

**AMENDMENTS, AGREED AT SHANGHAI ON 26 MAY 2006, TO THE  
ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF  
AUSTRALIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF  
CHINA FOR THE PROTECTION OF MIGRATORY BIRDS AND THEIR  
ENVIRONMENT, DONE AT CANBERRA ON 20 OCTOBER 1986  
[1988] ATS22**

**Documents tabled on 5 September 2006:**

**National Interest Analysis [2006] ATNIA 31**

**with attachment on consultation**

**Text of the proposed treaty action**

**Background information:**

**Country political brief and country fact sheet**

**List of other treaties with that country**

**List of treaties of the same type with other countries**

# NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

## SUMMARY PAGE

**Amendments, agreed in Shanghai on 26 May 2006, to the Annex to the Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, done at Canberra on 20 October 1986 [1988] ATS22**

### **Nature and timing of proposed treaty action**

1. The treaty action will amend the Annex to the Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and Their Environment (CAMBA), which entered into force on 1 September 1988. This change will reflect the amendments agreed upon by both Parties at the 7<sup>th</sup> Consultative Meeting on the Agreement, held in Shanghai, China, on 26 May 2006.
2. The Annex to the CAMBA contains the list of the species defined as migratory birds in accordance with Paragraph 1 of Article I. The proposed amendments to the Annex will add the roseate tern (*Sterna dougallii*) to the Annex and remove the painted snipe (*Rostratula benghalensis*) from the Annex. The scientific nomenclature of 17 species currently listed in the Annex will also be amended.
3. Paragraph 2(c) of Article I provides that the Annex shall be considered amended ninety days after the date upon which each Party informs the other in a diplomatic note that it accepts the amendments. If the Joint Standing Committee on Treaties (JSCOT) recommends that binding treaty action be taken to amend the Annex to the CAMBA, then the exchange of diplomatic notes will be undertaken as soon as practicable after that decision. Before that can be done, the Minister for Environment and Heritage must amend the list of migratory species pursuant to Section 209(3)(a) of the *Environment Protection and Biodiversity Act 1999* (EPBC Act).

### **Overview and national interest summary**

4. Australia has a strong interest in maintaining biodiversity generally and in protecting migratory birds, particularly in the Asia-Pacific region. Australia has a bilateral agreement similar to the CAMBA with Japan (JAMBA) and is in the process of finalising an agreement with the Republic of Korea (ROKAMBA). Australia has provided strong leadership for the conservation of migratory birds throughout the East Asian – Australasian Flyway through the Asia Pacific Migratory Waterbird Conservation Strategy 1996 – 2005 and continues to do so as one of the initiating Partners of the WSSD Type II Partnership for Migratory Waterbirds in the East Asian – Australasian Flyway. Accepting these amendments will signify Australia's commitment to the conservation of migratory birds.
5. The amendment of the scientific nomenclature of 17 species currently included in the Annex reflects progress in taxonomy since the CAMBA entered into force, and ensures that the scientific names of the species reflect the scientific names currently recognised in Australia and China for all species on the Annex.
6. The amendments ensure the accuracy of the Annex to the JAMBA and, consequently, the accuracy of the list of migratory species under the EPBC Act.

## **Reasons for Australia to take the proposed treaty action**

7. The CAMBA obliges its Contracting Parties to protect bird species which regularly migrate between Australia and China, and their environment.
8. Article I(2)(a) provides that the Annex to the CAMBA contains the list of birds recognised as migratory in accordance with Paragraph 1, Article I. Migratory birds are defined in the CAMBA as birds for which there is reliable evidence of migration between the two countries or those which the competent authorities of the Contracting Parties jointly determine to migrate between the two countries on the basis of published reports, photographs and other information.
9. Australia proposed the removal of the painted snipe from the Annex to the CAMBA following a taxonomic study which revealed that the painted snipe found in Australia are a different species to those found in Asia. The species is therefore not a regular migrant between Australia and China and should not be included in the Annex to the CAMBA.
10. As the painted snipe is already afforded protection as a matter of National Environmental Significance by virtue of its listing as a threatened species under the EPBC Act, its removal from the list of migratory species will not lessen the protection afforded to the species and its habitat.
11. Australia proposed the addition of the roseate tern to the Annex to the CAMBA following a bird banding and colour flagging study which demonstrated that it regularly and predictably migrates between Australia and Chinese Taipei.
12. Inclusion of the roseate tern on the Annex to the CAMBA will afford it protection as a migratory species under the EPBC Act, as provided for in Section 209(3)(a) of the EPBC Act. The obligations Australia acquires through its inclusion in the Annex to the CAMBA will not extend beyond the protection the species will be afforded as a listed migratory species under the EPBC Act.
13. The roseate tern is a relatively common species on the islands and cays of tropical Australia. It regularly shares breeding and non-breeding habitat with species which are already included on the list of migratory species under the EPBC Act. The inclusion of the roseate tern on the list of migratory species under the EPBC Act is not anticipated to have any effect on domestic policy, as the obligations acquired through its listing already exist for species with which the roseate tern regularly shares habitat.
14. The update of the scientific names of some of the species already listed on the Annex reflects updated knowledge in taxonomy since the CAMBA entered into force. The update does not alter the species which are afforded protection under the CAMBA.
15. The amendments ensure the accuracy of the Annex to the CAMBA and, consequently, the accuracy of the list of migratory species under the EPBC Act.

