

Australia and the United Nations

The Historical Contribution

11.1 The forum of the United Nations, providing as it does one vote, one country, allows small and middle powers to expand their influence. At a conference on the 50th anniversary of the UN, the Director of the Centre for Strategic Studies at Victoria University in New Zealand explained the position in the following way:

Middle powers like Australia, and smaller countries like New Zealand, retain a strong national interest in an effective multilateral system - or as effective as we, with other like-minded, can make it. ... [A] system based on the principle of one country, one vote does help equalise the relative strengths between the bigs, mediums and smalls in the world. ... [T]he balance sheet of the first half-century suggests the system has accommodated the interests of Australia and New Zealand in several respects. It has allowed us on some key issues of the time - trade, environment, law of the sea, disarmament, human rights - to develop coalitions of interest with like-minded others to achieve outcomes that served our national purpose.¹

11.2 This belief drove the Australian Foreign Minister in 1945, HV Evatt, to seek, successfully, to increase the power of the General Assembly in the Charter and to strive, unsuccessfully, to exclude the veto power from the Permanent Five in the Security Council. Evatt's role in the establishment of the United Nations at the San Francisco Conference is well known. It is also arguable that the United Nations, through the establishment of the

1 Terence O'Brien. *UN: A TransTasman View*, UN Association of Australia National Conference, September 1995.

Economic and Social Council, also embodied fundamental Australian values - higher standards of living, full employment, conditions of economic and social progress and development, and respect for human rights and fundamental freedoms.

- 11.3 The preliminary work for the establishment of ECOSOC was set in place by another Australian, perhaps less well known for his contribution, Stanley Melbourne Bruce. Bruce also recognised the value of multilateral forums for pursuing policies in Australia's national interest. In 1936 Stanley Bruce was elected President of the Council of the League of Nations. The world was suffering from an agricultural slump and economic depression with consequent malnutrition and hunger. Mr Bruce realised that an international organisation such as the League of Nations could disseminate information about agriculture, nutrition and health and that the understanding and international cooperation resulting from this was important for economic development and social progress. He worked through a variety of League committees - the Health Organisation Committee, the International Institute of Agriculture and the International Labour Organisation. In May 1939, Bruce was invited by the Council of the League of Nations to preside over a committee on the coordination of the economic and social agencies of the League. His report to the Assembly on 22 August 1939 suggested a structural change to the League, which would focus its work on economic and social conditions in the world. He argued, somewhat presciently that:

The world, for all its political severence, is growing daily closer knit; its means of communications daily more rapid; its instruments for the spread of knowledge daily more efficient. At the same time the constituent parts of the world, for all their diversity of political outlook, are growing in many respects more similar; agricultural States are becoming rapidly industrialised; industrial States are stimulating their agriculture. ... Neither the economic nor the physical contagion [of the Depression] - nor, indeed the moral - can be checked by national action alone, except by recourse to almost complete isolation.²

- 11.4 Bruce's report was unanimously well received by all members in the dying days of the League of Nations, but for obvious reasons, not implemented. Evatt and others later revived the idea in the discussions in San Fransisco on the structure of the United Nations. The Economic and Social Council and the Food and Agriculture Organisation are particular legacies of

2 Australian Archives, M104 item 5(1): The Development of International Cooperation in Economic and Social Affairs, August 1939. Quoted from I M Cumpston. *Lord Bruce of Melbourne*. 1989. Longman Cheshire, Melbourne, p. 154.

Bruce's conception and Evatt's advocacy. Article 56 of the Charter has become known as the Australian pledge.³

- 11.5 The Australian contribution to the United Nations has always been considerable. From the beginning, the model set by Evatt of 'power exercised by the force of ideas, argument and intellectual effort'⁴ has continued and has paid dividends for Australia. Many Australians have served with distinction over the last fifty years. When the joint committee visited New York in October 2000, there were over 40 Australians working in the UN secretariat. These were individuals separate from those people representing Australia as part of our permanent mission.
- 11.6 While there are too many people for all those who have made a contribution over the last 50 years to be mentioned in this report, a number were particularly noted during the inquiry. Professor Phillip Alston served as the Chairman of the Committee on Economic, Social and Cultural Rights and has worked on the reform of the treaty body system for over ten years. Dr Elizabeth Evatt was the Chair of the CEDAW Committee for a long period of time and then served on the Human Rights Committee. Professor Ivan Shearer, another distinguished Australian was elected on 15 September 2000 to replace Dr Evatt on the Human Rights Committee. Mr Brian Burdekin is the special adviser to the High Commissioner for Human Rights on the establishment of national institutions for human rights. Professor Andrew Mack, has been strategic adviser to the Secretary-General. Currently, Maj Gen Tim Ford is a senior Military Adviser to the Department of Peacekeeping Operations.
- 11.7 The contribution of the permanent representatives has also been significant. Australia, through the then Ambassador, Mr Richard Butler, played a key role in taking the Comprehensive Test Ban Treaty to the General Assembly, facilitating its adoption after it had become deadlocked in the Conference on Disarmament.⁵ Australia remains particularly active on various disarmament issues: supporting the drafting of the Chemical Weapons Convention, holding membership of the Executive Council of the Organisation for the Prohibition of Chemical Weapons, actively supporting the negotiation of the verification protocol of the Biological Weapons Convention. Most recently, Australia successfully assisted in the negotiation of the mandate for the INTERFET operation, a mandate that proved sufficiently strong to deal with the circumstances on the ground.

3 Article 56 pledges full support by member states of the establishment of ECOSOC, outlined in Article 55.

4 A description of Evatt's contribution in the New York Times quoted from The Evatt Memorial Lecture, Hon Gareth Evans, QC, United Nations Association of Australia National Conference, September 1995.

5 DFAT. Submission No. 107, p. 1274.

This mandate represented progress from the ineffective mandates (over 70 resolutions of the Security Council) which marred the UN effort in Bosnia. Under Ambassador Penny Wensley's chairmanship, the Fifth Committee on Administrative and Budgetary matters successfully negotiated new assessments for UN members' contributions to the regular budget and the peacekeeping budget.

