, we would change our agreements to reflect that. We would exclude access to ours. The bigger contexts are adjusted.

CHAIR—So you cannot see any possibility of abuse of the PBS by people from overseas?

Mr Burness—I do not believe so. Not through this process.

CHAIR—Under this treaty process, I note there was consultation with the states and territories. Was there any consultation with the pharmacists or the industry?

Mr Burness—With the industry, yes. There have been extensive consultations on the arrangements for the introduction of this arrangement.

CHAIR—With whom?

Mr Burness—With the Pharmacy Guild.

CHAIR—Is that in the national interest analysis?

Mr Burness—I do not know. We have not detailed the implementation of the processes for the implementation of the improved monitoring of entitlement amendments here.

CHAIR—Who prepared the national interest analysis?

Mr Burness—We did, from the international point of view.

CHAIR—It might be a suggestion that, in the national interest analyses in future, under ‘Consultation’, we set out the other bodies that have been consulted. It is of interest to the committee that there has been wider consultation than just with the state and territory health authorities.

Mr Burness—Certainly.

Senator STEPHENS—Mr Burness, my question is to you. As someone born in the Republic of Ireland I am quite interested in this and the impact that it might have on people who are visiting me and my family.

CHAIR—You should have been asking all the questions!

Senator STEPHENS—I am quite interested in the extent of these proposed amendments, under which, as you suggest, an Irish national will provide a passport for identification for the purposes of being able to have medications issued. Has there been discussion about that process with the department of immigration in terms of finding people who have overstayed their visas?

Mr Burness—We certainly have had discussions with the department of immigration about people overstaying their visas. But, as you would be aware, normally you would have in your passport a stamp which gives you entry into Australia and the visa on which you enter, which

gives a time frame. So if you go into a pharmacy there is a capacity for the pharmacist to look at the validity of the passport, the day you entered and what sort of access you are entitled to have under your visa, because if it had expired then they would see an irregularity.

Senator STEPHENS—So in your discussions with the Pharmacy Guild, has a process been established by which the pharmacist might act to some extent as a gatekeeper or a regulator, and report that issue?

Mr Burness—Yes. There was a lot of discussion about the process of triggering a pharmaceutical benefit or not. There is also a process within the Pharmaceutical Benefits Scheme whereby, if the pharmacist has a doubt and the script is at a reasonable cost, they could pay full price, then establish back with the Health Insurance Commission, the central point, the validity of their claim to reciprocal health care, and therefore get a rebate of that amount.

Senator STEPHENS—So is there a nationwide directive to pharmacists to flag the fact that someone has done this?

Mr Burness—Yes, there is a national process that goes to all pharmacies.

Senator STEPHENS—Thank you.

CHAIR—Just one last question: do you envisage this broadening access to the PBS, or are you saying it will not have any impact at all on the level of access?

Mr Burness—No, it will not have any change to the level of access.

CHAIR—Because it is merely the procedure rather than the availability of the PBS.

Mr Burness—Yes, which has always been there.

CHAIR—Thank you for your time in appearing before the committee today. It has been most helpful.

[10.54 a.m.]

BOUWHUIS, Mr Stephen, Acting Assistant Secretary, Office of International Law, Attorney-General's Department

EASEY, Dr John, International and Regional Liaison, Government and Public Affairs Division, Australian Nuclear Science and Technology Organisation

McINTOSH, Mr Steven, Government Liaison, Government and Public Affairs Division, Australian Nuclear Science and Technology Organisation

FEWSTER, Mr Alan, Executive Director, Treaties Secretariat, Legal Branch, Department of Foreign Affairs and Trade

BEVEN, Dr Terence Patrick, Director, Nuclear Trade and Security Section, Nuclear Policy Branch, International Security Division, Department of Foreign Affairs and Trade

MILNER, Mr Colin, Director, International Law and Transnational Crime Section, Legal Branch, Department of Foreign Affairs and Trade

Third Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Dr Easey, do you wish to make some introductory remarks before we proceed to questions?

Dr Easey—Yes. I will outline briefly the purpose and scope of the Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology in the Asia-Pacific region. The stated purpose of the RCA is to promote and coordinate cooperative research, development and training projects in nuclear science and technology. The RCA is an intergovernmental agreement embracing 17 countries in our region, ranging from Mongolia in the north to New Zealand in the south and from Pakistan in the west to Japan in the east. It has been in existence for 30 years. The International Atomic Energy Agency provides a secretariat to administer the program. This is achieved by the RCA coordinator, who is an IAEA staff member and is located in Vienna. Incidentally, in the 10 years between 1986 and 1995 two Australians held this position.