## **Obligations**

16. The proposed amendments to the Annex would not change Australia's obligations. As a Contracting Party to the CAMBA, Australia accepts obligations in relation to the protection of species of birds in the Annex to the CAMBA, and their environment.

17. Article II requires both Contracting Parties to prohibit the take, sale, purchase or exchange of migratory birds or their eggs, except in the following cases:

- a. for scientific, educational, propagative or other specific purposes not inconsistent with the objectives of this Agreement;
- b. for the purpose of protecting persons and property;
- c. during hunting seasons established in accordance with Article II(3); and
- d. to allow the hunting and gathering of specified migratory birds or their eggs by the inhabitants of specified regions who have traditionally carried on such activities for their own food, clothing or cultural purposes, provided that the population of each species is maintained in optimum numbers and that adequate preservation of the species is not prejudiced.

18. Articles II, III(3) and IV of the Agreement impose upon Australia and China the obligation to protect the species listed in the Annex to the CAMBA and to take measures to preserve and enhance their environment.

19. Article III of the Agreement obliges Australia and China to undertake joint research programs and to exchange data and publications relating to species listed on the Annex to the Agreement..

20. The proposed amendments to the CAMBA will have the effect that Australia's obligations above will apply to the roseate tern and will no longer apply to the painted snipe.

## **Implementation**

21. The CAMBA is implemented domestically by the EPBC Act. The obligations imposed by the listing of the roseate tern will not extend beyond the protection already afforded to species listed as migratory under the EPBC Act.

22. The EPBC Act provides for protection of migratory species as a matter of National Environmental Significance. Division 2 of Part 13 of the EPBC Act provides for the preservation, conservation and protection of migratory species in or on a Commonwealth area, including to the outer limits of the exclusive economic zone, but excluding State and Northern Territory waters. Section 209(3)(b) specifies that the list of migratory species must include all species that are from time to time included in lists established under JAMBA and CAMBA. As a result of the listing of the roseate tern and the removal of the painted snipe from the Annex to the CAMBA, Australia will be required to update the list of migratory species pursuant to Division 2 of Part 13 of the EPBC Act.

23. Division 1 of Part 3 of the EPBC Act prohibits the taking of actions that are likely to have a significant impact on matters of National Environmental Significance without approval from the Minister for the Environment and Heritage. Under sections 20(1) and 20A(1), a person must not take an

action that has, will have, or is likely to have a significant impact on a listed migratory species unless that Minister has given approval. There are exceptions to this prohibition, including those set out in Part 4 of the EPBC Act and an exception for certain actions requiring separate authorisation by an Australian Government agency.

### **Costs**

24. The amendments to the Annex to the CAMBA are not expected to impose any additional costs on Australia in terms of meeting its obligations under the Agreement. The roseate tern, while relatively common in tropical waters, shares habitat with species already afforded protection as listed migratory species under the EPBC Act. The amendments will therefore not require any domestic agencies or management arrangements to be put in place and therefore no additional costs in this regard are anticipated.

### **Regulation Impact Statement**

25. The Office of Regulation Review (Productivity Commission) has been consulted and advises that a Regulation Impact Statement is not required.

### **Future treaty action**

26. Article I(2)(b) provides that the competent authorities of the Contracting Parties shall, from time to time review the Annex. If they consider it necessary, the Contracting Parties may amend it by mutual arrangement. The Annex may be amended by the addition of species to the Annex where there is reliable evidence of migration between the two countries. The Annex may also be amended by the removal of species where there is evidence that a species does not migrate between the two countries. Any future amendments, of this or any other kind, to the Annex of the CAMBA will constitute a separate treaty action and be subject to the usual domestic treaty making process including the tabling of a National Interest Analysis and consideration by JSCOT and Federal Executive Council.

27. In accordance with Article I(2)(c) of the CAMBA, the Annex shall be considered amended ninety days after the date upon which each Party informs the other in a diplomatic note that it accepts the amendments.

