

Report 135

Treaties tabled on 12 March and 14 May 2013

Agreement on the Establishment of the Global Green Growth Institute (Rio de Janeiro, 20 June 2012)

Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (Tokyo, 26 November 2011)

Amendments, adopted at Bangkok on 14 March 2013, to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Bangkok, 14 March 2013)

Amendments to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.338(91)

Amendments to the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974 IMO Resolution MSC.343(91)

Amendments to the Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea, 1974 IMO Resolution MSC.344(91)

Amendments to the Protocol of 1988 Relating to the International Convention on Load Lines, 1966, as amended IMO Resolution MSC.345(91)

© Commonwealth of Australia 2013

ISBN 978-1-74366-119-2 (Printed version)

ISBN 978-1-74366-120-8 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



Contents

Membership of the Committee	v
Resolution of Appointment	vii
List of recommendations	viii
1 Introduction	
Purpose of the report.....	1
Conduct of the Committee's review	2
2 Agreement on the Establishment of the Global Green Growth Institute	
Introduction	5
Overview and national interest summary	5
Reasons for Australia to take the proposed treaty action.....	6
Obligations	7
Implementation.....	9
Costs.....	9
Conclusion	10
3 Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education	
Introduction	13
Background	13
Overview	14
Reasons for Australia to take proposed treaty action	15
Obligations	16
Implementation.....	17
Costs.....	19

Consultation	19
Conclusion	20
4 Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora	
Introduction	21
The 16 th Conference of the Parties	22
Freshwater sawfish	23
Dusky flying fox	25
Removing extinct species	25
Manta ray species	26
Shark species.....	26
Consultation	28
Regulation of international trade	29
Implementation.....	30
Conclusion	31
5 Four Minor Treaty Actions	
Introduction	33
Minor treaty actions	33
Amendments, adopted at London on 30 November 2012, to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.338(91).....	33
Amendments, adopted at London on 30 November 2012, to the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.343(91).....	35
Amendments, adopted at London on 30 November 2012, to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.344(91).....	36
Amendments, adopted at London on 30 November 2013, to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended IMO Resolution MSC.345(91).....	37
Appendix A – Submissions	39
Appendix B – Witnesses.....	41



Membership of the Committee

Chair	The Hon Richard Marles MP <i>(from 8/5/13)</i>	
	Senator Matthew Thistlethwaite <i>(from 14/2/13 to 8/5/13)</i>	
	Mr Kelvin Thomson MP <i>(until 6/2/13)</i>	
Deputy Chair	Senator Bridget McKenzie	
Members	The Hon Justine Elliot MP <i>(from 6/2/13 to 22/4/13)</i>	Senator the Hon Kim Carr <i>(from 14/5/13)</i>
	Mr Laurie Ferguson MP <i>(from 14/3/13)</i>	Senator David Fawcett
	Mr John Forrest MP	Senator Scott Ludlam
	Ms Sharon Grierson MP	Senator the Hon Lisa Singh
	Mr Harry Jenkins MP	Senator Dean Smith
	Ms Kirsten Livermore MP	Senator Matthew Thistlethwaite <i>(from 13/2/13 to 14/5/13)</i>
	The Hon Richard Marles MP <i>(from 22/4/13)</i>	Senator the Hon Lin Thorp
	The Hon Robert McClelland MP <i>(until 14/3/13)</i>	
	Ms Melissa Parke MP <i>(until 6/2/13)</i>	
	Mrs Jane Prentice MP	
	The Hon Dr Sharman Stone MP	
	Mr Mike Symon MP <i>(from 6/2/13)</i>	

Committee Secretariat

Secretary	Russell Chafer
Inquiry Secretary	Katie Ellis
	Kevin Bodel
	Dr Andrew Gaczol
Researcher	Rhys Merrett
Administrative Officers	Heidi Lushtinetz
	Dorota Cooley



Resolution of Appointment

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and
- c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



List of recommendations

2 Agreement on the Establishment of the Global Green Growth Institute

Recommendation 1

The Committee supports the *Agreement on the Establishment of the Global Green Growth Institute (Rio de Janeiro, 20 June 2012)* and recommends that binding treaty action be taken.

