

2002 Amendments to the Constitution and Convention of the International Telecommunication Union

- 4.1 The proposed treaty action is accession to the *Instruments Amending the Constitution and the Convention of the International Telecommunication Union (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994) and by the Plenipotentiary Conference (Minneapolis, 1998) (Marrakesh, 18 October 2002)*. The amending Instruments were adopted at the 2002 Marrakesh Plenipotentiary Conference of the International Telecommunication Union (ITU).
- 4.2 The Constitution and Convention are the primary instruments of the ITU, outlining the rights and obligations of its Member States.¹ The 2002 Amendments to these documents are described as ‘uncontroversial’² and do not substantially change the basic obligations of Member States.³

Background

- 4.3 The ITU is a United Nations specialised agency with 189 government entities and approximately 500 non-government entities.⁴ The
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1 National Interest Analysis (NIA), para. 12.

2 Mr Maurice Austin, *Transcript of Evidence*, 8 March 2004, p. 17. See also Mr Colin Oliver, *Transcript of Evidence*, 8 March 2004, p. 16.

3 NIA, para. 12.

4 Mr Colin Oliver, *Transcript of Evidence*, 8 March 2004, p. 15.

primary purpose of the ITU is to maintain and extend international cooperation between Members for the improvement and rational use of telecommunications of all kinds.⁵ The ITU provides an international framework for the operations of the communications industries.⁶

- 4.4 Australia has been a member of the ITU and its predecessor since Federation,⁷ and is a 'significant financial contributor'.⁸ Australia's interaction with the ITU is coordinated by the Department of Communications, Information Technology and the Arts (DCITA), and both government and private organisations participate in ITU forums.⁹

Scope of the 2002 Amendments

- 4.5 As outlined in the National Interest Analysis (NIA), the changes to the ITU instruments are primarily administrative:
- A new provision has been inserted into the Constitution that authorises each Sector's Assembly of Conference to set up its own working methods;
 - New provisions mirroring the new Constitution text have been inserted in the relevant Convention text that relates to the powers of each Sector's Assembly or Conference; and
 - The text of the Convention that relates to each Sector now specifically recognises the ability of each Sector to establish groups other than Study Groups (although such other groups cannot approve Questions or Recommendations).¹⁰

Rationale for amendment

- 4.6 The Committee understands that the 2002 Amendments provide increased flexibility and procedures within the three ITU sectors, namely the Radiocommunications Sector, the Telecommunication Standardisation Sector, and the Telecommunication Development Sector.¹¹ Flexibility within each ITU Sector is necessary in order to

5 NIA, para. 14.

6 NIA, para. 11.

7 NIA, para. 12.

8 NIA, para. 8.

9 Mr Colin Oliver, *Transcript of Evidence*, 8 March 2004, p. 15.

10 NIA, para. 16.

11 NIA, para. 9.

adapt to the rapidly changing telecommunications industry and to the increased participation of non-government members within the ITU.¹²

4.7 Mr Colin Oliver from DCITA advised the Committee that:

The 2002 amendments generally reflect Australia's objectives of supporting ongoing reform and greater efficiency of the ITU and are not controversial.¹³

4.8 The NIA states that Australia supports ongoing reforms in the operation of the ITU in order to further the development of 'an efficient, export-oriented Australian communications industry'.¹⁴

Implementation

4.9 The NIA states that the proposed treaty action would not require changes to the *Telecommunications Act 1997* or any related primary legislation. However, the *Telecommunications (Compliance with International Conventions) Declaration No. 1 of 1997* and *Telecommunications (International Conventions) Notification No. 1 of 1997* will require updating to refer to the 1998 and 2002 amendments to the Constitution and Convention.¹⁵

4.10 The NIA states that no extra costs will arise as a result of the 2002 Amendments,¹⁶ and that no action would be required by State or Territory Governments as a result of ratification.¹⁷

Entry into force

4.11 The 2002 Amendments entered into force generally on 1 January 2004.¹⁸ The Amendments were signed for Australia in October 2002.¹⁹

12 Mr Colin Oliver, *Transcript of Evidence*, 8 March 2004, p. 16.

13 Mr Colin Oliver, *Transcript of Evidence*, 8 March 2004, p. 16.

14 NIA, para. 8.

15 NIA, para. 19.

16 NIA, para. 21.

17 NIA, para. 20.

18 NIA, para. 3.

19 NIA, para. 3.

Consultation

- 4.12 The NIA states that over a one and a half year period prior to the 2002 Plenipotentiary Conference, a series of preparatory meetings were held with Commonwealth Government agencies and Australian telecommunication industry members.²⁰ Australia also participated in a series of Asia-Pacific regional preparatory meetings.²¹
- 4.13 Key participants in the Australian process were DCITA, the National Office for the Information Economy, the Australian Communications Authority, the Department of Foreign Affairs and Trade, the Department of Defence, the Department of Transport and Regional Services, Telstra, Optus, Boeing Australia and Vodafone.²²
- 4.14 According to the NIA, the proposed treaty action is consistent with input received from stakeholders during the consultation process.²³

Conclusion and recommendation

- 4.15 The Committee believes that the 2002 Amendments will enhance the procedures and flexibility of the ITU, and encourage further reforms in relation to the efficiency and relevance of ITU operations. The 2002 Amendments are in line with Australia's objectives and facilitate the development of Australia's communications industry.

Recommendation 3

The Committee supports the *Instruments Amending the Constitution and the Convention of the International Telecommunication Union (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994) and by the Plenipotentiary Conference (Minneapolis, 1998) (Marrakesh, 18 October 2002)* and recommends that binding treaty action be taken.

20 NIA, para. 22.

21 NIA, para. 22.

22 NIA, para. 23.

23 NIA, Annexure A – Consultations.