
The Parliament of the Commonwealth of Australia

Report 78

Treaty Scrutiny: A Ten Year Review

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Foreword

The seminar *Treaty Scrutiny: A Ten Year Review* was held on 30-31 March 2006 to mark ten years of operation of the Joint Standing Committee on Treaties (JSCOT).

Under the Australian Constitution treaty-making is the formal responsibility of the Executive Government. The Constitution does not confer on the Parliament any formal role in treaty making. Nevertheless, through the work of JSCOT, the Parliament plays an important role in examining all proposed treaty actions that are tabled in Parliament.


Prior to the establishment of JSCOT, during the 1970s, treaties were tabled in Parliament but often in a manner which prevented meaningful Parliamentary scrutiny or input. Treaties were tabled in bulk, approximately every six months and often after they had entered into force.

By the 1990s Australia had entered into a period of negotiating a broader range of treaties - some of them quite controversial. There was also a growing awareness that international obligations affected domestic legal regimes and policy responses to a wide range of national issues. In recognition that Parliament ought to be able to scrutinise Australia's international treaty obligations, JSCOT was established in May 1996.

Over the last ten years significant steps have been taken to improve the openness and transparency of treaty making in Australia. Proposed treaty actions are tabled in Parliament before they enter into force and treaty texts and the rationale for entering into them are made readily accessible to the people of Australia. There are also mechanisms in place to ensure that the States and Territories are consulted on actions which may affect them.

After ten years of JSCOT it was fitting that a seminar be conducted to assess the 1996 reforms and to look more broadly at the role of the legislature in the treaty making process, both here and overseas.

Dr Andrew Southcott MP
Chair



Membership of the Committee

Chair Dr Andrew Southcott MP

Deputy Chair Mr Kim Wilkie MP

Members Hon Dick Adams MP

Senator Andrew Bartlett

Mr Michael Johnson MP

Senator Carol Brown

Mr Michael Keenan MP

Senator Brett Mason

Mrs Margaret May MP

Senator Julian McGauran

Mrs Sophie Mirabella MP


Senator Glenn Sterle

Mr Bernie Ripoll MP

Senator Russell Trood

Hon Bruce Scott MP

Senator Dana Wortley



Resolution of appointment

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

- 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 abbreviations

AP6	Asia-Pacific Partnership on Clean Development and Climate Change
ASEAN	Association of South East Asian Nations
Austlii	Australasian Legal Information Institute
COAG	Council of Australian Governments
FTA	Free Trade Agreement
ICCPR	International Covenant on Civil and Political Rights
JSCOT	Joint Standing Committee on Treaties
NIA	National Interest Analysis
SCOT	Standing Committee on Treaties
UN	United Nations
WA	Western Australia
WTO	World Trade Organisation