11.8 Australia is a member of all UN Funds and Specialised Agencies, apart from UN Industrial Development Organisation and the World Tourism Organisation. Currently, Australia is also a member of or has been elected to the governing bodies of the following UN agencies and committees: Commission on Narcotic Drugs, Commission on Sustainable Development, The Committee on Contributions, the Human Rights Committee, the International Law Commission, the UN Commission on International Trade Law, the UN Statistical Commission, the Food and Agricultural Organisation (FAO), the International Civil Aviation Organisation (ICAO), the International Maritime Organisation (IMO), the International Telecommunications Union (ITU), UN Aids, the Universal Postal Union (UPU), UNESCO, and the World Meteorological Organisation (WMO).⁶

11.9 The policy of the current government was stated by the Department of Foreign Affairs. It is a reiteration of the principles and values long held regarding the United Nations:

The UN's importance to Australia can be seen in such core areas as international security as well as in the range of technical agencies dealing with issues such as agriculture, refugees, narcotics and international nuclear safeguards - all of which engage important Australian national interests. Membership of the UN provides Australia with opportunities to exert influence on questions of importance to us across a range of global issues, including with respect to the drafting and operation of relevant international instruments.⁷

11.10 Membership represents a means to influence events which directly affect our interests, but over which we have very little unilateral control. International law is in an embryonic phase, but it is very gradually being built up and codified and gaining a respected place. It is gradually replacing the more anarchic *realpolitik* of international relations of former times. Moreover, an international legal framework is essential in a globalised world. International law is developed in areas that need transnational regulation or where international standards and rules assist

6 DFAT. Submission No. 107, p. 1273.

7 DFAT. Submission No. 107, p. 1267.

in bringing about greater equity and order. It is important for Australia to be involved in the development of this international legal framework as it is being shaped.

Australia's Record

Financial Contributions

- 11.11 In the last set of figures received by the committee during its visit to New York in October 2000, Australia was the 10th largest contributor to the regular budget. Since that time our assessment has increased from 1.48 to 1.63 per cent. This represents an increase from A\$23.834 million per annum to an estimated A\$26.24 million per annum.⁸ Australia has always paid its dues on time and in full. It was difficult for the committee to get a whole of government picture of the costs to Australia of membership of the UN. Our assessed contributions to the regular budget are very modest. There are also the assessed costs for peacekeeping and the International Tribunals. These are mandatory payments. Payments other than this are voluntary contributions made to either funds or programs directly part of the UN structure or to the Specialised Agencies, which are not strictly part of the UN. Many of these agencies pre-date the formation of the UN and they are controlled by their own governing boards. The United Nations provides only the loosest coordinating umbrella for them. Therefore, they are not strictly speaking a cost of membership of the UN.
- 11.12 In addition to the peacekeeping fees as part of membership there have been additional costs for the mission in East Timor in which Australian has taken a dominant role. These costs, insofar as they can be extrapolated, are listed separately.
- 11.13 Finally, there is a cost in the permanent missions that Australia has in New York and Geneva. For 1998-99 they were listed at A\$5.54 million and A\$9.36 million respectively. A more complete table of the costs to Australia of belonging to the UN and to a number of other international agencies is at Table 11.1.

⁸ The figure of \$15.6 million in Table 2.3 is in US\$ rather than A\$.

Table 11.1 Estimated aggregate cost of the United Nations to Australia for financial year 1999-2000

United Nations organisation	Funding 1999-2000 (\$A million)	Additional funding (\$A million)	Administering agency
Regular budget			
General budget	23.834		DFAT
International Criminal Tribunal for the Former Yugoslavia (ICTFY)	2.069		DFAT
International Criminal Tribunal for Rwanda (ICTR)	1.852		DFAT
Programmes and funds			
United Nations Development Programme (UNDP)	6.800		AusAID
United Nations High Commissioner for Refugees (UNHCR)	13.900 (Year 2000)		DIMA
World Food Programme (WFP)	42.500		AusAID
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	2.800		AusAID
United Nations Population Fund (UNFPA)	2.100		AusAID
United Nations Environment Programme (UNEP)	0.500	5.1 (GEF) 5.1 (MPMF) 0.24 (ITTO)	AusAID
United Nations Children's Fund (UNICEF)	4.700		AusAID
SUBTOTAL	101.055	10.44	
Peace operation costs			
Assessed Peacekeeping Contribution	101.181		DFAT
INTERFET and UNTAET operations		607.548	Defence
Other peace operations	26.467		Defence
SUBTOTAL	127.648	607.548	
Specialised Agencies			
International Labour Organisation (ILO)	5.094		DEWRSB
Food and Agriculture Organisation of United Nations (FAO)	7.518		AFFA
United Nations Education, Scientific and Cultural Organisation (UNESCO)	15.884		DFAT
World Health Organisation (WHO)	10.800		AusAID
International Bank for Reconstruction and Development (IBRD)	118.000 4.75		AusAID Treasury
International Finance Corporation (IFC)	7.96		Treasury
Multilateral Investment Guarantee Agency (MIGA)	5.819		Treasury
International Monetary Fund (IMF)	(17.8)		Treasury

International Civil Aviation Organisation (ICAO)	1.261		DOTRS
International Maritime Organisation (IMO)	0.227 (Year 2000)		AMSA
International Telecommunication Union (ITU)	4.692 (Year 2000)		DCITA
Universal Postal Union (UPU)	0.800 (Year 2000)		Australia Post
World Meteorological Organisation (WMO)	0.901 (Year 2000)		Bureau of Meteorology
Related Organisations			
World Trade Organisation	1.560		DFAT
Comprehensive Nuclear Test-Ban Treaty Organisation	1.624		DFAT
Organisation for the Prohibition of Chemical Weapons (OPCW)	0.655		DFAT
International Atomic Energy Agency (IAEA)	1.500 4.639		AusAID DFAT
SUBTOTAL	175.884		
	Ongoing	Non-ongoing	Total 1999-2000
TOTAL	404.587	617.988	1022.575

Notes:

1. Details of expenditure on peace operations can be found in table 11.2
2. Agencies appear in groups, according to relationship to the UN system. The first group includes the UN's regular budget, programs and funds. The second group lists peace operation costs to Australia. The third group lists autonomous organisations working with the United Nations and each other through the coordinating machinery of the Economic and Social Council.
3. The table contains the financial contributions that Australia makes to most UN agencies; however, this list is not exhaustive. The Committee has relied on information provided to it by departments and agencies in compiling this table.
4. The non-ongoing costs include additional programs and abnormal items for the financial year 1999-2000.