The program has matured as RCA member states' capabilities and capacities to utilise nuclear technologies have increased over the years. As a consequence, the program has moved from largely capacity building into applications that assist in addressing and providing solutions to environmentally sustainable development problems and challenges of collective importance. The scope of the cooperation program can be classified into six broad thematic sectors: health, environment, industry, radiation protection, agriculture and energy. The annual budget of the RCA is approximately \$US4½ million, around 60 per cent of which is provided by the

International Atomic Energy Agency, through its Technical Cooperation Fund, and the remainder is sought through extra-budgetary support from donors.

Australia and Japan are long-term major extra-budgetary donors to the RCA. Australia's extra-budgetary financial support is provided through AusAID's program, with other Australian agencies, particularly ANSTO, providing considerable in-kind assistance. Australia is planning to provide further extra-budgetary assistance to the RCA for a project focused on emergency response and management of radiological and environmental incidents, including those emanating from potential terrorist threats. A project design document has recently been submitted to AusAID for its consideration.

I should point out that the burden of extra-budgetary support is not solely borne by Australia and Japan. Over the five-year term of the previous agreement, which ran from June 1997 to June this year, a total of 10 RCA member states provided cash contributions totalling more than \$US3 million to fund project activities. In the same period, the United Nations Development Program provided RCA with \$US1.23 million in financial assistance. In addition to the cash budget, there is extensive in-kind assistance provided to the program by all RCA member states to support the various project activities, particularly the costs of hosting activities locally.

Turning to specific aspects of the RCA program, I will touch briefly on some of the aspects of three of the six RCA thematic sectors to illustrate the nature of the cooperative activities. In the health sector, nuclear techniques are used in medicine for a wide range of applications—from the diagnosis of disease to the treatment of cancer and through to the radiation sterilisation of tissue graft materials. Currently, major efforts are being made to improve, upgrade and accelerate the training of medical personnel across the region in specific areas of need. Other projects, either current or planned to commence in 2003, are concerned with the improved treatment of cancer of the cervix, the management of liver cancer and the management of pain in arthritis and bone cancer.

In the environment thematic sector, a number of important regional problems are being studied. Nuclear techniques are used to study urban air pollution and to characterise airborne particulate matter. These techniques can also be used to assess the effectiveness of remedial actions taken by authorities. Isotope hydrology is being used to assess, manage and prevent further degradation of ground water quality in selected urbanised and industrial areas in the region. Nuclear techniques also have an important role in the management of the marine coastal environment. In 2003 it is planned to carry out further work in the application of nuclear techniques to address problems associated with the impact of effluents and of coastal engineering. In the area of radiation protection, the program embraces activities focused on building up radiation protection infrastructure in our regional countries, internal and external dosimetry, emergency response to radiological accidents and training on radiation safety practices for end users of ionising radiation in industry and other areas.

Australia's technical support to the RCA has focused strongly on projects in the areas of radiation protection infrastructure, environment, health, and industrial applications of radioisotopes. For example, we play a lead role for the whole radiation protection sector in the region. One of the environmental and three of the health related projects in 2003 will be led by Australia. We have supported such projects through the sharing of our experience and expertise and in the provision of appropriate resources such as experts to undertake missions, to participate in regional and national training events and to assist in the planning and the design

of projects. In addition, Australia has been playing a lead role in developing management strategies to enable the RCA member states to take on more responsibility for the development and implementation of the program.

In conclusion, I believe there is ample evidence that membership of the RCA is valuable for Australia. Firstly, it is an effective and visible vehicle for the discharge of our obligations and commitments under article 4 of the nuclear nonproliferation treaty. The strong focus of the RCA program on the peaceful application of isotopes and radiation to development and environmentally sustainable issues underlines and reinforces the value of adherence to nuclear nonproliferation policies. On the practical side, the extensive networking that occurs between the counterpart agencies engenders a cooperative atmosphere that assists mutual understanding and facilitates regional contact across a wide range of science and technologies—and beyond that as well. Much of Australia's strong regional profile in nuclear science and technology is as a result of these efforts and has been brought about by our investment in the support of the RCA over the past 27 years. Finally, I note that, of the 17 RCA member states, 13 have now accepted the extension of the RCA agreement.

