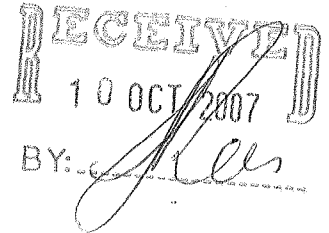




Tasmania

Submission 2
TT 18 September 2007

PREMIER



10 OCT 2007

Dr A Southcott MP
Chair
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Dear Dr Southcott

Thank you for your letter of 18 September 2007 in which you invite comments on the following treaties tabled on that day:

- *Treaty on Extradition between Australia and the State of the United Arab Emirates (Hobart, 26 July 2007); and*
- *Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters (Hobart, 26 July 2007).*

I have attached comments on these treaties for your consideration.

Thank you for the opportunity to comment.

Yours sincerely

Paul Lennon
Premier

COMMENTS ON TWO INTERNATIONAL TREATIES TABLED IN THE COMMONWEALTH PARLIAMENT ON 18 SEPTEMBER 2007

Treaty on Extradition between Australia and the State of the United Arab Emirates

In relation to Article 5 (Prosecution in Lieu), paragraph 2, it is recommended that the paragraph specify which competent authority the case is to be submitted to in order to enable the person to be prosecuted.

In Article 6 (Extradition Procedure and Required Documents), it is recommended that paragraph 2(e)(iii) be amended to provide that, in addition to detail describing the penalty which may be imposed, details relating to the penalty which *has been* imposed should also be included as an alternative. It is also recommended that an appropriate confidentiality clause be included.

In relation to Article 9 (Provisional Arrest), paragraph 3(d), it is recommended that the application for provisional arrest contains where possible, a copy of the warrant and/or conviction rather than just a statement of the existence of such documents. In respect to paragraph 4, it is recommended that the obligation on the Requested State to take the necessary steps to secure the arrest of the person be made subject to that action not being inconsistent with the laws of the Requested State.

Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters

In relation to Article 1 (Scope of Application), paragraph 2, it is recommended that the definition of criminal matters be amended to make it clear that criminal matters include *but are not limited to* matters connected with offences against a law relating to customs duties, foreign exchange control and other revenue matters. In paragraph 3, it is recommended that the provision of assistance, as detailed, be subject to that assistance not being inconsistent with the laws of the Requested State.

In relation to Article 9 (Taking of Evidence), it is noted that paragraph 6 states that in the absence of evidence to the contrary, a certificate provided by the Central Authority of the requesting State which states that a person has a right to decline to give evidence under the laws of the Requesting State, is sufficient evidence as to the existence of that right. Clarification is sought as to how this provision would operate if the laws of the requested State do not confer on the person the same right to decline to give evidence.