World Meteorological Organisation (WMO)

An example of the quiet achievement of many international organisations under the umbrella of the United Nations, which serve Australia well and in which Australians serve with great effect, is the World Meteorological Organisation (WMO). The WMO was established in 1947 under the Convention of the World Meteorological Organisation, to which Australia was an inaugural signatory. Australians have been First Vice-President (1967-1975) and (1987-95) and President since 1995 of the WMO. One of the three world meteorological centres is in Melbourne under Australian operation.

The organisation is made up of six Regional Associations and eight Technical Commissions. Five Australians have held executive positions on these bodies. The WMO meets annually in Geneva. The aim of the organisation is to 'coordinate, standardise and improve world meteorological activities and to encourage the efficient exchange of information between countries in the aid of human activities'.

The WMO, like the rest of the UN is suffering a funding shortfall, having arrears of 55,664,463 Swiss Francs, an amount slightly less than its annual budget. Countries in arrears include both underdeveloped and developed countries, such as the USA and the Russian Federation. Australia's assessed contribution is set at 1.46 per cent or A\$900,000. It is paid on time and in full.

The value to Australia is in the knowledge and information and the technical skill that Australia gains through participation in the various regional centres established here to deal with such matters as transport model products for environmental emergencies, a specialised oceanographic centre, and an International Civil Aviation Organisation (ICAO) regional area forecast centre.

- 11.14 Two related functions of the United Nations, in which Australia has been heavily involved, are election monitoring and peace operations. These are areas where Australia has much to offer.

Election Monitoring

- 11.15 Our electoral systems are sophisticated and efficient. Through the Australian Electoral Commission, Australia has an excellent record of providing technical assistance, advice and support to the electoral process of other states. In many respects, the development of Australia's expertise in election monitoring has paralleled the development of post Cold War peacekeeping with all the additional complexity that has comprised this period of UN work. Peacekeeping post 1989 involves reconstruction within countries devastated by civil war rather than the settlement of disputes between states. The AEC's submission noted the increasing role of the UN in facilitating elections:

Elections have not until recently been seen as an integral part of peacekeeping. This reflects the focus of the UN Charter on conflicts between States rather than on civil wars, and the principle of non-interference in the internal affairs of States. Elections by their very nature are internal to a particular political

unit, and their conduct is an important element of State sovereignty.⁹

- 11.16 Therefore, UN election monitoring is a relatively recent activity for the AEC, dating back to 1989 with the monitoring of an election in Namibia. It was, at first, a coincidental and *ad hoc* arrangement. Australia made one official available to the Namibian mission initially. His role in the planning of the operation prompted a request for a further 25 AEC officers. This experience was followed by contributions to the electoral process in the Western Sahara in 1990 and the huge effort that was made in the Cambodian elections of 1992.

A significant feature of the AEC's involvements with the operations in Namibia, Cambodia and Western Sahara was that they all proceeded without an explicit legislative basis. The AEC is a statutory body, and its functions, as specified in section 7 of the Commonwealth Electoral Act 1918, were purely domestic.¹⁰

- 11.17 Section 7(1)(fa) of the *Commonwealth Electoral Act 1918* is an amendment to the Electoral Act passed in 1992 to accommodate the AEC's international role.
- 11.18 Subsequently, the AEC made major contributions to elections in South Africa, Mozambique and Eastern Slavonia. More recently, it played a leading role in East Timor's referendum and may assist in preparations for elections in 2001. The AEC also provides support and briefing to other Departments involved in peace operations.
- 11.19 The AEC role in the referendum in East Timor was considerable and drew the highest accolades from the United Nations. In a letter to the Australian Electoral Commissioner, the Director of the UN Electoral Assistance Division, Ms Carina Perelli wrote:

[W]ithout you and your team the consultation would not have happened. You have a magnificent group of people working for you. Without them, without your commitment and leadership, the human and technical adventure of designing and implementing a consultation in three months would have been impossible.¹¹

- 11.20 The Work began in March 1999 with an agreement between the AEC and the UN Department of Political Affairs. The complexity of the task confronting the AEC in East Timor, and in Cambodia before that, is evident in Attachment A of their submission. The committee would urge

9 AEC. Submission No. 79, p. 700.

10 AEC. Submission No. 79, p. 683.

11 AEC. Submission No. 79, p. 686.

anyone interested to read the submission in full. To give some understanding of the complexity, the task included:

- Support for initial planning for the referendum in New York, including in principle agreement on the procedure for registration, polling and vote counting;
- The drafting of the 'electoral law' to cover the conduct of the referendum;
- The development of a Voter Registration Procedures Manual;
- Briefings of the Australian Federal Police who would assist in the UNAMET mission to conduct the poll;
- Training of UNAMET staff who would serve as District Electoral Officers and conduct the poll;
- Preparation of kits for voter registration, including the design of multilingual forms and secure systems for registration of voters and for the voting itself;
- The computerisation of the voting register;¹²
- The conduct of a ballot of East Timorese living in Australia; and
- Assistance in the methodology of vote counting.

11.21 The AEC is willing to offer continuing support to East Timor in the future. Their officers told the committee that:

We also noted in paragraph 20 of our submission that the AEC stands ready, subject to funding and to the approval of the Minister for Foreign Affairs, to explore how the AEC might be able to assist the United Nations Transitional Authority in East Timor with the implementation of its electoral mandate in the coming years.¹³

11.22 The committee commends the AEC on its achievements in electoral work for the UN, particularly in the legitimacy it lent to the UNAMET process. The committee believes that electoral assistance is a practical way for Australia to promote the democratic values that represent such a stabilising force in our country and in many countries throughout the world. Electoral support should be seen as a central part of Australia's commitment to good governance in both the aid program and in our contributions to peacekeeping through the UN. However, the committee

12 This became a census of the population, which in the light of the expulsion of so many people after the ballot was crucial to an understanding of how many people were missing.

