

# Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia, done at Washington on 16 July 2008

## Introduction

- 2.1 On 5 July 2011, the *Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia*, done at Washington on 16 July 2008, was tabled in the Commonwealth Parliament.
- 2.2 The proposed Agreement sets out the terms and conditions for the maintenance and operation of the Station by Australia, and grants the US access to and use of the Station, in accordance with the provisions of the proposed Agreement and technical arrangements agreed between Australia and the US.

## Aim of the treaty

- 2.3 The proposed Agreement is intended to replace the *Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America relating to the Establishment of the United States Naval Communications Station in Australia*, done at Canberra on 9 May 1963.
- 2.4 The 1963 Agreement, which was terminated on 8 May 1999, provided for the establishment, maintenance and operation by the United States (US) of a naval communication station in Australia.
- 2.5 The proposed Agreement will remain in force for an initial period of 25 years, and unless terminated, shall continue for subsequent periods of five years.

## Background

### The Station

- 2.6 The Harold E Holt Naval Communication Station at Exmouth in Western Australia was commissioned in 1967 and became a joint facility in 1974. The Station provides Very Low Frequency (VLF) communications for US and Australian submarines. Since 1999, Australia has operated the Station, but the US has retained full access. The proposed Agreement provides that the Station is managed in accordance with Australia's policy of full knowledge and concurrence.<sup>1</sup>
- 2.7 The Station has four communications channels, of which the US has access to three. Australia uses the remaining channel for communication with Royal Australian Navy submarines. The Station covers the Indian Ocean and areas north of that location.<sup>2</sup>
- 2.8 Australia has no other VLF transmission facilities, and the Station operates as part of the global network of VLF stations, most of which are operated by the US. Together, this global network provides seamless signal access

---

1 *National Interests Analysis (NIA) [2011] ATNIA 11, Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia, [2008] ATNIF 10, paras. 3–5.*

2 Mr Chris Birrer, Assistant Secretary, Major Powers and Global Interests, International Policy Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 2.

for submarines across the world's oceans, including Australian submarines.<sup>3</sup>

- 2.9 Operational costs are shared on the basis of access. As the US uses 75 per cent of the Station's operational capacity, it covers 75 per cent of its operational costs.<sup>4</sup>

## Very Low Frequency Communications

- 2.10 VLF (3 kHz - 30 kHz) radio transmissions can penetrate several meters below seawater and are useful for submarine communications when the submarine cannot surface, but can come close to the surface. The transmissions can be affected by salinity gradients in the ocean, but these usually do not present problems for near-surface submarines. There are natural sources of VLF radiation, but in general, the transmissions are not strongly influenced by changes in environmental conditions. VLF transmissions are therefore useful for reliable global submarine communications.
- 2.11 The transmission antennas need to be large, so it is primarily used for one-way communications from shore-based command centres to surface ships and submarines. It can also be used to broadcast to several satellites at once, which can in turn relay messages to the surface. The US Navy's VLF systems serve as a back-up for global communication use during hostilities when nuclear explosions may disrupt higher frequencies or satellites are destroyed by enemy actions. VLF is also used for aircraft and vessel navigation beacons and for transmitting standard frequencies and time signals.<sup>5</sup>
- 2.12 Despite the age of the Station (44 years), the VLF technology is still state-of-the-art and will remain an important communications method for future submarines as it can be used covertly. Notwithstanding the development of newer communications methods, such as satellite communication, VLF will continue to remain an important method

---

3 Mr Daryl Mouser, Director, Radio Frequency Systems Program Office, Communications Branch, Electronic Systems Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 2.

4 Mr Daryl Mouser, Director, Radio Frequency Systems Program Office, Communications Branch, Electronic Systems Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 4.

