

Amendments to the Constitution of the Asia Pacific Telecommunity

- 7.1 The proposed treaty action concerns Australia's accession to the amendments to the Constitution of the Asia Pacific Telecommunity (APT) made at New Delhi in 2002.
- 7.2 The Constitution is the primary treaty instrument of the APT, establishing the rights and obligations of its Members.¹ The amendments under the *Constitution of the Asia Pacific Telecommunity (Bangkok, 1976) as amended (Colombo, 1991) as amended in New Delhi in 2002* (the 2002 Amendments) will not change these commitments or impose new obligations on Members.² The amendments will assist the APT to become a stronger, more effective and influential regional telecommunications body.³

Background

- 7.3 The APT was established in 1979 as a joint initiative of the United Nations Economic and Social Commission for Asia and the Pacific and the International Telecommunication Union (ITU).⁴ It aims to foster the development of telecommunications services and

1 National Interest Analysis (NIA), para. 11 and Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 16.

2 NIA, para. 11.

3 NIA, para. 7 and Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 16.

4 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 15.

information infrastructure in the region.⁵ In doing so, the APT promotes the expansion of telecommunications and information services in a cooperative manner to the benefit of its members.⁶ It also provides a forum for regional governments to build consensus on communications issues for coordinated input to meetings of the ITU.⁷

- 7.4 Mr Bill Scott of the Department of Communications, Information Technology and the Arts (DCITA) advised the Committee that there are currently 32 members of the APT, four associate members and 93 affiliate members.⁸ Australia has been a Member of the APT since it was established.⁹
- 7.5 The National Interest Analysis (NIA) states that Australia has been advocating Secretariat and Constitutional reform since 1999.¹⁰ Further, the 2002 Amendments reflect the advocacy of Australia and other Members towards greater efficiency and relevance in the APT's operation.¹¹

Features of the 2002 Amendments

- 7.6 As summarised in the NIA, the 2002 Amendments will
- strengthen the APT's ability to foster the development of telecommunication services and information infrastructure throughout the region (article 1)
 - encourage exchange of information to ensure balanced development of telecommunications services and information infrastructure and to strengthen the region's international position (article 2)
 - expand the category of Affiliate Membership to include any organization (article 3)
 - rename the positions of Director-General and Deputy-Director-General, and provide for these positions to be elected, and their terms of employment to be determined by the General Assembly (article 8)

5 Asia Pacific Telecommunity, 'Objectives of the Asia Pacific Telecommunity', <www.apsec.org/apt/aptObj.html> (accessed on 18 August 2004).

6 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 16.

7 NIA, para. 5.

8 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 16.

9 NIA, para. 3.

10 NIA, para. 8.

11 NIA, para. 10.

- provide for a simple majority of Members as a requisite for Extraordinary sessions of the General Assembly to be convened; and a quorum for a meeting of the General Assembly (Article 8)
- enable the Management Committee to act on behalf of the General Assembly between meetings (Article 9)
- create two categories of budgets (the General Budget and Special Budget) (Article 11).¹²

7.7 The Committee was interested in the need to create two categories of budgets. Mr Scott advised

Certainly we were very careful about this particular aspect of things because we want both flexibility and transparency in budgeting. The reason for having the special budget is that there are special contributions made between the times that the budget is put in place and they needed the flexibility for the organisation to expend that money on worthwhile projects. At the moment, through its arrangements, it has some difficulty in expending money that comes in through special payments.¹³

7.8 The NIA concludes that the 2002 Amendments will update and expand the APT's role to ensure the balanced development of infrastructure, the exchange and discussion of information, and ensure active participation of Members.¹⁴

Implementation and costs

7.9 The NIA states that the proposed 2002 Amendments would not require any change to the *Telecommunications Act 1997* or related primary legislation.¹⁵ However, the *Telecommunications (Compliance with International Conventions) Declaration No. 1 of 1997* and *Telecommunications (International Conventions) Notification No. 1 of 1997* will need to be updated following ratification to refer to the amendments.¹⁶ Mr Scott informed the Committee that this

12 NIA, para. 13.

13 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 19.

14 NIA, para. 9.

15 NIA, para. 15.

16 NIA, para. 15.

would ensure that carriers and carriage service providers and the Australian Communications Authority are aware of the latest version of the treaty.¹⁷

- 7.10 The 2002 Amendments will not change the Australian Government's obligations under the Constitution, and no action would be required by State or Territory Governments as a result of ratification.¹⁸
- 7.11 In addition, no extra costs will arise as a result of the 2002 Amendments.¹⁹

Entry into force

- 7.12 Article 21 states that amendments shall enter into force on the 30th day following the deposit of instruments of ratification or acceptance with the Depository of such amendments by two-thirds of the Members.
- 7.13 As at 10 June 2004, the 2002 Amendments had not entered into force as only 10 out of 32 Members had deposited their instruments of ratification or acceptance.²⁰ At the Committee's public hearing on 26 July 2004, DCITA was not aware of any more Members ratifying the amendments.²¹
- 7.14 The Committee was concerned at the slow rate of ratification by Members since November 2002 when the Amendments were accepted. Mr Scott believes that there is a strong likelihood of there being two-thirds support and that
- we have been a little bit slower than we would have wanted to be. I do not think it is a lack of commitment but simply that processes move rather slowly in many member countries.²²
- Mr Scott further advised that the management committee of the APT will meet in the later part of 2004, and
- I imagine that a high priority would be members committing before they go to that meeting or pressure from the organisation itself to move to ratification.²³

17 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 16.

18 NIA, para. 17.

19 NIA, para. 18.

20 NIA, para. 4.

21 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, pp. 17 and 19.

22 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 17.

23 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 18.

Consultation

- 7.15 Consultations with industry and key government agencies were undertaken during 2002.²⁴ The consultation with industry involved the three APT Affiliate Members: Telstra Corporation Ltd; Macquarie Corporate Telecommunications Pty Ltd and Reach Communications.²⁵
- 7.16 The Committee was interested in the response from industry stakeholders in relation to the 2002 Amendments. Mr Scott explained the nature of the final text was no surprise to them...Australia was instrumental in the development of the text and officers from our department were very involved in drafting the words so that, yes, industry approves of the final text.²⁶

Conclusion and recommendation

- 7.17 The Committee believes that the 2002 Amendments will ensure the balanced development of infrastructure, the exchange of information, and the participation of Members. The Committee agrees with DCITA, that the proposed treaty action will make the APT stronger, more effective and influential as a regional telecommunications body.

Recommendation 5

The Committee supports the *Constitution of the Asia Pacific Telecommunity (Bangkok, 1976) as amended (Colombo, 1991) as amended in New Delhi in 2002* and recommends that binding treaty action be taken.

24 NIA – Consultations Annexure A and Mr Michael Moynihan, *Transcript of Evidence*, 26 July 2004, p. 17.

25 NIA – Consultations Annexure A.

26 Mr Bill Scott, *Transcript of Evidence*, 26 July 2004, p. 19.