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The Parliament of the Commonwealth of Australia

# **Report 50**

**Treaties tabled 15 October 2002**

**Joint Standing Committee on Treaties**

December 2002  
Canberra

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## **Membership of the Committee**

**Chair** Ms Julie Bishop MP

**Deputy Chair** Mr Kim Wilkie MP

**Members** The Hon Dick Adams MP

Mr Kerry Bartlett MP

Mr Steven Ciobo MP

Mr Martyn Evans MP

Mr Greg Hunt MP

Mr Peter King MP

The Hon Bruce Scott MP

Senator Guy Barnett

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<b>Secretary</b>	Gillian Gould
<b>Inquiry Secretary</b>	Julia Morris
<b>Research Officer</b>	Glenn Worthington
<b>Administrative Officers</b>	Frances Wilson Kristine Sidley



## **Resolution of appointment**

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

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the Committee by:
  - (i) either House of the Parliament, or
  - (ii) a Minister; and
- c) such other matters as may be referred to the Committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



## List of recommendations

### Recommendation 1

The Committee supports the *Exchange of Letters, done at Hanoi on 1 November 2000 and Canberra on 5 August 2002, constituting an 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, done at Hanoi on 13 April 1992, as amended by an Exchange of Notes done at Canberra on 22 November 1996* and recommends that binding treaty action be taken. (Paragraph 2.21)

### Recommendation 2

The Committee recommends that, where proposed treaty actions seek to amend existing international taxation arrangements, the costs and benefits of past tax treaty arrangements be included in the National Interest Analysis. (Paragraph 2.22)

### Recommendation 3

The Committee supports the *Exchange of Letters between Australia and the Republic of Ireland constituting an agreement to amend the 1997 Agreement on Medical Treatment for Temporary Visitors, done at Canberra on 30 July 2002* and recommends binding treaty action be taken. (Paragraph 3.17)

### Recommendation 4

The Committee recommends that future National Interest Analyses list all agencies consulted in relation to the proposed treaty action. (Paragraph 3.18)



**Recommendation 5**

The Committee supports the *Third Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology* and recommends that binding treaty action be taken. (Paragraph 4.22)



## Introduction

### Purpose of the report

- 1.1 This report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of proposed treaty actions tabled on 15 October 2002.<sup>1</sup>
- 1.2 Specifically, the report deals with the:
  - *Exchange of Letters, done at Hanoi on 1 November 2000 and Canberra on 5 August 2002, constituting an 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, done at Hanoi on 13 April 1992, as amended by an Exchange of Notes done at Canberra on 22 November 1996;*
  - *Exchange of Letters between Australia and the Republic of Ireland constituting an agreement to amend the 1997 Agreement on Medical Treatment for Temporary Visitors, done at Canberra on 30 July 2002; and the*
  - *Third Agreement to extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology, done in Vienna, on the 1<sup>st</sup> day of October 2001.*

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<sup>1</sup> For treaties tabled on 15 October 2002, see *Senate Journal, No. 39*, 15 October 2002, p. 865 and *House of Representatives Votes and Proceedings No. 51*, 15 October 2002, p. 481.

## Availability of documents

- 1.3 The advice in this report refers to National Interest Analyses (NIAs) prepared for these proposed treaty actions. Copies of NIAs are available from the Committee's website at <http://www.aph.gov.au/house/committee/jsct/october2002/tor.htm> or may be obtained from the Committee Secretariat. These documents were prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty.
- 1.4 Copies of treaty actions and NIAs can also be obtained from the Australian Treaties Library maintained on the internet by the Department of Foreign Affairs and Trade (DFAT). The Australian Treaties Library is accessible through the Committee's website or directly at: <http://www.austlii.edu.au/au/other/dfat>.

## Conduct of the Committee's review

- 1.5 The Committee's review of the treaty actions canvassed in this report was advertised in the national press and on the Committee's website.<sup>2</sup> In addition, letters inviting comment were sent to all State Premiers and Chief Ministers and to individuals who have expressed an interest in being kept informed of proposed treaty actions. Authors of submissions are listed at Appendix A.
- 1.6 The Committee also took evidence at a public hearing held on Monday 21 October 2002. A list of witnesses giving evidence at the public hearings is at Appendix B. A transcript of evidence from the public hearing can be obtained from the Committee Secretariat or accessed through the Committee's internet site at <http://www.aph.gov.au/house/committee/jsct/october2002/hearings.htm>.