5 'Submarine Communication' Global Security.org, <<http://www.globalsecurity.org/military/systems/ship/sub-comm.htm>>, accessed 24 August 2011.

through which both the US and Australian navies communicate with their submarines.<sup>6</sup>

## Full Knowledge and Concurrence

- 2.13 Full knowledge and concurrence refers to Australia's right to know what activities foreign governments conduct in, through or from Australian territory or national assets. 'Full knowledge' equates to Australia having a full and detailed understanding of any capability or activity with a presence on Australian territory or making use of Australian assets. 'Concurrence' does not mean Australia approves every activity or tasking; rather, Australia will approve the presence of a capability or function in Australia in support of its mutually agreed goals, based on Australia's full understanding of that capability and the uses to which it can be put.<sup>7</sup>

## Australia's interest in accepting the measures

- 2.14 The proposed Agreement provides for continued access and use of the Station by the US and, consequently, the means through which VLF communication for US and Australian submarines may be maintained. According to the Department of Defence, continuing US access to the Station will help support the maintenance of a strong and adaptable US presence in the Asia-Pacific region and is an important indication of the continuing commitment of the US Government to regional cooperation.
- 2.15 The Station's capacity for communicating with submerged submarines in the Indian Ocean is unique in our region. The Department of Defence argued that hosting the facility was an important element in enabling Australian use of other VLF transmitters to communicate with Australian submarines in the Pacific and Arctic Oceans.<sup>8</sup>

---

6 Mr Daryl Mouser, Director, Radio Frequency Systems Program Office, Communications Branch, Electronic Systems Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 1.

7 NIA, para. 10.

8 NIA, paras. 6-7.

## Key obligations

- 2.16 Article 1 of the proposed Agreement provides that Australia will maintain and operate the Station.
- 2.17 Article 2 provides that Australia will grant to the United States all necessary rights of access to and use of the Station throughout the duration of the proposed Agreement.
- 2.18 Articles 3 and 4 set out certain conditions relating to access to and use of the Station.
- paragraph 1 of Article 3 of the proposed Agreement provides that the two Governments will consult from time to time on matters connected with the Station and its use; and
  - paragraph 2 of Article 3 provides that, unless Australia's express consent is obtained, the Station will not be used for purposes other than defence communication.
- 2.19 Article 4 lists three conditions governing access to and use of the Station. These are:
- that the communication services of the Station must be available to both Australian and US armed forces;
  - that the cooperating agencies of the two Governments must mutually determine technical arrangements for the use of the Station; and
  - that the US use of the Station must accord with Australia's policy of full knowledge and concurrence.<sup>9</sup>

## Costs

- 2.20 There are no specific new costs for the Treaty, though some of its articles require consideration of maintenance and replacement cost for buildings, plant and equipment at the base.
- 2.21 Article 9 of the proposed Agreement provides that the cost of operation, maintenance, alteration and repair of the Station will be shared by the two Governments. Technical arrangements for cost sharing will be negotiated between the cooperating agencies as required.

---

<sup>9</sup> NIA, paras. 8-10.

- 2.22 Article 11 requires Australia to compensate the US for any residual value of the buildings and equipment constructed or improved by the US at the Station since 1963 and not removed at the termination of the proposed Agreement. A proposed Deed of Transfer for Property remains unresolved due to differences regarding residual value, site environment risks and hazards, and other associated costs. The Department of Defence advised that discussions over the proposed Deed of Transfer for Property are continuing.<sup>10</sup>
- 2.23 The Committee understands that the environmental risks and hazards are well understood and are being managed.<sup>11</sup>

## **Nuclear proliferation and disarmament issues**

- 2.24 The Committee notes that the Station is used to communicate with all types of US Navy submarines, including nuclear armed ballistic missile submarines,<sup>12</sup> and that there is some concern in Australia about that aspect of the Station's operations. The Australian Anti-Basis Campaign Coalition argued:

North West Cape will be used for naval communications, especially communications with submarines. Submarines are offensive attack weapons platforms... In seeking to have North West Cape operational as a US naval base again, Australia is supporting US plans to bring its nuclear powered and armed submarines into the Indian Ocean, creating a significant threat perception among regional powers.<sup>13</sup>

## **Committee's inquiry into nuclear non-proliferation and disarmament**

- 2.25 The Committee conducted an extensive inquiry into the issue of nuclear non-proliferation and disarmament in 2009, the results of which were published in *Report 106*.<sup>14</sup>

---

10 NIA, paras 25–26.

11 Mr Daryl Mouser, Director, Radio Frequency Systems Program Office, Communications Branch, Electronic Systems Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 4.

12 Mr Chris Birrer, Assistant Secretary, Major Powers and Global Interests, International Policy Division, Department of Defence, *Committee Hansard*, 19 September 2011, p. 5.

13 Australian Anti-Basis Campaign Coalition, *Submission 1*, p. 3.

14 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009.