3 Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education

Recommendation 2

The Committee supports the *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (Tokyo, 26 November 2011)* and recommends that binding treaty action be taken.

Introduction

Purpose of the report

- 1.1 This report contains the Joint Standing Committee on Treaties' review of the following treaty actions tabled on 12 March and 14 May 2013.
- ⇒ *Agreement on the Establishment of the Global Green Growth Institute (Rio de Janeiro, 20 June 2012);*
 - ⇒ *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (Tokyo, 26 November 2011); and*
 - ⇒ *Amendments, adopted at Bangkok on 14 March 2013, to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Bangkok, 14 March 2013).*
- 1.2 In addition, the Report contains the Committee's views on the following Minor Treaty Actions:
- ⇒ *Amendments to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.338(91);*
 - ⇒ *Amendments to the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974 IMO Resolution MSC.343(91);*
 - ⇒ *Amendments to the Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea, 1974 IMO Resolution MSC.344(91); and*
 - ⇒ *Amendments to the Protocol of 1988 Relating to the International Convention on Load Lines, 1966, as amended IMO Resolution MSC.345(91).*

- 1.3 The Committee's resolution of appointment empowers it to inquire into any treaty to which Australia has become signatory, on the treaty being tabled in Parliament.
- 1.4 The treaties, and matters arising from them, are evaluated to ensure that ratification is in the national interest, and that unintended or negative effects on Australians will not arise.
- 1.5 Prior to tabling, major treaty actions are subject to a National Interest Analysis (NIA), prepared by Government. This document considers arguments for and against the treaty, outlines the treaty obligations and any regulatory or financial implications, and reports the results of consultations undertaken with State and Territory Governments, Federal and State and Territory agencies, and with industry or non-government organisations.
- 1.6 A Regulation Impact Statement (RIS) may accompany the NIA. The RIS provides an account of the regulatory impact of the treaty action where adoption of the treaty will involve a change in the regulatory environment for Australian business. The treaties considered in this report do not require Regulation Impact Statements.
- 1.7 The Committee takes account of these documents in its examination of the treaty text, in addition to other evidence taken during the inquiry program.
- 1.8 Copies of each treaty and its associated documentation may be obtained from the Committee Secretariat or accessed through the Committee's website at:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsct/12march2013/tor.htm
and
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsct/14may2013/tor.htm

Conduct of the Committee's review

- 1.9 The treaty actions reviewed in this report were advertised on the Committee's website from the date of tabling. Submissions for the treaties were requested by Friday, 3 May 2013 and Friday, 7 June 2013 respectively, with extensions available on request.

- 1.10 Invitations were made to all State Premiers, Territory Chief Ministers and to the Presiding Officers of each Parliament to lodge submissions. The Committee also invited submissions from individuals and organisations with an interest in the particular treaty under review.
- 1.11 The Committee held public hearings into these treaties in Canberra on Monday 13 May, Monday 17 June and Monday 24 June 2013.
- 1.12 The transcripts of evidence from the public hearings may be obtained from the Committee Secretariat or accessed through the Committee's website under the treaties tabling dates, being:
- 12 March 2013
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsct/12march2013/hearings.htm
 - 14 May 2013
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsct/14may2013/hearings.htm
- 1.13 A list of submissions received and their authors is at Appendix A.
- 1.14 A list of witnesses who appeared at the public hearings is at Appendix B.

Agreement on the Establishment of the Global Green Growth Institute

Introduction

- 2.1 On 12 March 2013, the *Agreement on the Establishment of the Global Green Growth Institute (Rio de Janeiro, 20 June 2012)* was tabled in the Commonwealth Parliament.
- 2.2 The Global Green Growth Institute (GGGI)¹ was founded by the Republic of Korea in 2010 as a public-private, globally represented, non-profit institution under South Korean domestic law. It is dedicated to supporting the creation and diffusion of the 'green growth' model (sustainable, climate resilient, low-carbon economic development).²

Overview and national interest summary

- 2.3 Australia joined the GGGI in 2012. The Institute has a tripartite strategy, comprising:
- country programmes – support for developing countries in the development of green growth plans and capacity building on implementation;

1 Global Green Growth Institute website: <<http://www.gggi.org/>>, accessed 14 March 2013.

2 National Interest Analysis [2013] ATNIA 4 with attachment on consultation *Agreement on the Establishment of the Global Green Growth Institute*, (Rio de Janeiro, 20 June 2012) [2012] ATNIF 12NIA, (Hereafter referred to as 'NIA') para 4.

