

## **Exchange of Notes for the Financing of Certain Education and Cultural Exchange Programmes**

### **Introduction**

- 8.1 The purpose of the *Exchange of Notes, done at Canberra on 7 April – 27 May 2003, Amending the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America for the Financing of Certain Educational and Cultural Exchange Programmes of 28 August 1964* (the Fulbright Agreement) is to amend one provision of the Fulbright Agreement. The amendment establishes that members of the Board of Directors of the Australian-American Fulbright Commission may serve an extra year of appointment from one to two years.

### **Background**

- 8.2 The Fulbright Agreement came into force on 28 August 1964. It established the Australian-American Educational Foundation to carry out the Agreement. The Foundation, now commonly known as the Australian-American Fulbright Commission (AAFC), is recognised by the Governments of Australia and the United States of America (USA) as a bi-national organisation created and established to facilitate the

administration of an educational and cultural programme.<sup>1</sup> The aim of the program is to further strengthen international co-operative relations between the countries.

## Proposed treaty action

- 8.3 The proposed treaty action concerns an amendment to Article 5 of the Fulbright Agreement.
- 8.4 Article 5 establishes a Board of Directors to run the AAFC. The Board consists of ten Directors, specifically five citizens of the USA (at least two of which are to be officers of the US Foreign Service establishment in Australia) and five Australian citizens (two of which are to be officers of the Government of Australia). The principal officer in charge of the Diplomatic Mission of the USA to Australia (Chief of Mission) and the Prime Minister of Australia are honorary Chairmen of the Board, and a chairman with voting power is selected by the Board from its members.<sup>2</sup>
- 8.5 The five American Directors can be appointed and removed by the Chief of Mission, and similarly the Australian members of the Board can be appointed and removed by the Australian Prime Minister.<sup>3</sup>
- 8.6 The term of appointment of Board members is one year from 31 December, following the date of appointment.<sup>4</sup>
- 8.7 The proposed amendment, which is described as 'relatively minor', provides for an extension of the term of the members of the Board of Directors of the AAFC.<sup>5</sup> Specifically, it is proposed that members of the Board serve from the time of their appointment for two years, as opposed to the current one year.

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1 National Interest Analysis (NIA), para. 7.

2 Article 5.

3 Article 5.

4 Article 5.

5 Colin, Milner, *Transcript of Evidence*, 23 June 2003, p. 48.

## Rationale for Amendment

- 8.8 The NIA presents a number of reasons for extension of the term of office of members of the Board of Directors. It argues that the amendment would increase the efficiency of the Foundation's operations, which in turn would 'increase the Foundation's capacity to enhance Australia-US educational linkages'<sup>6</sup>.
- 8.9 The NIA states that there has been 'reasonably extensive' use of Article 5 for re-appointment of board members.<sup>7</sup> It argues that the range of academic and governmental agencies that the AAFC deals with, the complexity of the issues involved, and the frequent need to take a longer term perspective, have made the re-appointment of board members (by Australia and the USA), a more practical alternative to new appointments.<sup>8</sup> The NIA further argues that 'with re-appointments, experienced Board members are able to perform their duties more effectively and efficiently', and that there is more continuity across issues.<sup>9</sup>
- 8.10 Furthermore, the NIA states that the proposed amendment would create greater certainty of appointment, encourage greater interest and involvement from members of the Board, and would be more practical and less time-consuming administratively.<sup>10</sup>

## Consultation

- 8.11 The proposed treaty action amending Article 5 originated from the Board of Directors in May 1999.<sup>11</sup> In accordance with Article 13, the amendment is based on the exchange of notes between the Department of Foreign Affairs and Trade (DFAT) and the United States Embassy in Canberra. The correspondence took place in the period between April and May 2003.

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6 NIA, para. 18.

7 NIA, para. 6 and David Ray, *Transcript of Evidence*, 23 June 2003, p. 49.

8 NIA, para. 11.

9 NIA, para. 11.

10 NIA, para. 12.

11 NIA, para. 14.

## Costs

- 8.12 The Committee was advised that it is anticipated that there will be minor financial savings in administrative costs to the Department of Education, Science and Training due to the appointments to the Foundation being less frequent. There will be no foreseeable additional financial costs due to the Amendment taking effect.<sup>12</sup>

## Implementation

- 8.13 The amendment provides that it will come into effect on a date to be specified by the Australian Government through the diplomatic channel.<sup>13</sup> It is proposed that the amendment come into force before the next round of appointments to the board of directors.
- 8.14 The NIA foresees the implementation of the proposed treaty action as having minimal affects on Australia's rights and obligations under the treaty, and that it would not require legislative change.

## Conclusions and recommendation

- 8.15 The Committee agrees that there are benefits to be gained by extending the term of office of members of the Board of Directors to two years and therefore supports the amendment.

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12 NIA, para. 17.

13 NIA, para. 4.

## **Recommendation 12**

**The Committee supports the views expressed in the National Interest Analysis and the Exchange of Letters amending the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America for the Financing of Certain Educational and Cultural Exchange Programmes, and recommends that binding treaty action be taken.**

**Julie Bishop MP  
Chair**

**August 2003**