



THE HON ALEXANDER DOWNER MP

MINISTER FOR FOREIGN AFFAIRS
PARLIAMENT HOUSE
CANBERRA ACT 2600

25 MAY 2007

Senator Marise Payne
Chair
Senate Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Senator Payne

Thank you for your letter dated 16 May 2006 inviting me to make a written submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into the *Australian Centre for International Agricultural Research Amendment Bill 2007* (the Bill).

To assist your inquiry, I am pleased to provide the attached joint submission on behalf of the Department of Foreign Affairs and Trade (DFAT), AusAID and the Australian Centre for International Agricultural Research (ACIAR). I trust that the submission, which highlights the key features of the Bill and its effect and provides additional background on the Uhrig process, meets the Committee's requirements.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alexander Downer', with a horizontal line underneath.

Alexander Downer

**SUBMISSION TO THE SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
LEGISLATION COMMITTEE**

**INQUIRY INTO THE PROVISIONS OF THE E AUSTRALIAN CENTRE FOR
INTERNATIONAL AGRICULTURAL RESEARCH AMENDMENT BILL 2007**

Joint Submission on behalf of the Australian Centre for International Agricultural Research (ACIAR), the Department of Foreign Affairs and Trade (DFAT) and the Australian Agency for International Development (AusAID)

Introduction

1. As part of the Government's response to the *Review of Corporate Governance and Statutory Authorities* (the Uhrig Review), the Minister for Foreign Affairs (Mr Alexander Downer) assessed the Australian Centre for International Agricultural Research (ACIAR) against the principles and recommendations of the Uhrig Review.
2. ACIAR was established by the *Australian Centre for International Agricultural Research Act 1982* (ACIAR Act) to assist and encourage agricultural scientists in Australia to use their skills for the benefit of developing countries while working to solve Australia's own agricultural problems. The Centre's activities are part of Australia's Aid Program, with the objectives of assisting developing countries reduce poverty and achieve sustainable development, in line with Australia's national interest. Section 5 of the ACIAR Act sets out the functions of the Centre:
 - a. to formulate programs and policies with respect to agricultural research for either or both of the following purposes:
 - i. identifying agricultural problems of developing countries
 - ii. finding solutions to agricultural problems of developing countries
 - b. to commission agricultural research by persons or institutions (whether the research is to be conducted in Australia or overseas) in accordance with such programs and policies
 - c. to communicate to persons and institutions the results of such agricultural research
 - d. to establish and fund training schemes related to its research programs
 - e. to conduct and fund development activities related to its research programs, and
 - f. to fund international agricultural research centres.
3. ACIAR supports agricultural, fisheries and forestry projects in five regions - Papua New Guinea and the South Pacific, Southeast Asia, South Asia, North Asia, and Southern Africa. To meet its objectives, ACIAR commissions research groups and institutions, including universities, CSIRO and State Departments of Primary Industry, private consultants and non-government organisations to undertake agricultural research projects in partnership with their counterpart public and private sector organisations in developing countries.
4. ACIAR is a statutory authority that operates within the Foreign Affairs and Trade portfolio. The Minister for Foreign Affairs is responsible for ACIAR. ACIAR currently has a board management structure. The Board of Management is responsible for the conduct and control of the affairs of the Centre (section 7 ACIAR Act), subject to and in accordance with the directions of the Minister. The Centre has a Director responsible for managing ACIAR's affairs in accordance with the general directions of the Board (section 24(2), ACIAR Act). ACIAR is also a prescribed agency under the *Financial Management and Accountability Act 1997* (FMA Act) and

the Centre's staff are employed under the *Public Service Act 1999* (section 30, ACIAR Act).

5. In addition, the Centre has a Policy Advisory Council (PAC), comprised of agricultural experts from Australia and partner countries. The function of the PAC is to provide advice to the Minister on agricultural problems in developing countries and appropriate agricultural research programs to address these challenges (section 18, ACIAR Act).
6. In accordance with the principles outlined in the Uhrig Review, it was assessed that an **executive management template** would be the most suitable governance structure for ACIAR with responsibility for the administrative and financial management of the Centre vested in a Chief Executive Officer. This was on the basis that the Minister for Foreign Affairs has broad powers of direction in relation to ACIAR, which is primarily a government funding body and not a commercial operation. However, given the specialist nature of ACIAR's functions, it remains appropriate for the agency to retain a forum for collective decision-making to enable a group of suitably qualified scientific, development assistance and industry experts to rigorously assess ACIAR's research programs and policies and provide advice to the Minister. Moreover, ACIAR's unique mandate to pursue overseas agricultural research projects and to build partnerships with the commercial sector benefits from the guidance of a broad range of experts. The most practical means of implementing the executive management template, while also ensuring the Minister has access to collective industry and scientific expert advice on agricultural research and related funding issues, is to establish a Commission in place of the current Board of Management.
7. The effect of the ACIAR Amendment Bill will be to change ACIAR's governance arrangements to that of an executive management model consistent with the principles set out in the Uhrig Review, whilst ensuring the Minister continues to receive high-quality and balanced expert advice. The Bill will have no financial or regulatory impact. ACIAR's mandate and functions will not be affected. The current ACIAR Board has been consulted on the proposed changes and is in unanimous agreement with them.