13 AEC. Transcript, 21 March 2001, p. 451.

is mindful of the warnings sounded by the AEC regarding such assistance. In paragraph 3.47, the elements of successful missions are listed. Here, warnings are stated:

[T]he introduction of electoral processes into peacekeeping operations is not a magic formula for resolving political conflicts. In the right circumstances they can represent a potent conflict resolution mechanism - that is after all the role that elections play in established democracies - but in the wrong circumstances, they can waste a great deal of money while achieving nothing in the short or the long term; or, even worse, they can produce polarisation or actually harm the prospects for peacebuilding.¹⁴

Recommendation 17

The committee recommends that the Government continue to support the electoral work of the AEC in UN missions but that principles of operation be developed which reflect the best practice for successful missions and that these be adhered to in any decision to deploy AEC officers or resources to future UN missions.

Australian Participation in Peace Operations

11.23 Australia has a long and laudable record in UN peacekeeping, which it has participated in since 1948. There have been over 20 missions to which Australia has contributed troops since that time.¹⁵ In the course of the inquiry, there was considerable criticism of the deployment of Australian peacekeepers. It was criticism, which suggested, quite erroneously in the committee's view, that the government did not have the right to direct Australian troops to UN operations and that this was the role of the Governor-General alone.¹⁶

14 AEC. Submission No. 79, p. 710.

15 The current missions and their costs are listed at Table 11.2.

16 This was a view expressed in relation to the prospect of a UN standing army, but also in relation to regular peacekeeping operations as currently conducted.

Table 11.2 Operations and Costs to Maintain Peace and Security

		1998-1999 Estimated Actual	1999-2000 Budget Estimate	1999-2000 Actual
		(A\$ '000)	(A\$ '000)	(A\$ '000)
Operation Mazurka – 1993 continuing – 26 Army personnel To provide staff and administrative support to the Multinational Force and Observers, which ensures compliance with the Camp David peace accord between Egypt and Israel	Gross cost	2,620	2,011	888
	Recoveries	-1,075	-498	-725
	Supplementation	1,003	0	0
	Net Cost	1,905	1,513	163
Operation Banner – 1993 continuing – 2 Army personnel Conduct training and provide technical advice to the Cambodian Mine Action Centre on the detection and clearance of land mines	Gross cost	112	112	59
	Recoveries	0	0	0
	Supplementation	0	0	0
	Net Cost	112	112	59
Operation Bel Isi II – 1997 continuing – Approx 240 ADF & 18 civilians (5 from Defence) To support the Peace Monitoring Group in monitoring and reporting on the maintenance of the cease-fire in Bougainville	Gross cost	23,018	18,324	24,393
	Recoveries	-444	-414	-470
	Supplementation	0	0	17,205
	Net Cost	22,574	17,910	6718
Operation Blazer – 1991 continuing – 2 Army & 1 Air Force personnel To identify the locations and inspect and oversee the destruction of Iraqi weapons of mass destruction. The operation's status is under review with the establishment of UNMOVIC on 17 December 1999	Gross cost	81	64	100
	Recoveries	0	0	0
	Supplementation	0	0	0
	Net Cost	81	64	100
Operation Coracle – 1994 continuing – 2 Army personnel To conduct training and provide technical advice to the Accelerated Demining program Mozambique, on the detection and clearance of land mines	Gross cost	167	167	238
	Recoveries	0	0	-108
	Supplementation	0	0	0
	Net Cost	167	167	130
Operation Osier – 1997 continuing – 9 Army, 3 Navy & 1 Air Force personnel To provide staff appointments with the UN-mandated NATO Stabilisation Force in Bosnia to ensure compliance with the Joint Agreement for peace in Bosnia and Herzegovina	Gross cost	405	405	490
	Recoveries	0	0	0
	Supplementation	0	0	0
	Net Cost	405	405	490

		1998-1999 Estimated Actual-	1999-2000 Budget Estimate	1999-2000 Actual
		(A\$ '000)	(A\$ '000)	(A\$ '000)
Operation Paladin – 1995 continuing – 1 Major-General & 12 Army Military Observers	Gross cost	2,205	2,205	888
	Recoveries	0	0	-725
	Supplementation	0	0	0
	Net Cost	2,205	2,205	163
To act as part of a United Nations Truce Supervisory Organisation to oversee the various cease-fire agreements, truces and peace treaties that have been negotiated since 1948 between Israel and Arab nations				
Operation Damask ¹	Gross cost	1,378	5,514	160
	Recoveries	0	0	0
	Supplementation	0	0	0
	Net Cost	1,378	5,514	160
Secondments to United Nations Headquarters, New York ²	Gross cost	722	722	
	Recoveries	0	0	
	Supplementation	0	0	
	Net Cost	722	722	
TOTALS	Gross cost	36,098	29,524	27,770
	Recoveries	-3,374	-912	-1,303
	Supplementation	360	0	17,205
	Net Cost	33,084	28,612	9,272

Notes:

1. The Gross Cost of Operation DAMASK 9 (\$1.398m in 1998-99 and \$5.514m in 1999-2000) represents the estimated additional cost of the task, noting the majority of those costs will be offset or absorbed by adjustments to other programmed activities.
2. Expenditure figures for those activities that are funded from within individual group allocations are estimates only, as the data on small activities are not captured separately from other operational activities.

11.24 The committee, the Attorney-General's Department and the Department of Defence reject this view for reasons stated in Chapter 4, paragraphs 4.28 and 4.29. Moreover, in a professional sense, the Department of Defence indicated the advantages which are derived by the ADF from participating in peace operations:

The ADF derives professional benefit from its participation in peace operations. Participation provides the opportunity to maintain and demonstrate the ADF's military competence and offers operational experience and challenges to ADF personnel that would not otherwise be available in peace time.¹⁷

11.25 However, concern has been expressed about the changing nature of peace operations, with the strength and scope of the mandates agreed by the Security Council and with the readiness and interoperability of the UN

forces. Many of these issues are canvassed in detail in Chapters 3 and 4 of this report.