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<sup>2</sup> The Committee's review of the proposed treaty actions was advertised in *The Australian* on 16 October 2002. The advertisement invited views on the proposed treaty actions and contained advice on obtaining relevant information.

# Amendment to the double taxation agreement between Australia and Vietnam

## Background<sup>1</sup>

- 2.1 The *Exchange of Letters, done at Hanoi on 1 November 2000 and Canberra on 5 August 2002, constituting an 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, done at Hanoi on 13 April 1992, as amended by an Exchange of Notes done at Canberra on 22 November 1996* (the 2002 Exchange of Letters) seeks to reflect changes made in Vietnamese law relating to foreign investment.
- 2.2 The 2002 Exchange of Letters amends Article 23 of *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, done at Hanoi on 13 April 1992* (the Agreement) and amended through an *Exchange of Notes done at Canberra on 22 November 1996* (the 1996 Exchange of Notes). Article 23 of the

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1 Unless otherwise specified, the material in this Chapter has been drawn from the National Interest Analysis and Regulation Impact Statement for the *Exchange of Letters, done at Hanoi on 1 November 2000 and Canberra on 5 August 2002, constituting an 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, done at Hanoi on 13 April 1992, as amended by an Exchange of Notes done at Canberra on 22 November 1996*, and evidence received at a public hearing held in Canberra on 21 October 2002.

Agreement provides that Vietnamese tax incentives to be spared are to be determined in letters exchanged for that purpose between the Treasurer of Australia and the Minister of Finance of Vietnam. In August 1999 and November 2001 the Vietnamese tax authorities notified Australia of changes made to the Vietnamese laws as provided for in paragraph 5 of Article 23 of the Agreement.<sup>2</sup>

- 2.3 Vietnam is seeking Australia's agreement that the relevant tax incentives in the 1996 and 2000 laws will remain substantively the same as those previously agreed between the two countries and that the tax sparing provisions of Article 23 of the Agreement be amended to apply to these replacing incentives.
- 2.4 Tax sparing is an arrangement where tax foregone by a foreign country on the income of an Australian resident is deemed to have been paid. Thus the tax foregone is credited as if it were actually paid.<sup>3</sup>
- 2.5 The 1996 Exchange of Notes listed the current Vietnamese tax incentives for which Australia would provide tax sparing. These arrangements are targeted to foster genuine economic development and relate to active business income, for example, the construction of power production infrastructure, the development of ports to facilitate export processing, the expansion of heavy industry and the plantation of new forests for commercial exploitation. Tax sparing arrangements are not available for banking, insurance, consulting, accounting, auditing or commercial services of any kind. (These services were originally excluded from Vietnamese development incentives under a provision of the *Law on Foreign Investment in Vietnam 1987*).

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2 Specifically, the *Law on Foreign Investment in Vietnam 1987* and *Decree No. 18-CP on implementing regulations of the Law on Foreign Investment in Vietnam dated 16 April 1993* have been repealed and replaced by the *Law on Foreign Investment in Vietnam 1996*; *Government Decree No. 12/CP dated 18 February 1997 on the implementation of the Law on Foreign Investment in Vietnam*, and *Government Decree No. 24/2000/ND-CP dated 31 July 2000 on the implementation of the Law on Foreign Investment in Vietnam*. (*Decree No. 24/2000/ND-CP* has superseded *Decree No. 12/CP* since 1 August 2000).

3 Tax sparing was addressed in *Report 48: Treaties Tabled in August and September 2002*, where the Committee considered a proposal to extend tax sparing arrangements with Malaysia to 30 June 2003.