- 2.26 In that report, the Committee advocated a series of measures be adopted by the Government to progress nuclear non-proliferation and disarmament. Of particular interest in relation to the proposed Agreement currently under consideration are the Committee's views on a Nuclear Weapons Convention and the development of Nuclear Weapons Free Zones.
- 2.27 In relation to the development of a Nuclear Weapons Convention, the Committee argued that:
- ...the Committee considers that Australia should make it clear to the international community that it pursues all nuclear non-proliferation and disarmament measures with a view to the eventual negotiation and entry-into-force of a universally adhered to treaty that achieves the complete abolition of nuclear weapons.<sup>15</sup>
- 2.28 Nuclear Weapons Free Zones are multilateral treaties enabled by Article VII of the *Treaty on the Non-Proliferation of Nuclear Weapons*. A number of Nuclear Weapons Free Zones have been negotiated worldwide. In the Asia Pacific, three Nuclear Weapon Free Zones have been agreed:
- the *South Pacific Nuclear Free Zone*;
  - the *South East Asian Nuclear Weapon Free Zone*;<sup>16</sup> and
  - the *Antarctic Treaty*.<sup>17</sup>
- 2.29 Australia is a signatory to the *South Pacific Nuclear Free Zone* and the *Antarctic Treaty*, but is not party to the *South East Asian Nuclear Weapon Free Zone*. The US is signatory only to the *Antarctic Treaty*.<sup>18</sup>
- 2.30 The Committee strongly supported the use of Nuclear Weapons Free Zone treaties as a method of furthering the cause of nuclear non-proliferation. In particular, the Committee recommended (Recommendation11):
- ...that Australia play a leading role in advocating for full recognition of a southern hemisphere nuclear weapons free zone...<sup>19</sup>

---

15 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009, p. 123.

16 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009, p. 136.

17 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009, p. 133.

18 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009, pp. 133 and 136.

- 2.31 This recommendation was supported by the Australian Government.
- 2.32 Australia's hosting of the North West Cape submarine communications base, which communicates with US nuclear armed submarines in the Indian Ocean and South Asia is not inconsistent with Australia's commitments under the *South Pacific Nuclear Free Zone* treaty and the *Antarctic Treaty*.
- 2.33 However, it is the Committee's view that the proposed Agreement may pose a conflicting obligation if, at some point in its 25 year life span, a treaty establishing a southern hemisphere nuclear free zone were to be established.

## Conclusion

- 2.34 The Committee recognises that Australia's defence relationship with the United States will remain important to Australia's defence strategy in the future. The continued cooperation over the use of the Harold E. Holt Naval Communication Station represents a tangible expression of that defence relationship.
- 2.35 The Committee also recognises that the Harold E. Holt Naval Communication Station is part of an integrated network of communications stations and that the Australian Navy is reliant upon VLF transmitters provided by other bases operated by the United States in other countries to communicate with Australian submarines operating beyond the Indian Ocean range of this Station. The Committee accepts this is a genuine area of mutual cooperation in defence activities that assists in meeting the operational requirements of Australia's defence forces.
- 2.36 Notwithstanding continued negotiations on residual value, site environment risks and hazards, and other associated costs, the financial costs to Australia are reasonable and manageable – particularly as the US cover 75 per cent of the Station's operational budget.
- 2.37 While noting the potential for the proposed Agreement to pose a conflicting obligation if, at some point in its 25 year life span, a treaty establishing a southern hemisphere nuclear free zone were to be established, the Committee does not believe that this hypothetical scenario warrants the rejection of the proposed Agreement and the potential

---

19 *Report 106: Nuclear Non-Proliferation and Disarmament*, Joint Standing Committee on Treaties, 2009, p. 140.

negative effects to Australian naval communications that may arise as a result of such a rejection.

- 2.38 However, the Committee draws the Government's attention to the possible conflict between the proposed Agreement and any future agreement establishing a southern hemisphere nuclear free zone. While supporting the proposed Agreement the Committee also urges the Government to specifically address how such a possible conflict may be reconciled without in any way diminishing the Australian Government's efforts to promote disarmament and the abolition of nuclear weapons.

### **Recommendation 1**

**The Committee supports *Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia, done at Washington on 16 July 2008* and recommends that binding treaty action be taken.**

**Senator Simon Birmingham**

**Acting Chair**