- 11.26 For example, the Department of Defence has rejected the concept of a UN Standing Army as being operationally unfeasible and the committee accepts these arguments.
- 11.27 On the matter of mandates, the committee hopes that the experience of the INTERFET operation will be useful model for the Security Council, where the agreed mandate was of sufficient force to enable the military forces to achieve a successful outcome.
- 11.28 On the question of intervention, the Department of Defence suggested at least three main conditions, which it considers necessary before any Australian intervention should be considered. These conditions recognise the shift in the UN practice flagged by the Secretary-General, that intervention might be made on humanitarian grounds:

First, there must be a massive violation of human rights, which can include the cross-border movement of refugees or the potential to threaten regional stability. Second, the degree of intervention and degree of force to be used, must be proportionate to the level of threat to be prevented and the degree of break-down of the state. Finally, there is no obligation to intervene, or obligation to remain, if the situation becomes too dangerous for the troops or other personnel, or if financially unsustainable.¹⁸

- 11.29 More specifically, the Department identified the following factors in determining whether ADF personnel participate in UN and other peace operations:
- whether the operation has a clear and achievable mandate; clear and achievable goals and clearly defined review and termination points;
 - whether there is a prospect for a satisfactory outcome given the UN resource commitment and the political nature of the situation;
 - what other resources are likely to be available for the operation;
 - how much Australian interests are engaged, including regional, alliance and humanitarian interests and community attitudes;
 - what costs the contribution might incur, including the effect on the ADF's capacity to undertake other tasks, including national defence;
 - what our commitment to other operations is at the time, having regard among other things to our reputation as a supporter of the UN;

- what training and other benefits will accrue to the ADF;
 - what are the risks involved to ADF personnel; and
 - what benefits (eg. economic, security and diplomatic) will Australia gain.¹⁹
- 11.30 The committee believes that these criteria are a sound basis for deployment.
- 11.31 The coordination of Australian military peacekeeping operations with NGO activity and the training of troops prior to deployment are assisted by the Peacekeeping Centre in Williamstown. The courses offered here were a matter of note at the UN secretariat when the committee visited in October 2000. The officials in New York believed that the centre made a valuable contribution to the preparation of Australian and some regional forces before peace operations. This was an area of UN operations that suffered from a chronic lack of resources. The centre at Williamstown assists in the training of troops prior to deployment and in changing the orientation of their basic training from war-fighting to the specific requirements of peacekeeping. Because of the inclusion of NGOs in the courses, it also assists in mutual understanding between groups that had to coordinate many of the activities involved in peace operations.
- 11.32 When the committee visited East Timor in 1999 the pre-deployment training was raised by an officer in the field.²⁰ The question raised was about whether the level of pre-deployment training was sufficient and whether more time could be devoted to this preparation in the lead up to a deployment. It is a matter that the committee believes should be explored further.

The Australian Federal Police

- 11.33 The Federal police have a long association with peacekeeping. Australia was first asked in 1947 to provide personnel for the UN Commission for Indonesia, which never developed an acronym of its own and was of relatively short duration. Australian police have been serving with UN missions since 25 May 1964, when 40 officers were posted to the island of Cyprus to help keep the peace. The responsibility passed to the Australian Federal Police on its formation in 1979. Since that time, the AFP has participated in peace operations in Cambodia, Haiti, Mozambique, Somalia and Thailand.²¹

19 Department of Defence. Submission No. 108, pp. 1330-1.

20 JSCFADT. *A Visit to East Timor*. December 1999. Canberra, p. 18.

21 Australian Federal Police. 'UN Peacekeeping and Peace Monitoring'. www.afp.gov.au/unmissions/index.htm visited on 23 May 2001.

- 11.34 The AFP is currently committed to peace operations in three places around the world. There are two officers on the island of Bougainville, twenty officers on the island of Cyprus and some one hundred in East Timor. The particular role of police in peace operations, different from that of the military, has been described in detail in Chapter 5.
- 11.35 In addition to serving on peace operations, the AFP maintains several liaison offices to fight transnational crime. Federal Agent Andy Hughes described to the committee the AFP's liaison arrangements with the United Nations Drug Control Program:
- ... we have a close relationship with the United Nations Drug Control Program, UNDCP, in particular the regional office in Bangkok. We participate in joint in-country training with the UNDCP. The AFP has provided and continues to provide experienced trainers in the delivery of UNDCP programs in the region. We also participate in visits with the UNDCP to key production areas of narcotics.²²
- 11.36 The AFP had also been involved in the fight against transnational crime by participating in negotiations for the *Convention Against Transnational Organized Crime* which would provide a framework for cooperation for countries fighting transnational organised crime.

Australia's UN Treaty Obligations

- 11.37 The need for reform of the treaty bodies is widely accepted and is looked at in detail in Chapter 7. After the question of a Standing Army for the UN and the International Criminal Court, it was the issue, which raised the highest and most polarised emotions. For many who submitted views to the inquiry, the human rights treaties themselves represented interference in Australia's domestic affairs. The following quotation is illustrative of these views:

The proliferation of UN Treaties that now impact on Australia's national sovereignty, together with the adventurous and largely unaccepted High Court decision regarding the applicability of such treaties in Australian laws, have the majority of Australians rethinking the veracity of Australia's position. This questioning is gathering strength as the UN is increasingly revealed or perceived as becoming more inept, intrusive, corrupt and bureaucratic. There is an obvious need for Australia to radically rethink its role and response to the UN.²³

22 Australian Federal Police. Transcript, 21 March 2001, p. 441.

23 National Party of Queensland. Submission No. 106, pp. 1239-40.

11.38 The committee rejects this view and, as argued in Chapter 7, sees the human rights treaty system as a legitimate and indeed central aspect of the UN's mandate. International law, where treaties have been signed and ratified by the Australian Government and particularly where they have been implemented by domestic legislation, does have standing in Australian courts. 'Until [domestic legislation is enacted], no-one can be sued in a national court for breach of an international treaty'.²⁴ These treaties are not impositions on Australia. They are standards freely accepted by a democratically elected government, and since 1996, monitored by a standing committee of the Parliament. Australia retains control of the legislation it passes and its effects on Australian citizens and complaints about the nature of such legislation are rightly directed at our elected Government. The Human Rights and Equal Opportunity Commission reinforced this point by noting that:

The decisions of UN committees derive solely from the powers that we, as sovereign nations, have accorded them. A misconception that has gained currency in some quarters is that the committees responsible for monitoring UN treaties have the power to regulate domestic law and policy in Australia. ... The committees have no direct power to enforce their views.²⁵

11.39 The findings of the monitoring treaty bodies are advisory only, although they do have the force of moral persuasion based on questions of our compliance with obligations into which we have entered. The Department of Foreign Affairs noted that it is the non-intervention clause of the Charter (Article 2(7)) that ensures the Geneva based human rights system will remain advisory only, emphasising promotion and protection rather than enforcement.