## Proposed treaty actions

- 2.6 The Agreement and 1996 Exchange of Notes provided for tax sparing arrangements to continue until 30 June 2003 when they will expire permanently.
- 2.7 The 2002 Exchange of Letters substantially replicates the conditions implemented by the original provisions of Article 23 of the Agreement as amended by the 1996 Exchange of Notes, and ensures that tax sparing concessions will continue to apply as intended until the date of their expiry. No additional costs are expected as a result of the proposed treaty action. Changes will be notified in the *Gazette* after the 2002 Exchange of Letters enters into force. Implementing legislation is not required.
- 2.8 No action is required by the States and Territories and no change to the existing roles of the Commonwealth or the States and Territories in tax matters will arise as a consequence of this treaty action.

## Evidence presented and issues arising

- 2.9 The Committee was advised that the benefits following from ratification of the 2002 Exchange of Letters, apart from fulfilling the commitment to tax sparing under the treaty as agreed, would include the continuation of the promotion of 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.<sup>4</sup>
- 2.10 The Committee was also advised that the acceptance of the proposed treaty action would:
- contribute ... to developing and improving bilateral relations with Vietnam ...[and] provide a reasonable element of legal and fiscal certainty within which cross border trade and investment can be carried on.<sup>5</sup>

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4 Paul McBride, *Transcript of Evidence*, 21 October 2002, p. 3.

5 Paul McBride, *Transcript of Evidence*, 21 October 2002, p. 3.

## Trade relations with Vietnam

- 2.11 Two way trade between Australia and Vietnam has increased from \$A1.1661 billion in 1999 to \$A2.592 billion in 2001.
- 2.12 In 2001 Australian exports to Vietnam reached more than \$A499 million. This figure constituted an increase of 39 percent from the 1999 figure of \$A329 million. The largest single export is education and training, which accounts for more than \$A80 million per annum. Other major exports include aluminium, wheat, cereals, dairy products and cotton. Over the last five years the volume of exports to Vietnam has increased by an average of 17.6 percent per annum.
- 2.13 In 2001 the volume of imports from Vietnam to Australia reached \$A2.092 billion. The export of crude petroleum from Vietnam to Australia represented 85 percent of this figure.

## Tax sparing arrangements

- 2.14 The Committee has had ongoing concerns about the manner in which information on double taxation agreements, including tax sparing arrangements, is provided by the Department of the Treasury, and has sought to ensure that such agreements are in fact in the national interest. The Committee was concerned that the Organisation for Economic Co-operation and Development (of which Australia is a member) 'has reflected on tax sparing and generally suggests that there are costs and benefits but on balance it is probably not a good idea.'<sup>6</sup>
- 2.15 Treasury officials advised that, since 1997, it has not been government policy to continue with tax sparing arrangements. The Committee heard that tax sparing benefits countries such as 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 a bad tax policy for that reason. It also encourages a race to the bottom. If we get a competitive spiral internationally in which every country tries to reduce taxes, then there will be no revenue left to pay for infrastructure.<sup>7</sup>

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6 Paul McBride, *Transcript of Evidence*, 21 October 2002, p. 7.

7 Paul McBride, *Transcript of Evidence*, 21 October 2002, p. 7.



- 2.16 In the 1998 report of the OECD's Committee of Fiscal Affairs, three concerns about tax sparing arrangements are identified, namely:
- the potential for abuse offered by tax sparing;
  - the effectiveness of tax sparing as an instrument of foreign aid to promote economic development of the source country; and
  - general concerns with the way in which tax sparing may encourage states to use tax incentives.<sup>8</sup>
- 2.17 The Committee sought specific figures on the historical cost of tax sparing arrangements with Vietnam. Treasury indicated that this information will be able to be provided to the Committee early in 2003. The Committee has been advised that the methodology is currently being developed and available data sources are being identified. The Committee anticipates that future analyses of proposed amendments to existing treaties will be more efficient when this historical data is able to be provided.

## Conclusions and recommendations

- 2.18 The Committee accepts, while tax sparing arrangements are no longer preferred government policy, that the Australian Government ought to honour its commitments to tax sparing arrangements with Vietnam until the previously agreed date of 30 June 2003. The proposed Exchange of Letters accomplishes this objective by recognising changes in Vietnamese domestic law, thus providing security for Australian investors in Vietnam. The Committee also accepts that this is conducive to continuing the strong bilateral relations between the two countries.
- 2.19 The Committee acknowledges Treasury's continuing efforts to provide specific details in NIAs on double tax agreements as well as the methodological difficulties of providing fiscal forward estimates of costs and benefits of these proposed treaty actions.
- 2.20 However, the Committee would be in a far better position to weigh future benefits against the costs of proposed tax treaty actions if it were provided with data on past costs and benefits of treaty arrangements. This information would be of particular benefit when the Committee is required to assess an amendment to a tax agreement that continues current arrangements.