CHAIR—Just on that point, 13 have accepted as at 27 June, according to the papers. That leaves three, other than Australia—New Zealand Singapore and Thailand. Is there any reason for those countries not having accepted? Do we have any further information on that?

Dr Easey—With past extensions, those three countries have been rather slower than the majority. I think it is a reflection of the complexities within their own systems.

CHAIR—So the expectation is that they will accept?

Dr Easey—Yes. In the last extension, I think it took something like a year and a half before Singapore was able to accept.

Mr WILKIE—Have they expressed any concerns about being a party to it?

Dr Easey—In the past, a liberal attitude has been taken about acceptance of the extension. Once the quorum for extension has occurred—that is, the two countries—by 12 June, then a liberal attitude has been taken and all RCA member states have been accepted into the projects, despite the fact that they may not have signed on the dotted line.

Mr WILKIE—Have any states been invited to participate and then refused?

Dr Easey—No. To my knowledge, there has never been a situation where states have refused to participate. Really, whether or not they belong is their initiative. There is nothing within the articles of the RCA agreement that enables any member state to inhibit any action of other member states. Everything is done by consensus, and so there is no mechanism for rejecting applications. Whether they wish to be a member of the RCA and adhere to the articles of the agreement is dependent upon the various governments. If they want to participate in any particular project, again it is their decision which projects they participate in. But, having done that, they do adhere to the articles of the agreement, which set out certain obligations about reporting and providing access of experts, et cetera. That is all specified in the articles of the agreement.

CHAIR—This agreement was first concluded in 1972?

Dr Easey—That is correct, yes.

CHAIR—Who were the original parties to it?

Dr Easey—You are testing my memory. I believe that at that time there were something like 11 parties. Australia did not join the agreement—

CHAIR—Where was the impetus for this agreement coming from?

Dr Easey—The impetus arose in the sixties. There was a formative agreement between India, the Philippines and the International Atomic Energy Agency; it was called the IPA, the India-Philippines Agency agreement. This was for a very modest program for the introduction of some neutron scattering equipment for the Philippines research reactor. The project was so successful that other countries decided they would like to be party to it; more and more countries wanted to be part of some cooperative arrangement in the region. The decision was taken in 1972 to formalise this and to have this regional cooperative agreement.

CHAIR—Then Australia joined in 1977?

Dr Easey—Yes.

CHAIR—What countries have joined subsequent to Australia's joining?

Dr Easey—China.

CHAIR—When did China join?

Dr Easey—If my memory serves me correctly, it was in 1983. The last three countries to join the agreement were Mongolia, Myanmar and New Zealand, which were in 1994 and 1995.

CHAIR—When did Myanmar join?

Dr Easey—That was in 1994, as far as I recall.

CHAIR—Are we, as in the parties, actively looking for recruits to the agreement?

Dr Easey—Certainly there is a desire to broaden the advantages of the regional cooperation. It is a difficult issue, and I speak from first-hand experience. I was an RCA coordinator between 1990 and 1995, and I deliberately recruited Myanmar, Mongolia and New Zealand into the fold.

CHAIR—An interesting trio?

Dr Easey—Yes. But that was the first major recruitment since 1983.

CHAIR—There are some obvious omissions, aren't there, from the region?

Dr Easey—Yes. One country that could benefit quite substantially, I think, is Papua New Guinea, but they are not a member of the IAEA.

CHAIR—That is the precursor?

Dr Easey—That is the precursor to it, yes.

CHAIR—And Pakistan?

Dr Easey—Yes; they have been a long-term member of the RCA.

CHAIR—Were they an original member?

Dr Easey—I believe that they were a foundation member.

CHAIR—Just on another topic: you mentioned the medical training across the region.

Dr Easey—Yes.

CHAIR—Could you elaborate a little on what programs are undertaken, whereabouts, how they are funded and perhaps give some examples?

Dr Easey—Certainly. As I mentioned in my introductory statement, the medical area is one where Australia is taking quite a lead and is in fact leading half of the projects in the health care sector. All three are to do with distance learning and trying to upgrade skills and career paths, particularly for medical technicians. In many countries in the region, if you are a medical technician you are viewed as a failure, because you do not have a degree and there is no formal training.

