

## Minor Treaty Actions

### Introduction

- 4.1 Minor treaty actions are generally technical amendments to existing treaties which do not impact significantly on the national interest.
- 4.2 Minor treaty actions are presented to the Joint Standing Committee on Treaties with a one-page explanatory statement and are listed on the Committee's website. The Committee has the discretion to formally inquire into these treaty actions or indicate its acceptance of them without a formal inquiry and report.

### Minor treaty actions

- 4.3 There are two minor treaty actions reviewed in this chapter. The Committee determined not to hold a formal inquiry into these treaty actions and agreed that binding treaty action may be taken in each case.

### Amendment of Australia's Schedule annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994

- 4.4 This proposed treaty action will amend Australia's Schedule of bound tariff commitments annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994* ([1995] ATS 8). It attaches two further schedules reflecting the 1996 and 2002 revisions of the Harmonized Commodity Description and Coding System (the Harmonized System). Although the classification of some products differs between successive versions of the schedules, this will not result in any products attracting a different rate of duty or in any other changes to Australia's World Trade Organization (WTO) commitments.

- 4.5 No legislative changes are needed to implement the proposed treaty action. The changes will not impose any additional obligations on Australia.
- 4.6 The Harmonized System, of internationally agreed and administered nomenclature, facilitates trade by ensuring that internationally traded goods are identified in a consistent way. The System is maintained by the World Customs Organisation (WCO), which updates the classification of goods every five years. WCO members record their tariff schedules, including their WTO tariff commitments, using the Harmonized System. WTO Members submit updated schedules to the WTO, so other Members can verify that all WTO commitments are accurately reflected in the new schedule.
- 4.7 Although Australia's HS1996 and HS2002 schedules have been submitted and accepted by WTO Members, Australia has delayed certifying these schedules as official (constituting binding treaty action), on the basis that the conclusion of the Doha Development Round of trade negotiations (Doha) would require all WTO Members to implement new schedules which would supersede these revisions of the Harmonized System. At present, Doha has not been finalised and Australia is among the few countries that have not certified their 1996 and 2002 revisions.

### **Amendment to Annex 3 of the 2007 Agreement on Operational and Strategic Cooperation between Australia and the European Police Office**

- 4.8 *The Amendment to Annex 3 of the 2007 Agreement on Operational and Strategic Cooperation between Australia and the European Police Office (the Amending Agreement) was provided to the Committee on 29 April 2013.*
- 4.9 The Explanatory Statement by the Australian Federal Police (AFP) accompanying the Amending Agreement describes the *2007 Agreement on Operational and Strategic Cooperation between Australia and the European Police Office (the 2007 Agreement)* as enabling the exchange of intelligence between the AFP and the European Police Office (Europol) in combatting serious forms of international crime such as drug trafficking, people smuggling and money laundering.
- 4.10 The level of communication between Europol and third countries is significant, according to the Explanatory Statement, with 30,000 communications occurring each year. The AFP and Europol exchanged 700 specific requests for information in the 2011-12 financial year.
- 4.11 In accordance with Article 12(4) of the 2007 Agreement, exchanged classified information must be afforded an equivalent level of security classification by the sending and receiving Parties. Annex 3 of the 2007

- Agreement contains a 'table of equivalence', showing corresponding Australian and EU security classifications.
- 4.12 In 2011, the Australian Government revised the Protective Security Policy Framework (PSPF), which sets out the security classifications used in the 'table of equivalence' at Annex 3 of the 2007 Agreement. The revised PSPF reduced the number of security classifications from seven to four.
- 4.13 The Amending Agreement will amend the 'table of equivalence' at Annex 3 to reflect the revised PSPF security classifications.
- 4.14 The AFP argues that the Amending Agreement is a minor treaty action because, with one exception, it will not change how the 2007 Agreement operates in practice. In the bulk of instances, the Amending Agreement will simply result in exchanged information attracting a security classification that matches the new classifications contained in the revised PSPF.
- 4.15 The exception relates to information that can be exchanged in real time through an encrypted communications link between the AFP and Europol.
- 4.16 Only information of the lowest classification can be exchanged in real time. The revised PSPF changes the lowest security classification from 'In Confidence' to 'Protected', and increases the scope of information that can attract this classification.
- 4.17 Consequently, under the new security classification system, more information will be permitted to be exchanged in real time.

**The Hon Richard Marles MP**

**Chair**