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8 *Model Tax Convention on Income and on Capital*, Organisation for Economic Development and Co-operation, OECD Committee on Fiscal Affairs, 29 April 2000, p.233.

**Recommendation 1**

- 2.21 **The Committee supports the *Exchange of Letters, done at Hanoi on 1 November 2000 and Canberra on 5 August 2002, constituting an 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, done at Hanoi on 13 April 1992, as amended by an Exchange of Notes done at Canberra on 22 November 1996* and recommends that binding treaty action be taken.**

**Recommendation 2**

- 2.22 **The Committee recommends that, where proposed treaty actions seek to amend existing international taxation arrangements, the costs and benefits of past tax treaty arrangements be included in the National Interest Analysis.**

## **Amendment to the agreement with Ireland on medical treatment for temporary visitors**

### **Background<sup>1</sup>**

- 3.1 The *Agreement on Medical Treatment for Temporary Visitors between Australia and Ireland* (the Agreement) was signed in 1997. As a bilateral Reciprocal Health Care Agreement (RHCA), it enables visiting residents of a treaty partner country to access the public health system of the country visited, to obtain any treatment that is immediately necessary prior to travelling home. This Agreement covers public hospital and pharmaceutical care.
- 3.2 RHCAs are of particular assistance to persons with pre-existing medical conditions or who are over 70 years of age, who are fit to travel overseas, but are unable to obtain insurance. Australia has RHCAs with New Zealand, Italy, Malta, Sweden, the Netherlands, Finland, the United Kingdom and the Republic of Ireland. These countries have health systems of an equivalent standard to Australia.

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1 Unless otherwise specified the material in Chapter has been drawn from the National Interest Analysis (NIA) for *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, done at Canberra on 30 July 2002*, and evidence received at a public hearing in Canberra on 21 October 2002.

## Proposed treaty actions

- 3.3 The Committee understands that the proposed amendment to the Agreement arises because the *National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Act 2000* (IME Act) introduced a requirement for persons to produce evidence of their entitlement to PBS benefits (for Australians, a Medicare card). Prior to the introduction of the IME Act, access to PBS benefits was automatic upon presentation of a valid prescription.
- 3.4 The Committee further understands that the proposed treaty action is required to maintain reciprocity in the Agreement, by explicitly enabling Irish visitors to continue to access the Pharmaceutical Benefits Scheme (PBS) by allowing other relevant documents, for example a passport, to be presented as evidence of PBS entitlement.
- 3.5 The Committee was advised that no further legislative action by the Commonwealth or the States and Territories is required to implement the legislation and that States, Territories and the Pharmacy Guild had been consulted about the proposed amendment to the Agreement.

## Evidence presented and issues arising

- 3.6 The Committee was assured that no other extant RHCAs would require similar amendments resulting from the presence of the IME Act. The Committee was informed that, for other countries:
- ... the structure of their agreements is broad enough to cover this change. For various reasons, references in those treaties ... have picked up the National Health Act sufficiently to accommodate the changes.<sup>2</sup>
- 3.7 The NIA makes reference to a number of ways in which RHCAs benefit Australia, for instance, through the assumption that these mechanisms facilitate tourism by providing a more secure environment for travellers from either country visiting the other. The Committee sought further clarification on whom would benefit from RHCAs. Mr Burness stated that:

The general overall government policy on the agreements is primarily to provide us – the Australian population – with an

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2 Mark Burness, *Transcript of Evidence*, 21 October 2002, p. 13.

extension of our health system to countries around the world where that can be done ...<sup>3</sup>

3.8 The NIA also makes reference to the problems of specifying the costs and benefits that arise as a result of the proposed treaty action. The Committee sought clarification of the reasons why data was not collected on the impact of temporary visitors on the Australian PBS and why data on Australian use of foreign public health schemes appeared not to be collected in countries with which Australia has RHCAs.