We have recognised that, if you are going to make use of a lot of the more sophisticated medical equipment such as that used in nuclear medicine, you need to have a hard core of extremely well-trained personnel who will have the equipment tuned to the highest degree and who will look after it and nurture it. They are a key factor in getting the best performance from that sizeable investment that countries make in the medical area. So we have had a project going—it is now in its seventh year—which is training nuclear medicine technicians.

CHAIR—Those who look after the equipment?

Dr Easey—Yes. This is done through distance learning, because it is recognised that these people do not have the option of taking time off to go to university or TAFE to get the qualifications. They have to do this very much in their own time. So a team has designed a number of modules in a distance learning format so that people can do the training in their own time. They can then pass certain exams—

CHAIR—Who sets the exams? How does this work—does Australia create the distance learning packages? How do we test them?

Dr Easey—We have people who go periodically to the countries to check on the performance of these people. The technicians have to keep notebooks on what they do. They also have to answer questions in their modules, so there is an interactive process between the assessors in Australia and the people who are undertaking the distance learning program around the region. Not every country is participating at the moment. Again, from memory, something like eight of the 14 developing countries are actually participating. China has just started. There, one of the hiccups has been getting all the modules translated into Chinese and also validating that what has been written in English has the correct translation in Chinese. But now they have started their first year and something like 160 trainees have just started on the program.

CHAIR—From China?

Dr Easey—Yes, and in six regions.

CHAIR—How many have there been across the region who have been trained or are undergoing training?

Dr Easey—It is still piloting because, as you might imagine, setting up a distance learning program in English for people who have English as a second language is not an easy thing to do. We, as native English speakers, may take something to have quite an obvious interpretation. For English as a second language, you have to get around idiomatic terms and you have a lot of testing of the materials to do to ensure that the correct messages and instructions are given to the people who are participating in the program.

CHAIR—Is any other country providing the distance learning or is it only Australia?

Dr Easey—No, this is an Australian project. It was initiated here. In fact, we have two other distance learning programs—one on the training of medical graduates in oncology, which has just been started and has been going about a year and a half now. We are producing an interactive CD-ROM for the training and orientation of medical students in cancer treatment.

CHAIR—Is that being done out of one of our universities?

Dr Easey—It is a cooperative venture between one of the hospitals and a team at Sydney University who are already doing this in the normal didactic fashion. We are about to start another program through distance learning, in medical physics. In Australia, Japan and throughout the region, there is a critical shortage of medical physicists, and these are quite critical to getting the optimum performance of the equipment that has been invested by each of the countries. It is unusual in that there is not a shortage of equipment but a shortage of people to run the equipment, and we are looking at accelerating the numbers so that we can apply proper quality control and quality assurance to the use of this sophisticated equipment in the region.

CHAIR—Can you give some indication of the number of medical technicians across the region who are undergoing the distance learning, and the number of medical students in the oncology package?

Dr Easey—There are about 250 who are undergoing the nuclear medical technicians pilot course, and we are now hoping to put in the third phase, starting in 2003, to broaden the

program to the whole region. It had to be done incrementally to ensure that the materials were properly tuned to the needs of people who have English as a second language. The pilots were initially done in Sri Lanka, India and Malaysia, where there is a better common usage of English; they are now moving into China and Indonesia, so it becomes more of a challenge on the appropriateness of the modules that have been prepared. As far as the oncology course is concerned, we are about to start the pilot. The major effort has been put into preparing the interactive CDs, and we are now looking at starting pilot studies in the middle of next year in Pakistan, Malaysia, Indonesia and I think the Philippines. They are the targets.

CHAIR—And these are all funded by Australia through AusAID?

Dr Easey—Not all of them. The nuclear medicine technician course has been funded by AusAID for the first two phases; the third phase will be funded by the International Atomic Energy Agency.

CHAIR—To which we contribute?

Dr Easey—We put money into the Technical Cooperation Fund, but the extra-budgetary fund is on top of that. At the moment, as I mentioned in my opening statement, we are looking to put a new package of assistance to the region to deal with radiological emergencies, ecological emergencies and of course the very pressing problem of potential threats from nuclear terrorism as well. We are moving ahead on that one for the future program. As far as the training of the medical graduates is concerned, that is fully funded by the International Atomic Energy Agency, as is the new project on medical physicists.

CHAIR—Thank you. That has been most helpful.