Unless an abuse of human rights constitutes a threat to international peace and security, the primary means by which the UN protects human rights are to publicly identify abuses and to assist states in developing and implementing domestic mechanisms for their protection. The fundamental responsibility for protection of the human rights of an individual or group rests with the state of which they are a citizen or citizens.²⁶

11.40 The committee is of the view that the comments of the treaty bodies do not constitute intervention in the internal affairs of Australia. Democratic countries should always accept open discussion and debate as part of the

24 HREOC. Submission No. 134, p. 1711.

25 HREOC. Submission No. 134, p. 1711.

26 DFAT. Submission No. 107, p. 1293.

transparency of government and as essential to good government. The committee agrees with HREOC that:

(Unlike some other governments in our region), the concept of 'intervention' (or interference) in matters of essentially domestic jurisdiction is concerned with intervention by armed force, sanctions, or other coercive measures, and does not have application to discussion, debate or the offering of advice including in relation to human rights.²⁷

11.41 An alternative view was put to the committee; that Australia was not taking its obligations seriously enough. This objection took a number of forms:

- failure to legislate to implement treaties that have been signed, in particular the Convention on the Rights of the Child and the Convention on Genocide;
- lack of compliance with the terms of particular treaties, (the ICERD and a lack of support for the Kyoto Protocol were cited);
- failure to accept the competence of the treaty committees despite the implied acceptance of these bodies inherent in the ratification of the relevant treaty;
- failure to sign the Optional Protocol to the CEDAW;
- too great a tendency to react defensively to criticism.

11.42 The following are typical of the comments made during the inquiry:

Whilst being a party to UDHR, the Covenants and conventions, including the Convention on the Rights of the Child, we note with concern that Australia has not systematically legislated the provision into law in Australia. We call on the GOA to work with State Governments to ensure those promises are legislated for appropriately.²⁸

If Australia is to fully engage with the UN processes, it must adopt a clear and comprehensive approach to the domestic implementation of all treaty obligations, including those relating to human rights. An inconsistent pattern of response has confused the Australian community, and undermines Australia's stated position of respect for the United Nations system and participation in the international legal system. The impression that we as a nation are able to 'pick and choose' which laws we will comply

27 HREOC. Submission No. 134, p. 1711.

28 World Vision Australia. Submission No. 99, p. 1036.

with is contrary to Australia's value commitment to the rule of law.²⁹

- 11.43 Much of this criticism stemmed from the reaction of the Government to the adverse findings of the ICERD Committee in March 2000. This has already been canvassed in detail. However, as stated in Chapter 7, the committee supports the efforts that Australia has made for some time³⁰ to address the weaknesses of the treaty body system. The committee is concerned to ensure that, in the reform process, the funding of the system should be at a level that allows it to operate efficiently.

Recommendation 18

The committee endorses the announcements made by the Australian Government in April 2001 that it intends to conduct workshops with other member states in the UN to achieve:

- **A more streamlined system for the consideration of country reports;**
- **The election of Australia to the Human Rights Commission in 2003-2005;**
- **Greater resources for the High Commissioner for Human Rights and the treaty body system; and**
- **Wider regional ratifications of the human rights treaties and increased technical assistance on human rights to regional countries.**

CEDAW - The Ratification of the Optional Protocol

- 11.44 Several submissions to this inquiry made reference to the *Convention on the Elimination of Discrimination Against Women* (CEDAW). Mrs Joan Elliston from the National Council of Women Australia noted that the CEDAW had a large degree of support within Australia, and how the adoption of CEDAW in Australian law did not necessarily guarantee that the Convention would always be complied with:

One of the areas that I became very aware of 10 years ago was CEDAW, the Convention for the Elimination of All Discrimination against Women. We as a country became very involved quite

29 Women's Rights Action Network Australia. Submission No. 86, p. 859.

30 The most comprehensive work on the subject has been done over the period 1988 to the present by an Australian, Professor Philip Alston. See paragraph 7.47.

early on in it. The Labor Party introduced it, the Liberal Party ratified it, and it has become part of the law—only when it is being watched by the watchdogs out in the community—that all legislation must take into account that women must be given credit or not be discriminated against in any way by the law. But we find that people can abuse the situation.³¹

- 11.45 Several submissions suggested the Australian Government should adopt the optional protocol to the CEDAW, which would allow Australian citizens to make complaints to the Committee on the Elimination of Discrimination Against Women. Commissioner Christine Williams of ATSIIC described the absence of the optional protocol in Australia:

My understanding is that the optional protocol provides a way for individual women and groups of women to lodge complaints to the committee on the elimination of discrimination against women if their rights under CEDAW have been violated by a state policy. At the moment, all Australian women do not have a complaints mechanism open to them at an international level. The complaint mechanism is very important as indigenous women suffer from both discrimination as women and racism because we are members of indigenous communities.³²

- 11.46 Australia currently allows individual complaints under the ICCPR, the CERD and CAT, and although an optional protocol has been negotiated to allow individual complaints, the Australian Government indicated it would not accede to the protocol. Of the six major human rights instruments, the CEDAW is currently the only agreement where Australia has not agreed to an individual complaints mechanism, where one is provided for within the convention.
- 11.47 Consistent with similar obligations under the human rights conventions, the ratification of the Optional Protocol will allow Australian women to take their complaints to the United Nations after they have exhausted domestic remedies.
- 11.48 Some members of the committee believed that the responses by the CEDAW committee to the reports of states parties to the convention appeared to reflect only one type of ideological approach, notably in the areas of the role of mothers in society, the advocacy of abortion rights and in freedom of conscience.
- 11.49 While the committee believes that the reports of the CEDAW committee are sometimes controversial and focus on narrow issues, which are not

31 National Council of Women Australia, Transcript, 5 July 2000, p. 150.

32 ATSIIC, Transcript, 21 March 2001, p. 480.

universally supported, on balance, a majority of the committee supports the overall objectives of the Optional Protocol.