3.9 The Committee was informed that under the IME Act the Government is monitoring the effect on PBS expenditure of restricting access to those who hold Medicare numbers and appropriate passports. Mr Burness referred to the specific case of Ireland:

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 ...<sup>4</sup>

3.10 The Committee was concerned that, while the NIA contains many references to the overall trade and tourism benefits between Australia and major partners, no detailed cost-benefit analysis could be provided to support the claim that the particular treaty is in the national interest. The Committee accepts that while any costs associated with the treaty are minimal, the Department of Health and Ageing would be advised to avoid making assertions about financial benefits to Australia as a result of the treaty without specific financial analysis to support this.

3.11 The Committee investigated the possibility that RHCAs may be open to abuse by foreign nationals seeking to exploit publicly funded health care in Australia. The Committee was satisfied that the costs to the public health system are minimal under the Agreement, accepting the Department's view that, if the purpose of a visit were for treatment or major surgery, visitors would arrive into Australia under the conditions of a medical visa, the provisions of which are excluded from the Agreement.<sup>5</sup> The Committee concurs with Mr Burness's view that '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.'

3.12 The Committee noted the department's policy that, should a treaty partner make changes to its own health system in any way that would exclude

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3 Mark Burness, *Transcript of Evidence*, 21 October 2002, p. 14.

4 Mark Burness, *Transcript of Evidence*, 21 October 2002, p. 13.

5 Mark Burness, *Transcript of Evidence*, 21 October 2002, pp. 14-5.

Australians from, for example, accessing their PBS or equivalent, the relevant Agreement would be changed to reciprocally 'exclude access to ours.'<sup>6</sup>

- 3.13 The Committee inquired as to whether the scrutiny of passports by pharmacists might provide for the identification of individuals who have overstayed their visas. Mr Burness indicated that 'there is a nationwide process that goes to all pharmacies' by which temporary visitors who were ineligible for PBS benefits, such as visa over stayers, but who made claims upon the PBS could be detected.<sup>7</sup>
- 3.14 In response to the Committee's observation that industry groups were not listed in the NIA as having been involved in the consultation process for the proposed treaty action, the Department informed the Committee that extensive consultations were held with the Pharmacy Guild.

## Conclusions and recommendations

- 3.15 The Committee is satisfied that the proposed amendment is necessary to continue the terms of the Agreement.
- 3.16 In the interests of informing the Parliament fully of the efforts made by Departments proposing treaty actions to consult other agencies the Committee requires that future NIAs include reference to the full range of agencies that have been consulted.

### Recommendation 3

- 3.17 **The Committee supports the *Exchange of Letters between Australia and the Republic of Ireland constituting an agreement to amend the 1997 Agreement on Medical Treatment for Temporary Visitors, done at Canberra on 30 July 2002* and recommends binding treaty action be taken.**

6 Mark Burness, *Transcript of Evidence*, 21 October 2002, pp. 14-5.

7 Mark Burness, *Transcript of Evidence*, 21 October 2002, pp. 15-6.

#### **Recommendation 4**

- 3.18 **The Committee recommends that future National Interest Analyses list all agencies consulted in relation to the proposed treaty action.**

## **Extension to the Regional Co-operative Agreement for research, development and training related to nuclear science and technology**

### **Background<sup>1</sup>**

- 4.1 The first Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (the 1987 RCA) entered into force on 12 June 1987. The 1987 RCA was based on an Agreement of the same name concluded in 1972 (1972 RCA), which was subsequently extended in 1977 and 1982.
- 4.2 The provisions of the 1987 RCA follow closely those of the 1972 RCA. The purpose of the 1987 update was to enhance overall coordination and supervision of co-operative projects carried out under RCA arrangements. The 1987 RCA was extended in 1992 and 1997. The Third Extension continued in force from 12 June 2002.
- 4.3 Australia became a party to the RCA in 1977. The other participants are Japan, New Zealand, Bangladesh, China, India, Indonesia, the Republic of Korea, Malaysia, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand, Vietnam, Mongolia and Burma. As at 27 June 2002, thirteen states had accepted the Third Extension Agreement. States, apart from

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1 Unless otherwise specified the material in Chapter has been drawn from the National Interest Analysis (NIA) for the *Third Agreement to extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology, done in Vienna, on the 1<sup>st</sup> day of October 2001*, and evidence received at a public hearing held in Canberra on 21 October 2002.