Senator TCHEN—Dr Easey, back in 1970, I think, at the beginning of the ping-pong diplomacy, you might recall that the Chinese invited an American representative team to visit China and play tournaments, and the Americans won every match. Given that China is a nuclear power—if it is not the second biggest, it is the third—do you think our training of nuclear technicians for the Chinese is a replay of this ping-pong diplomacy?

Dr Easey—I think the activities that we have within the RCA program are all completely away from the nuclear fuel cycle. They are looking at very specific applications—ones which have a very important application in development and in environmentally sustainable development as well. As far as the technicians are concerned, this is an area where China sees that there is great benefit in them using the materials—in fact, they are funding their national implementation from their own resources. I think they are very much convinced of the value and now wish to take advantage of materials that have been prepared, have been piloted and have credentials attached to them. That will very much benefit the man and woman in the street in China.

Senator TCHEN—So we are definitely not selling coal to Newcastle?

Dr Easey—In no way.

Senator TCHEN—In paragraph 5 of the national interest assessment it says that our participation helps contribute to a nonproliferation regime which has kept our region free of

nuclear weapons for the last half century. Is the region referred to the Pacific region or the India-Pacific region?

Dr Beven—It refers to our immediate region.

Senator TCHEN—Which is?

Dr Beven—Which is South-East Asia and the Pacific.

Senator TCHEN—I could say that it has not actually prevented French nuclear testing in the Pacific region, but I am sure the answer would be that France is not party to this RCA. So I will not ask you that question.

CHAIR—They may have a comment on it, Senator Tchen; you never know.

Senator TCHEN—Do you wish to comment on it?

Dr Beven—No, I will let that one pass.

Senator TCHEN—I note that both India and Pakistan are parties to this RCA. Can you tell us whether India and Pakistan were parties to the first and second extensions to the RCA?

Dr Beven—I will rely on Dr Easey's historical memory for that answer.

Dr Easey—India was a founder member of the RCA and—I believe my memory is correct—Pakistan was also a founder member. So they have been members for all of the 30 years.

Senator TCHEN—So, really, this RCA has nothing to do with keeping the region free of nuclear weapons. From your description it is for promoting peaceful use of nuclear technology rather than preventing warlike development of nuclear energy.

Dr Beven—The balance is a very delicate one. In the Treaty on the Non-Proliferation of Nuclear Weapons the nuclear weapon state signatories—the five states that had exploded nuclear devices prior to the entry into force of the NPT—undertook to negotiate in good faith for nuclear disarmament and not to transfer that technology to non-nuclear weapons states. The non-nuclear weapons states that were party to this treaty undertook not to develop nuclear weapons and also received the benefit of technical cooperation in the peaceful uses of nuclear energy.

In India and Pakistan you have a complex situation where they have both exploded nuclear devices. But as Dr Easey has said, the RCA concentrates on the developmental aspects of nuclear applications and nuclear energy. Sure we use diplomatic pressure and techniques to encourage states not to go down that nuclear weapons route, but at the same time we need to keep open these other channels of cooperation on the peaceful uses of nuclear energy and applications—particularly in medical, environmental and agricultural uses and so on. We need to ensure that states such as India and Pakistan receive our messages not only about nonproliferation but also about our readiness to cooperate on nuclear techniques which are of benefit, as Dr Easey said, to the ordinary man and woman in the street.

Senator TCHEN—I think we can all agree that the intention of the RCA is highly commendable. I am just wondering whether the argument that it has helped with the nonproliferation of nuclear weapons is a rather overenthusiastic description or selling point for this agreement.

Dr Beven—I take the point, but I would point out that the Treaty on the Non-Proliferation of Nuclear Weapons, the NPT, has been extremely successful, from a time in the seventies when it appeared that there might be anything towards 30 states in the world which would go down the nuclear route to the point where there are five recognised nuclear weapon states and a couple of states that have exploded nuclear devices but on a very limited scale outside the NPT. Within our own region, states such as Indonesia, Malaysia and Australia have voluntarily foresworn nuclear weapons, even through periods when there have been heightened tensions in the region. I think it has been quite successful. Part of that is our contribution in monetary terms, human resources terms and technical terms to the part of the bargain of the NPT in which we undertake to cooperate on the peaceful uses. If we were looking forward from the 1970s, the world would have seemed a very uncertain place, especially in our own region. We would have had reason to be fearful of the spread of nuclear weaponry into our region. Looking backwards from 2002, the world seems a much safer place, and within our immediate region we certainly have no need to fear the spread of nuclear weaponry into the region.