Recommendation 19

Given Australia's laudable record of support for UN human rights treaties, a majority of the committee recommends that the Australian Government proceed with the ratification of the Optional Protocol to the *Convention on the Elimination of All Forms of Discrimination Against Women*.

The National Reporting Process

11.50 The Human Rights and Equal Opportunity Commission (HREOC) argued to the committee that the way in which the treaty process is handled at a national level is capable of improvement. The commission noted that many of our periodic reports have been submitted very late. In addition, they informed the committee that Australian public awareness of the content or even the existence of the periodic reports was low; that they were not readily accessible to the public; and that they would benefit from the input of both the Parliament and relevant Non-Government Organisations. HREOC believed that greater input from the community, including NGOs, increased confidence in the credibility of a states party's reports. They made the point that:

[A] periodic report ... should be seen as an important document destined for a domestic as well as an international audience. Human rights treaties seek to promote and enhance not only a government's international accountability but also its accountability to its own citizens.³³

11.51 And, indeed, this is a requirement of the human rights treaties. For example, Article 44.6 of the *Convention on the Rights of the Child* provides:

States parties shall make their reports widely available to the public in their own countries.³⁴

11.52 This has not occurred in relation to Australia's periodic reports. In 1991 the Human Rights Sub-Committee of the Joint Committee on Foreign Affairs, Defence and Trade commenced examining such reports. The inquiry process allows for public dissemination, debate and input as well as parliamentary scrutiny.

33 HREOC. Submission No. 134, p. 1713.

34 HREOC. Submission No. 134, p. 1713.

Recommendation 20

The committee recommends that the government recommence the practice of referring all Australia's periodic reports to the UN treaty body committees to the Joint Committee on Foreign Affairs, Defence and Trade for inquiry and report to the Parliament.

Regional Human Rights

- 11.53 The Government's intention to encourage wider regional ratification of the human rights treaties and increased technical assistance on human rights to regional countries is consistent with Australia's long standing policy on human rights. Australia has included the promotion and protection of human rights within development cooperation programs. Over a period of ten years, it has conducted formal bi-lateral discussions on human rights with regional countries.³⁵
- 11.54 Of particular importance has been the development of National Human Rights institutions in the region. This program initiated by the Australian Human Rights Commissioner, Mr Brian Burdekin, in 1993 has meant not only the development of effective institutions in seven regional countries but regular regional consultations between these national institutions. The Asia Pacific Forum of National Human Rights Institutions, which first met in 1996, operates with the assistance of funding from AusAID. The secretariat is hosted by the Australian Human Rights Commission. The Forum is the closest thing to a regional human rights mechanism for the Asia Pacific region.

Australian Understanding of the UN**In and Through Parliament**

- 11.55 The committee was concerned with the level of misinformation and misunderstanding within Australia about the United Nations, the operation of international law and the constitutional framework within which the Commonwealth works. Where submissions were based on erroneous information, the committee was not persuaded by their

35 In 1991 and 1992 there were visits to China by Australian delegations for human rights dialogue; in 1994 there was a similar delegation visit to Vietnam. Since 1996, there have been annual bi-lateral talks with China.

arguments. Much of the misunderstanding appeared to create unsubstantiated fears. Nevertheless, these submissions pointed to the need for better public education about the powers and the limits to the power of the institutions which govern us.

The simple task of ensuring that citizens are well informed about the importance of the UN in today's world would in itself be a significant advance. ... The rise of the One Nation Party in our recent history should serve as a lesson that even we in Australia, with our reputation as a tolerant society, can be led into xenophobia, isolationism and mistrust of those very institutions such as the UN on which we rely heavily for setting and enforcing acceptable norms of international behaviour.³⁶

- 11.56 The committee believes that it is not just a question of Australians appreciating the importance of the UN in an abstract sense, but of understanding the work of the UN as an integral part of modern government. The committee accepts that the UN has a vital role to play in those matters that can no longer be resolved or regulated by the nation state.
- 11.57 However, the UN needs to be accountable to its constituents in the same way that national governments are and for the same reasons; that is, accountable for the expenditure of moneys contributed and accountable for the policies to be implemented and for the means by which they are derived. Much more information about the operations of the UN needs to be disseminated. It was argued during the inquiry that the Australian Parliament should be much more routinely involved in this process of scrutiny and dissemination.

In terms of accountability, we the Australian people, need much more information about what is happening at the UN ostensibly on our behalf and at our cost. There should be a special time in our Federal Parliament that deals with reports and questions on all UN matters impacting upon trade conditions/opportunities, overseas aid and requests for intervention. Also, anything that in any way impacts upon Australia's international obligations or guidelines arising out of conventions or agreements or treaties, or even expectations of the Australian people, should be listed with some description and any prior debate that has attached to the issue to date.³⁷

- 11.58 Since 1996, the Treaties Committee of the Parliament has had a role in monitoring, before ratification, any of the treaties that Australia has
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36 MAPW. Submission No. 90, p. 942.

37 Harrison, Alan. Submission No. 64, pp. 530-1.

signed. This committee believes that this is a valuable opportunity for both the Parliament and the public to discuss the contents of UN and other treaties. At paragraph 11.43 the committee has recommended the reintroduction of the practice of this committee reviewing Australia's periodic reports to the UN human rights treaty bodies. If coordination of Parliament's review of Australia's relations with the UN is to be comprehensive, the committee believes that the Joint Committee on Foreign Affairs, Defence and Trade should conduct an annual public hearing, after the session of the General Assembly and the session of the Commission on Human Rights, at which the Government would report to the committee and through it to the Parliament and the public on the year's activities at the UN.

- 11.59 Since 1968 Members of Parliament have had the opportunity of attending the session of the General Assembly in New York. It would appear that the success of this has varied depending on the application, energy and enthusiasm of the individual members in taking advantage of the opportunities offered. The current Chairman and Deputy Chairman of the joint committee attended the session between September and December 2000. They found the experience challenging and informative and would urge the continuation of the appointments in its existing form. However, the committee would urge political parties to consider regularly appointing young and new members of parliament to the placements so that the experience gained can benefit them through their parliamentary careers.