### **Withdrawal or denunciation**

28. Article VI(2) provides that either Contracting Party may, by giving one year's notice in writing, terminate this Agreement at the end of the initial fifteen year period or at any time thereafter.

### **Contact details**

Migratory and Marine Biodiversity Section  
Marine Division  
Department of the Environment and Heritage.

**Amendments, agreed in Shanghai on 26 May 2006, to the Annex to the Agreement between  
the Government of Australia and the Government of the People's Republic of China for the  
Protection of Migratory Birds and their Environment, done at Canberra on  
20 October 1986  
[1988] ATS22**

## **CONSULTATION**

1. The following Federal and State agencies were consulted regarding the recommended amendments to the Annex to the CAMBA:

- Land Water and Coasts Division, Australian Government Department of the Environment and Heritage
- Department of Primary Industries Water and Environment (Tasmania)
- Department of Primary Industries (Victoria)
- Department for Environment and Heritage (South Australia)
- Department of Conservation and Land Management (Western Australia)
- Department of Environment and Conservation (New South Wales)
- Department of Infrastructure, Planning and Natural Resources (New South Wales)
- Environmental Protection Agency (Queensland)
- Department of Natural Resources, Environment and the Arts (Northern Territory)
- Environment ACT

2. The Department of the Environment and Heritage consulted with the Natural Resource Management Wetlands and Waterbirds Taskforce, which comprises representatives from the agencies listed above. The Migratory and Marine Biodiversity Section provided a paper to the Taskforce meeting in November 2004 which summarised the state of affairs for Australia's bilateral migratory bird agreements. This paper included the proposed amendments to the Annex to the CAMBA.

3. The Queensland Environmental Protection Agency had a particular interest in the addition of the roseate tern to the Annex, as it was research carried out by their staff which determined that roseate terns regularly migrate between Australia and Chinese Taipei. As a result, they were particularly supportive of the addition of the roseate tern to the Annex to the CAMBA.

4. No agencies raised any concerns regarding the proposed amendments.

## **POLITICAL BRIEF ON THE PEOPLE'S REPUBLIC OF CHINA**

1. The Australian Government pursues constructive relations with China on the basis of mutual respect and recognition both of our shared interests and our differences. China's importance to Australia has grown with China's increasing economic, political and strategic weight in the Asia-Pacific region and the global economy. Close ties have been cemented recently by a series of high level visits, including by Prime Minister Howard to China in June 2006 and May 2005, Premier Wen Jiabao to Australia in April 2006 and President Hu Jintao to Australia in October 2003. Central to Australia's approach to the relationship with China is the set of bilateral dialogues which have been established to advance cooperation while managing differences. Our dialogues cover aid, trade and economic cooperation, resources, defence, regional security and disarmament, human rights and consular matters.
2. Sensitive issues which require careful management include Taiwan and human rights. Australia adheres to a one-China policy, which means we do not recognise Taiwan as a country. But we support unofficial contacts with Taiwan, to promote our legitimate economic, trade and cultural interests there. Australia has consistently said cross-straits differences should be managed peacefully through dialogue. Our approach to human rights in China is constructive and based on dialogue rather than public confrontation. The annual Australia-China Human Rights Dialogue is an important forum for frank exchanges on human rights and for identifying areas where Australia can help China implement international human rights standards.
3. Australia enjoys strong and wide-ranging economic complementarities with China. The Trade and Economic Framework (TEF) signed in October 2003 provides a basis for the further development of the trade and economic relationship over the next decade. The TEF included a commitment by both Governments to undertake a joint Free Trade Agreement (FTA) feasibility study, which was completed in March 2005. On 18 April 2005, Prime Minister Howard and Premier Wen Jiabao of China agreed that Australia and China would commence negotiations on a FTA. Five rounds of negotiations have been held so far, the latest one taking place in Beijing from 22 to 24 May 2006. There will be an exchange of offers on goods (including agriculture) at the next round, scheduled for 4 to 7 September 2006.
4. China is Australia's second-largest merchandise trading partner and second largest merchandise export market. Total trade (including services) grew to \$41 billion in 2005, up from \$32 billion in 2004. Total exports grew to \$18.4 billion in 2005 – 42 per cent higher than the previous year. Resources (minerals and fuels) exports account for just over 60 per cent of merchandise exports to China. Australia is a competitive and highly reliable supplier of a wide range of resources. The commencement of LNG shipments from the North West Shelf to the Dapeng terminal in Guangdong in June 2006 has added a new dimension to this partnership, and will boost export earnings by up to \$25 billion over 25 years.
5. The Chinese community in Australia plays an important part of our people-to-people links with China, and high growth in education and tourism has bolstered these links. The latest census (2001) recorded 142,720 China-born persons in Australia an increase of 29 per cent from the 1996 census. Chinese (including regional dialects) is now the second most widely spoken language in Australia.