Senator TCHEN—A safer place from nuclear weapons, obviously, not from other types of explosives.

Dr Beven—Not from other sources—that is right.

Senator TCHEN—Do you think that the slowness of three states, particularly New Zealand and Singapore—not Australia—in accepting this agreement is due to a certain degree of cynicism about how effective this RCA can be or has been?

Dr Beven—I do not think so. I think, as Dr Easey said, like us, they have domestic processes to follow through on and they have a link between their foreign affairs ministries and their nuclear organisations, such as ANSTO. We also needed to coordinate with AusAID and the Australian Radiation Protection and Nuclear Safety Agency, ARPANSA, and I am sure very similar things are going on in New Zealand and Singapore, for example. There would not be any other reason, I would expect.

Senator TCHEN—Thank you. As I said before, I am sure there is no question that the intention of RCA is highly commendable.

Mr WILKIE—In relation to Pakistan, obviously the agreement is talking about regional cooperation and support. How then does Pakistan's provision of resources and technical advice to North Korea fit within the terms of the treaty, or doesn't it?

Dr Beven—The answer is that Pakistan has denied that it has provided such technology or expertise to North Korea. To my knowledge that is correct.

Dr Easey—North Korea is not a member state.

Mr WILKIE—That is my point. So Pakistan has denied it at this stage.

Dr Beven—Yes. In the hypothetical circumstance where something like that might be happening—not mentioning particular states—I think the RCA always provides us with channels of communication and networks of people that we are linked to. So we have the opportunity to talk about these things through, if you like, back channels of technical cooperation and so on rather than always in confrontation. It is a very useful device.

Dr Easey—Currently, there are something like 33 projects operational under the regional cooperative agreement. Each of those will have a technical counterpart in 17 countries. So there are 17 by 33 immediate networks that you can rely on, as well as the spin-off networks. As I said, these have been established for 30 years in most cases. There are some very long-term conduits that you can make very good use of if you want to get messages or access or have consultations. It is a very effective networking process. I think that is a very important aspect of the agreement.

Mr KING—In paragraph 11 you refer to significant political benefits for Australia. You may have already mentioned them, but could you specify the three most important of those significant benefits?

Dr Beven—In terms of political benefits, we have strong bilateral relationships on nuclear policy issues with, for example, the Republic of Korea and Japan, to whom we export uranium and with whom we cooperate on nonproliferation matters and so on in the International Atomic Energy Agency and other forums. This is a way of us furthering that cooperation in terms of joining with those countries and others in delivering technical assistance on the nuclear side into the region. It is a mutually supportive framework for us. I would see other political benefits. We were talking about the networks that we develop, but it also provides us with the opportunity to exert some pressure, in a very mild but very useful sense, on countries which may be considering cooperation with other countries which Australia would not see in its own national interest for nuclear expertise or technology to be provided to such countries. To make that concrete, in a hypothetical case of a country within the RCA providing, say, some nuclear technical cooperation to North Korea, they would run the risk of losing access to the projects under the RCA, access to the medical and environmental technologies and so on. It provides us with some political pressure. They would know that they would be cut off from those areas of assistance.

Another issue, which Dr Easey has alluded to already, is that Australia is a country in very high standing with the International Atomic Energy Agency. We have been a designated member of the Board of the IAEA since its inception in 1957. Only this past year we were chair of the Board of Governors of the IAEA. We make an assessed contribution to the IAEA as a UN agency. We also contribute voluntarily to its Technical Cooperation Fund. Through the RCA, this also enhances our status in the agency and ensures that we continue to be seen as a lead provider of nuclear technology in the region and as one of the leading countries in the region, if not the world, in the supply of nuclear materials and technology. It shores up our position in the IAEA and ensures that we will continue to be a designated member of the board of governors and to have a high level of influence there.

CHAIR—Thank you very much for your attendance before the committee today. Your evidence has been most helpful. Thank you for assisting the committee.

Dr Easey—I have some literature which I hope will be useful if there are any further deliberations.

CHAIR—I am sure that somebody will sit and read every word. Thank you very much. We will accept that as an exhibit.

Resolved (on motion by **Mr King**, seconded by **Senator Tchen**):

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it at a public hearing this day.

Committee adjourned at 11.33 a.m.