Australia, that had not accepted the Agreement as at 21 October 2002 were New Zealand, Singapore and Thailand. <sup>2</sup>

- 4.4 The Committee understands that the RCA is an important mechanism in fulfilling the technical co-operation provisions of the Nuclear Non-Proliferation Treaty (the NPT). Continued membership of the 1987 RCA is therefore one way for Australia to meet its obligations to co-operate with other Parties in the peaceful uses of nuclear energy under the NPT.
- 4.5 The Committee was advised that the NPT is the centrepiece of the non-proliferation regime which, for over a quarter of a century, has helped maintain Australia's immediate strategic environment free from nuclear weapons. Under the NPT non-nuclear weapon states have foresworn nuclear weapons and accepted comprehensive safeguards to verify compliance with this commitment. However, they retain the right to research, develop and use nuclear energy for peaceful purposes.
- 4.6 As a party to the NPT, Australia has made a commitment:  
to facilitate ... the fullest possible exchange of equipment materials and scientific and technological information for the peaceful uses of nuclear energy.<sup>3</sup>
- 4.7 The 1987 RCA also allows Australia to participate in international collaborative projects and to maintain and extend a national capacity in cutting-edge nuclear technologies. RCA activities are conducted under the auspices of the Technical Co-operation Programme administered by the International Atomic Energy Agency (IAEA).
- 4.8 The Committee understands that there are no additional (ie further to the existing 1987 Agreement) obligations placed on Australia under the proposed extension, and that information has been provided to the States and Territories through the Commonwealth-State Standing Committee on Treaties' Schedule of Treaty Action.

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2 The Committee was advised by Dr Easey, of the Australian Nuclear Science and Technology Organisation, that this delay was normal and that he was not aware of these states objecting to the extension of the Agreement.

3 National Interest Analysis, p. 2.

## Evidence presented and issues arising

### International Atomic Energy Agency (IAEA)

4.9 The Committee was advised that the IAEA provides a secretariat to administer the RCA program. The Committee also notes for states to be members of the RCA, they must first be a member of the IAEA.<sup>4</sup>

4.10 Australia has been a designated member of the board of the IAEA since its inception in 1957, and enjoys a high standing within the Agency.<sup>5</sup> The Committee was advised that:

Through the RCA, this ... 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 ... in the supply of nuclear materials and technology.<sup>6</sup>

### Development and management of the RCA program

4.11 The RCA program has matured over the years since its inception, from capacity building into:

applications that assist in addressing and providing solutions to environmentally sustainable development programs and challenges of collective importance.<sup>7</sup>

4.12 The Committee understands that the cooperation program covers six broad thematic sectors: health, environment, industry, radiation protection, agriculture and energy. Dr John Easey, from the Australian Nuclear Science and Technology Organisation (ANSTO), explained the nature of the cooperative activities in reference to the health, environment and radiation protection thematic sectors.

### Australia's contributions to the RCA

4.13 The annual budget of the RCA is approximately \$US4 .5 million, approximately 60 percent of which is provided by the International Atomic Energy Agency (IAEA), through its Technical Cooperation Fund. The remainder is sought from donors' provision of extra-budgetary support.

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4 Dr John Easey, *Transcript of Evidence*, p. 21.

5 Dr Terry Beven, *Transcript of Evidence*, p. 26.

6 Dr Terry Beven, *Transcript of Evidence*, p. 26.

7 Dr John Easey, *Transcript of Evidence*, p. 17.

- 4.14 The Committee was advised that while Australia and Japan are major extra-budgetary donors, other RCA Member States and the United Nations Development Fund (UNDP) have also provided considerable financial and in-kind assistance.<sup>8</sup>
- 4.15 As a party to the RCA, Australia has the option of contributing financially and 'in-kind'. Australia's financial contributions to the RCA are provided through the Australian Agency for International Development (AusAID). 'In-kind' contributions are given through the placement of RCA fellowship awardees for study in Australia, the provision of courses and experts to provide assistance to the IAEA or to individual RCA Member States on behalf of the IAEA, and the hosting of RCA meetings sponsored by the IAEA. These costs are met by relevant agencies from their existing resources.