# CHINA

Fact Sheet

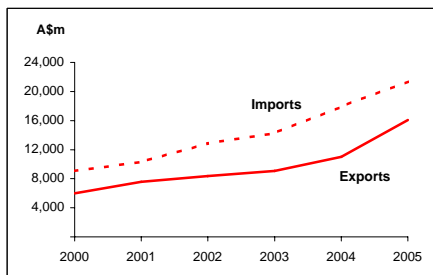
## General information:

Fact sheets are updated biannually; May and September

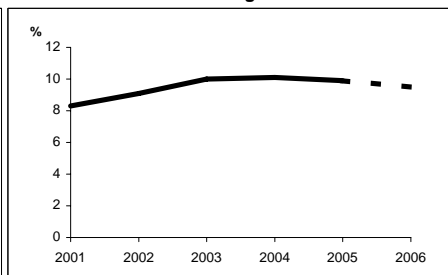
<b>Capital:</b>	Beijing	<b>Head of State:</b>	
<b>Surface area:</b>	9,561 thousand sq km	<b>Head of Government:</b>	H.E. President Mr Hu Jintao
<b>Official language:</b>	Mandarin		
<b>Population:</b>	1,307.4 million (2005)		
<b>Exchange rate:</b>	A\$1 = 6.0427 Yuan (Jan 2006)		

<b>Recent economic indicators:</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005(a)</b>	<b>2006(b)</b>
<b>GDP (US\$bn) (current prices):</b>	1,324.8	1,453.8	1,641.0	1,931.6	2,224.8	2,529.6
<b>GDP PPP (US\$bn) (c):</b>	5,933.4	6,586.4	7,392.2	8,352.8	9,412.4	10,518.2
<b>GDP per capita (US\$):</b>	1,038	1,132	1,270	1,486	1,703	1,926
<b>GDP per capita (US\$) (c):</b>	4,649	5,127	5,720	6,425	7,204	8,010
<b>Real GDP growth (% change YOY):</b>	8.3	9.1	10.0	10.1	9.9	9.5
<b>Current account balance (US\$m):</b>	17,405	35,422	45,875	68,659	158,616	173,296
<b>Current account balance (% GDP):</b>	1.3	2.4	2.8	3.6	7.1	6.9
<b>Goods &amp; services exports (% GDP):</b>	22.6	25.1	29.6	34.0	36.8	40.3
<b>Inflation (% change YOY):</b>	0.7	-0.8	1.2	3.9	1.8	2.0

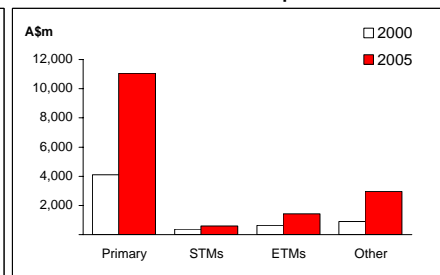
Australia's merchandise trade with China



Real GDP growth



Australia's merchandise exports to China



## Australia's trade relationship with China:

<b>Australian merchandise trade with China, 2005:</b>		<b>Total share:</b>	<b>Rank:</b>	<b>Growth (yoy):</b>
Exports to China (A\$m):	16,054	11.6%	2nd	45.8%
Imports from China (A\$m):	21,347	13.7%	2nd	19.1%
Total trade (exports + imports) (A\$m):	37,401	12.7%	2nd	29.3%

### Major Australian merch. exports, 2005 (A\$m):

Iron ore	5,721
Wool	1,327
Copper ores	628
Coal	531

### Major Australian merch. imports, 2005 (A\$m):

Clothing	3,055
Computers	2,406
Toys, games & sporting goods	1,095
Telecommunications equipment	1,073

### Australia's trade in services with China, 2005:

		<b>Total share:</b>
Exports of services to China (A\$m):	2,494	6.7%
Imports of services from China (A\$m):	1,177	3.1%

### Major Australian service exports, 2005 (A\$m):

Education-related travel	1,653
Personal travel excl. education	310

### Major Australian service imports, 2005 (A\$m):

Transportation	430
Personal travel excl. education	362

## China's global merchandise trade relationships:

### China's principal export destinations, 2005:

1	United States	21.4%
2	Hong Kong	16.3%
3	Japan	11.0%
14	Australia	1.5%

### China's principal import sources, 2005:

1	Japan	15.2%
2	Republic of Korea	11.6%
3	Taiwan	11.3%
9	Australia	2.4%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) All recent data subject to revision; (b) IMF/EIU forecast figures; (c) PPP is purchasing power parity.



