

EXPLANATORY STATEMENT 7 OF 2009

Agreement to Amend the Agreement between Australia and the United States of America concerning Acquisition and Cross-Servicing of 9 December 1998, done at Washington on 30 July 2009 (ATNIF 19)

Practical and legal effect

1. The practical and legal effect of the proposed action is minor in so far as it does not change the existing (1998) Agreement other than to extend by twelve months its duration while a follow-on treaty is being negotiated.
2. It is proposed that the proposed Agreement will extend the existing Agreement between Australia and the United States of America concerning Acquisition and Cross-Servicing ('the current ACSA') done at Canberra on 9 December 1998, and which entered into force on 22 September 1999. Under Article VIII of the current ACSA, it will remain in force for 10 years from the date of entry into force unless terminated earlier by the Parties. The current ACSA will therefore expire on 22 September 2009. The proposed Agreement will extend the operation of the current ACSA until 22 September 2010.
3. The proposed Agreement will enter into force on the date of the latest note of an exchange of notes confirming that each Party has completed its requirements for entry into force of the proposed Agreement. It is proposed that Australia send written notification to the United States as soon as practicable after the tabling period and subject to recommendations from JSCOT that binding treaty action be taken. It is hoped that the notification will take place prior to 22 September 2009.

Reasons for Australia to take the proposed treaty action

4. Negotiations are underway for a new agreement to replace the current ACSA. Due to delays with the negotiations, it will not be possible to complete the replacement ACSA before the expiration of the current ACSA. Extension of the current ACSA is therefore necessary to ensure ongoing facilitation of reciprocal logistic support, supplies and services between the United States and Australia.
5. ACSAs are the normal means through which the provision of reciprocal logistic support, supplies and services are facilitated between the United States and its defence partners. The current ACSA between Australia and the United States provides for logistics cooperation between the Parties' military forces during combined exercises, training, deployments, operations or other cooperative efforts, and for unforeseen circumstances or exigencies. The Agreement between Australia and the United States concerning Cooperation in Defence Logistics Support done at Sydney on 4 November 1989 (CDLSA) provides that the Parties to the CDLSA shall seek to enter into an appropriate cross-servicing agreement.

Future treaty action

6. The proposed Agreement does not provide for the negotiation of any future legally binding instruments. However, it is intended that before 22 September 2010, Australia and the United States will enter into a new agreement in relation to acquisition and cross-servicing, replacing the current ACSA. The new agreement would of course be subject to Australia's domestic treaty approval process, including tabling in Parliament and consideration by JSCOT.

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