### **Australia's involvement in the provision of training under the RCA**

- 4.16 The Committee was interested to learn about the leading role played by Australia in the provision and organisation of medical training programs across the region under the auspices of the RCA. The Committee was advised that Australia is 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 ... we have had a project going, it is now in its seventh year, which is training nuclear medicine technicians.<sup>9</sup>
- 4.17 The Committee was advised that Australia plays an important role in designing and assessing these distance-learning training courses. Australian assessors travel periodically to the countries involved, ensuring an interactive learning process. The Committee understands that this program is highly regarded and successful, notwithstanding the delays and challenges involved in translation of relevant materials.
- 4.18 Further distance training programs involve a program for medical graduates (in the field of oncology) and in medical physics. The Committee was advised that there is a critical shortage in the Asia-Pacific region of medical physicists, who are essential to ensure that optimum performance is obtained from equipment that represents considerable investment by the countries involved.
- 4.19 Importantly, such activities are being undertaken outside the nuclear fuel cycle; therefore it is the opinion of the Committee that training nuclear

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8 Dr John Easey, *Transcript of Evidence*, p. 18.

9 Dr John Easey, *Transcript of Evidence*, p. 21.

technicians for a nuclear power such as China does not present any diplomatic predicaments. The RCA program is very specific in its application to environmentally sustainable development and according to ANSTO, China sees great benefit in using training materials that have been prepared, piloted and credentialed.<sup>10</sup>

## Conclusions and recommendation

- 4.20 The Committee was impressed by the quality of evidence presented by Dr Easey and his depth of knowledge and breadth of experience relating to the RCA. The Committee concurs with Dr Easey's view that:

Australia has been playing a lead role in developing management strategies to enable RCA Member States to take on more responsibility for the development and implementation of the program.<sup>11</sup>

- 4.21 The Committee further concurs with Dr Easey's view that:

... 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 ...<sup>12</sup>

### Recommendation 5

- 4.22 The Committee supports the Third Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology and recommends that binding treaty action be taken.**

**Julie Bishop MP**  
**Committee Chair**  
**December 2002**

10 Dr John Easey, *Transcript of Evidence*, p. 23.

11 Dr John Easey, *Transcript of Evidence*, p. 19.

12 Dr John Easey, *Transcript of Evidence*, p. 19.



## **Appendix A - Submissions**

- 1 Australian Patriot Movement
- 1.1 Australian Patriot Movement (Supplementary)
- 1.2 Australian Patriot Movement (Supplementary)



## **Appendix B – Witnesses**

Monday 21 October 2002 – Canberra

### **Attorney-General's Department**

Mr Stephen Bouwhuis, Acting Assistant Secretary, Office of International Law

### **Australian Nuclear Science and Technology Organisation**

Dr John Easey, International and Regional Liaison, Government and Public Affairs Division

Mr Steven McIntosh, Government Liaison, Government and Public Affairs Division

### **Department of Foreign Affairs and Trade**

Dr Terence Beven, Director, Nuclear Trade and Security Section, Nuclear Policy Branch, International Security Division

Mr Alan Fewster, Executive Director, Treaties Secretariat, Legal Branch

Mr Jurek Juszczak, Director, Thailand, Vietnam and Laos Section

Mr Colin Milner, Director, International Law and Transnational Crime Section, Legal Branch

### **Department of Health and Ageing**

Mr Mark Burness, Director, Medicare Eligibility Section

Mr Craig Rayner, Assistant Director, Medicare Eligibility Section

**Department of the Treasury**

Mr Paul McBride, Manager, International Tax and Treaties Division  
Revenue Group

Ms Biljana Waldron, Analyst, International Tax and Treaties Division  
Revenue Group



## **Appendix C - Exhibits**

- 1 RCA Annual Report 2001: Highlights of the RCA Programme in 2001  
Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology for Asia and the Pacific
- 2 'Making Nuclear Technology work in a Regional Setting' – RCA publication