## **Other bilateral treaties with the People's Republic of China**

- Exchange of Notes constituting an Agreement between the United Kingdom and China annexed to a Treaty relating to Chinese Customs, Tariff etc  
**[1929] ATS 2**
- Trade Agreement between the Government of Australia and the Government of the People's Republic of China  
**[1973] ATS 21**
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the People's Republic of China concerning the Registration of Trademarks  
**[1974] ATS 24**
- Agreement (with Annexes) between the Government of Australia and the Government of the People's Republic of China concerning "The Exhibition of Archaeological Finds of the People's Republic of China"  
**[1976] ATS 13**
- Exchange of Notes constituting an Agreement amending the Agreement concerning the Exhibition of Archaeological Finds of the People's Republic of China of 23 June 1976 ([1976] ATS 13)  
**[1977] ATS 32**
- Exchange of Notes between Australia and the People's Republic of China constituting an Agreement concerning the Establishment of Consulates-General  
**[1978] ATS 18**
- Agreement between the Government of Australia and the Government of the People's Republic of China on Cooperation in Science and Technology  
**[1980] ATS 14**
- Agreement on Cultural Cooperation between the Government of Australia and the Government of the People's Republic of China  
**[1981] ATS 11**
- Protocol on Economic Cooperation with the Government of the People's Republic of China  
**[1981] ATS 20**
- Agreement between the Government of Australia and the government of the People's Republic of China on a Program of Technical Co-operation for Development  
**[1981] ATS 21**
- Agreement between Australia and the People's Republic of China on the Reciprocal Exchange of Sites for Construction of Diplomatic Compounds  
**[1982] ATS 12**
- Agreement between the Government of Australia and the Government of the People's Republic of China on Agricultural Co-operation  
**[1984] ATS 14**

- Agreement between the Government of Australia and the Government of the People's Republic of China Relating to Civil Air Transport  
[1984] ATS 20  
THIS TREATY WILL BE SUPERCEDED WHEN THE NEW TREATY  
[2004] ATNIF 2 ENTERS INTO FORCE
- Protocol between the Government of Australia and the Government of the People's Republic of China on a Program of Cooperation in Agricultural Research for Development  
[1984] ATS 23
- Agreement on Economic and Technical Co-operation in the Iron and Steel Industry between the Government of Australia and the Government of the People's Republic of China  
[1984] ATS 28
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the People's Republic of China on the Establishment of additional Consulates-General in their Respective Countries  
[1985] ATS 9
- Agreement between the Government of Australia and the Government of the Republic of the People's Republic of China for the Avoidance of Double Taxation of Income and Revenues Derived by Air Transport Enterprises and International Air Transport  
[1986] ATS 31
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the People's Republic of China. to amend the Trade Agreement of 24 July 1973  
[1986] ATS 33
- Agreement between Australia and the People's Republic of China on the Reciprocal Encouragement and Protection of Investments  
[1988] ATS 14
- Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment (CAMBA)  
[1988] ATS 22
- Agreement between the Government of Australia and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income  
[1990] ATS 45
- Exchange of Notes constituting an agreement to amend article 3 of the Agreement between the Government of Australia and the Government of the People's Republic of China on a Program of Technical Co-operation for Development of 2 October 1981  
[1990] ATS 47
- Agreement concerning the Maintenance of the Consulate-General of Australia in the Hong Kong Special Administrative Region of the People's Republic of China  
[1997] ATS 7

- Agreement between the Government of Australia and the Government of The People's Republic of China concerning the Continuation of Consular Functions by Australia in the Macau Special Administrative Region of the People's Republic of China  
**[1999] ATS 33**
- Agreement on Consular Relations between Australia and the People's Republic of China  
**[2000] ATS 26**
- Agreement between the Government of Australia and the Government of the People's Republic of China relating to Air Services  
**[2004] ATNIF 2**
- Agreement between the Government of Australia and the Government of the People's Republic of China on the Transfer of Nuclear Material  
**[2006] ATNIF 7**
- Agreement between the Government of Australia and the Government of the People's Republic of China for Cooperation in the Peaceful Uses of Nuclear Energy  
**[2006] ATNIF 8**
- Agreement with the People's Republic of China on Mutual Legal Assistance in Criminal Matters  
**[2006] ATNIF 9**

### **Treaties of the same type with other countries:**

- Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment  
**[1981] ATS 6**