United Nations Association of Australia (UNAA)

- 11.60 The UN Association of Australia suggested that a United Nations Parliamentary Group might be formed among Members of Parliament in order to assist them in 'their leadership role in demystifying the work of the United Nations in the community'. Beyond the Parliament, the UN Association of Australia (UNAA) is the organisation tasked with the dissemination of information about the UN. UNAA fulfils, in part, the requirement that Australia agrees to in the Charter that it will educate its people about the work of the UN. In the past it has been funded by a grant of \$80,000 per year from the Federal Government. This has been reduced to \$10,000.³⁸ This, and the general lack of political education in Australian schools' curricula, has resulted in decreasing interest in and knowledge about international relations in general and the United Nations

in particular. It is a situation that, the committee believes, should be redressed.

United Nations Youth Association (UNYA)

- 11.61 In addition, there is a youth group associated with the UNAA, the UN Youth Association (UNYA). It has been established for some time on a state basis but, in 1996, it adopted a national constitution and formed a National Council. UNYA representatives appeared before the committee and impressed members with their energy, intelligence and commitment.
- 11.62 Each year, in July, UNYA holds national conferences in one of Australia's capital cities bringing senior high school students from all over Australia and beyond. Students are given the opportunity to 'live the intrigue of international politics in mock sessions of UN bodies. Each student represents a member state of the UN and debates resolutions on current world issues in the exact format of UN bodies'.³⁹
- 11.63 From the National Conference of over 400 students, representatives are selected to attend a world youth conference in The Hague. UNYA is an organisation based in schools and universities. Throughout the year it conducts educational programs: Security Council competitions, speakers nights, seminars and educational meetings aimed at explaining the United Nations to young people. It also represents the views of young people to the government, forging links with NGOs and the community.
- 11.64 UNYA has developed an educational package about the UN on CD-ROM for use in primary schools. In Victoria, it has been used in up to 100 schools. UNYA told the committee that demand was far greater than the capacity of the student volunteers to meet it. They said that there was a great desire on the part of students for information about international issues and that the school curricula largely did not meet it.
- At one stage, late last year, Western Australia [division of UNYA] could not keep up with the demand. We are all volunteers and they were doing one [presentation] a week, I believe. We are almost at saturation point in the numbers of students we can cater for with our conferences and so forth. ... we found an enormous hole surrounding civics education and that has meant that [the presentation] slots right in.⁴⁰
- 11.65 UNYA is 'staffed' entirely by volunteers and is self-funded, apart from \$500 received from the UNAA. The students themselves bear the

39 Exhibit No. 8, *The United Nations Youth Association of Australia: Broadening Youth Horizons*, p. 5.

40 UNYA. Transcript, 7 July 2000, p. 351.

administrative costs. Support for youth representatives at national or international conferences is obtained by fund raising and sponsorships.

The Youth Representative at the General Assembly

- 11.66 In 1999, the Australian Government agreed to a proposal from UNYA to include a youth representative in Australia's delegation to the General Assembly. The first representative was Mr Andrew Hudson and the second was Ms Carrie McDougall.
- 11.67 The primary role of the Youth Adviser was to represent the perspective of Australian youth based on policy formulated by UNYA in consultation with thousands of young Australians. The Australian Ambassador to the UN, Ms Penny Wensley, stated that the youth adviser was a full and accredited member of the Australian Delegation to the General Assembly. As such, the delegate made a statement to the Third Committee and attended and reported on meetings and briefings of interest to the mission.
- 11.68 The cost is in part borne by the individual (air fare and incidentals) and in part by the government (accommodation). The youth representatives are responsible for raising money to support themselves and this can be an inhibiting factor for some possible candidates. Carrie McDougall reported that the cost of her eight weeks at the UN, including air fares, accommodation and other living costs, came to approximately \$15,310.⁴¹ Having reviewed the reports of the two youth representatives,⁴² it is clear that it is an invaluable experience for the individual and that the two representatives so far have been a credit to Australia. The committee believes that the value of the youth representative at the General Assembly cannot be underestimated.

Recommendation 21

The committee recommends that the Government continue to support the position of a youth representative at the General Assembly and that the position be fully funded for a prescribed period of time each year.

41 Exhibit No. 57. *Report of Carrie McDougall, Youth Representative in Australia's Delegation to the 55th Session of the United Nations General Assembly, Sept-November 2000*, Appendix A, Financing the Youth Representative Position.

42 The reports from both youth representatives are available as Exhibit Nos 23 and 57.

Recommendation 22

The committee recommends that the Australian Government consider providing increased funding for both the United Nations Association of Australia and United Nations Youth Association so that they might properly assist the government in providing information on the United Nations to the Australian public.

Conclusion

- 11.69 Australian support for the United Nations is, on one level, a pragmatic one. It increases our influence in the world and serves to promote our national interests. However, the ideals of the UN and Australia's own values have much in common; therefore our support serves to further our democratic values as well. We have prided ourselves on being the good international citizen and the committee believes that we should continue that role. This would include Australian support for the reform processes of the UN - streamlined administration, efficient financial management and transparent and accountable systems - as well as a more representative structure in the various organs of the UN, particularly the Security Council. It should involve continued contributions to and support for the funds and agencies that promote social and economic development and an encouragement of other nations to support these agencies of the UN.
- 11.70 The committee believes that, as the UN becomes more important in the amelioration of the some of the negative effects of globalisation, it is important that the work of the UN and Australia's role in the organisation should be understood by Australians. This will ensure that there is a sound and accurate knowledge among Australians of the work of the UN and that Australians will more readily understand what is being done on their behalf in the international arena.

Recommendation 23

The Committee recommends that, as part of a review of the annual report of the Department of Foreign Affairs and the annual report of the Department of Defence, the joint committee conduct an annual public hearing at a set time during the year on Australia's activities at the UN, with particular reference to:

- **The status of our treaty obligations;**
- **The deployment of Australians within peacekeeping operations;**
- **Australia's multilateral aid program delivered through agencies of the UN;**
- **Australia's contribution to and benefits from the specialised agencies of the UN;**
- **The effectiveness of Australia's permanent missions to the United Nations;**
- **The progress of reform within the structural, administrative and fiscal systems of the UN;**
- **The extent of public information about the United Nations provided to Australians by the Australian Government; and**
- **The costs of and benefits to Australia of participation in the UN.**

Senator Alan Ferguson
Chairman