The Council on Foreign Relations provided some analysis of the GGGI in late 2012. <<http://www.cfr.org/south-korea/global-green-growth-institute-mission-prove-green-growth/p29398>>, accessed 14 March 2012.

- research and knowledge – on green growth theory, models, methodology and tools, including lessons learned from country programmes; and
 - fostering public-private cooperation – partnerships with donor and recipient countries, international agencies, academia and the private sector to enhance green growth.³
- 2.4 The Agreement's primary purpose is to convert the GGGI into an international organisation to increase its visibility and market presence as an expert body on green growth. According to the NIA, the conversion will support the GGGI's objectives and strategic partnerships, strengthen its governance arrangements, increase transparency, and promote international membership.⁴
- 2.5 Ratification will make Australia a GGGI Member in its new form as an international organisation. This would enable Australia to participate fully in the activities of the GGGI, including exercising a vote in the GGGI Assembly and the GGGI Council.⁵
- 2.6 The government claims that internationalisation of the GGGI serves Australia's national interest in sustainable and low-emissions development by facilitating operations and partnerships with other international bodies, academic institutions and the private sector.⁶

Reasons for Australia to take the proposed treaty action

- 2.7 The NIA states that ratification of the Agreement would reflect Australia's interest in green growth and low-emissions development, and would ensure Australia receives the full benefit of being able to participate in the Assembly and Council.⁷
- 2.8 Signatory States which have not ratified the Agreement shall have the same capacities as Members at the first session of the Assembly meeting only. As such, although Australia was able to act in the capacity of a Member at the inaugural session of the GGGI Assembly in October 2012,

3 NIA, para 4.

The London School of Economics has provided some background on some of its research projects supported by the Global Green Growth Institute:
<<http://www2.lse.ac.uk/GranthamInstitute/research/GreenGrowth/global-green-growth-institute-research-projects.aspx>>, accessed 14 March 2012

4 NIA, para 5.

5 NIA, para 6.

6 NIA, para 7.

7 NIA, para 8.

this capacity will only remain for subsequent Assembly meetings if Australia ratifies the Agreement.⁸

- 2.9 According to the NIA, continuation as an Assembly and Council member would allow Australia to influence the strategic direction of the GGGI's annual work program, including directing it towards strategic international and domestic interests.⁹
- 2.10 The Australian Agency for International Development (AusAID), tasked with being the lead agency for Australia's engagement, informed the Committee that GGGI is different from other international organisations that deal with climate change, due to the manner in which it provides technical assistance to its developing members on sustainable development, particularly in the coordination and financing of long-term national planning strategies.¹⁰
- 2.11 Tangible benefits arising from GGGI-based initiatives over the past five years are evident in countries such as Cambodia and Ethiopia.

In Cambodia there has been a partnership with the private sector, particularly around waste management. Waste is being used for renewable energy.

In Ethiopia . . . work has been done in relation to water management. That has had an impact on sustainability associated with agriculture and has spin-offs in terms of food security and in terms of jobs for people in Ethiopia. That has had the added benefit of moving a number of those people out of poverty.¹¹

Obligations

- 2.12 Membership of the GGGI is open to any member state of the United Nations that subscribes to the objectives of the GGGI, namely, to promote the sustainable development of developing and emerging countries by:
- supporting a new paradigm of 'green growth', which balances economic growth and environmental sustainability;
 - targeting key aspects of economic performance and environmental sustainability; and

8 NIA, para 9.

9 NIA, para 10.

10 Mr Rod Hilton, Assistant General Director, International Development Policy and Finance Branch, International Policy and Partnerships Division, Humanitarian and International Group, AusAID, *Committee Hansard*, 13 May 2013, p. 33.