Summary of amendments

8. The items contained in the Bill provide for:
 - the establishment of a Chief Executive Officer (CEO), directly accountable to the Minister, with responsibility for the administrative and financial management of the Centre and its functions
 - the revocation of ACIAR's body corporate status
 - the abolition of the Board of Management and the establishment of a Commission comprising a Chair and six other Commissioners (including the CEO who may also be the Chair) to provide collective decision-making and expert advice to the Minister in relation to program formulation, priority setting, funding and other matters as requested by the Minister
 - Commissioners to hold office on a part-time basis for periods up to three years

- the Minister to provide directions to the CEO concerning the performance of his/her functions under the legislation, including the strategic direction of ACIAR
- the current Policy Advisory Council (PAC) to be retained but with no duplication of membership with the Commission.
- transitional amendments

Rationale for the proposed amendments to the Australian Centre for International Agricultural Research Act 1982

9. The provision which establishes the position of CEO of the Centre is required to establish the head of the agency accountable to the Minister for the performance of the statutory authority. This is in accordance with the executive management template outlined in the Uhrig Review and is appropriate to ACIAR's financial framework as a prescribed agency under the FMA Act.
10. The provision which revokes ACIAR's body corporate status is based on the assessment that ACIAR, as a budget funded prescribed agency under the FMA Act, does not need to own assets in its own right, nor is there a particular need for the agency to sue or be sued in its own name. Retention of the Centre as a legal personality in its own right is therefore unnecessary.
11. The provision which confers the functions of the Centre on the CEO recognises that as the Centre is no longer a body corporate, and under an executive management template it is the CEO, not the Board, that has responsibility for the conduct and control of the Centre. The amendment is not intended to alter the functions of the Centre. Rather the functions of the Centre will be vested in the CEO.
12. The provisions which abolish the current Board of Management and establish a Commission for International Agricultural Research are necessary to ensure that ACIAR retains a collective expert-decision making role, rather than vesting this entirely under the control of a single chief executive. The role of the Commission, as distinct from the current Board of Management with governance responsibilities, is to provide advice to the Minister on the programs, policies and funding priorities of the Centre. This Commission model, like that adopted by other high profile and independent bodies requiring collective decision-making, including the National Water Commission, permits expert participation, whilst ensuring the principles of executive management are adhered to.
13. The provisions which separate the roles between the Commission and the CEO reflects the change to executive governance and accountability arrangements. Provision is also made to ensure the CEO is exclusively responsible for the administrative and financial management of ACIAR in compliance with the Uhrig Review's executive management template.
14. The provision which provides for the appointment of a Commissioner on a part-time basis by the Governor-General for a period not exceeding three years is in line with the current practice for the ACIAR Board appointments. It does not exclude re-appointment for a further period after the initial three years.

15. The provision for appointment of seven Commissioners is considered to be consistent with the size and complexity of ACIAR's operations. The provision of seven Commissioners is an increase of two from the current Board of five members. Accordingly, it provides for a diversity of expertise in providing specialised scientific and industry advice to the Minister and to ensure rigorous analysis of research projects.
16. The provision which allows the Minister to give written directions to the CEO with respect to the performance of the CEO's functions under an amended ACIAR Act (including the provisions in relation to the strategic direction the CEO should take in performing his or her functions) reflects the corporate governance changes to the structure of the Centre. This pertains particularly to the abolition of the Board and its Chair and the vesting of the Centre's functions in the CEO.
17. The provision which ensures no duplication of membership between the Commission and the Policy Advisory Council (PAC) is aimed at clarifying and segregating the advisory roles of the two bodies to ensure best practice in corporate governance and is in line with the clarity of purpose principles enunciated in the Uhrig Review. The PAC will continue to provide advice on the agricultural problems of developing countries and suitable agricultural research options to address these problems. The avoidance of duplication of PAC membership with the Commission allows for more specialised input with high level partner country participation in PAC. This will complement but not overlap the Commission's role. However, it should be noted that there is no provision in the Bill which would prevent Commissioners or PAC members attending the meetings of the other body as non-members to maintain linkages between the Commission and the PAC.
18. Transitional provisions are included to facilitate ACIAR's operations without disruption, for instance to ensure all staff of the Centre remain engaged under the new governance structure.