11 Mr Ewen McDonald, Deputy Director General, Humanitarian and International Group, AusAID, *Committee Hansard*, 13 May 2013, p. 35.

- improving the economic, environmental and social conditions of developing and emerging countries through partnerships between developed and developing countries and between the public and private sectors.¹²
- 2.13 The GGGI's activities in pursuit of its objectives include: capacity building to help developing and emerging countries develop and implement green growth plans; research to advance the theory and practice of green growth; facilitating public-private cooperation for resource-efficient investment, innovation, production and consumption; outreach and awareness-raising activities; and any other activities relevant to the objectives of the GGGI.¹³
- 2.14 The GGGI's structure is set out in the Agreement. The Assembly, composed of all Members, is the GGGI's supreme organ. The Council, consisting of up to 17 members, is the GGGI's executive organ, responsible for directing its activities under the Assembly's guidance. Assembly and Council decisions are taken by consensus; or, when consensus cannot be reached, by a simple majority of Members present and voting, as well as a majority of 'contributing Members' present and voting and a majority of 'participating Members' present and voting. The Advisory Committee, composed of experts and non-state actors, serves as a forum for public-private cooperation on green growth and advises the Council on the GGGI's strategy and activities. The Director-General, appointed by the Assembly for a four-year term (renewable once), oversees the GGGI Secretariat's work.¹⁴
- 2.15 The GGGI will be funded through voluntary contributions from Members and non-government sources; the sale of publications and other revenue; interest on income from trusts; and any other sources in accordance with the financial rules to be adopted by the Assembly.¹⁵
- 2.16 The GGGI has independent legal personality, including the capacity to enter into contracts, acquire and dispose of assets and institute and defend itself in legal proceedings. It may seek such privileges and immunities in the territory of Member States as may be necessary and appropriate for the GGGI's proper functioning. It may establish cooperative relationships with other international, inter-governmental and non-governmental organisations and may invite other organisations to enter into strategic partnerships on a medium- or long-term basis.¹⁶
-

12 NIA, para 11.

13 NIA, para 13

14 NIA, para 14.

15 NIA, para 15.

16 NIA, para 16.

2.17 AusAID will apply an assessment framework to evaluate and monitor the success of the GGGI. Additionally, a range of environmental indicators have been developed under the OECD's Green Growth Strategy for the purpose of measuring green growth initiatives. The Committee notes that the OECD is currently working in collaboration with the GGGI, World Bank and United Nations Evaluation Program to further develop initiatives for green growth, including environmental indicators, which will progress through 2013 and 2014.¹⁷

Implementation

2.18 No changes are required to Australian law for Australia to meet its obligations. There will be no changes to the existing roles of Commonwealth, State or Territory governments.¹⁸

Costs

2.19 Australia is not under any financial obligations under the Agreement. However, Members are encouraged to support the GGGI and ensure its financial stability through voluntary annual contributions, active engagement in its activities or other appropriate means.¹⁹ There are two categories of membership:

- 'contributing Members' (Members who have provided a multi-year financial contribution of core funding of no less than US\$15 million over three years or US\$10 million over the first two years); and
- 'participating Members' (all other Members).

2.20 Australia, through AusAID, has committed A\$10 million to the GGGI over two years and therefore qualifies as a 'contributing Member' and Australia was elected to the Council on that basis. Apart from their financial commitment, contributing Members and participating Members have the same rights and obligations under the Agreement.²⁰

2.21 Australia's A\$10 million contribution will be provided over the financial years 2011-12 to 2012-13. The first A\$5 million tranche was transferred in 2011-12 and the second A\$5 million will be transferred by June 2013, depending on when the GGGI meets the disbursement conditions

17 AusAID, *Submission 13*, p. 1.

18 NIA, para 17.

19 NIA, para 18.

20 NIA, para 19.

contained in its funding agreement with AusAID. Australia's contribution is drawn from AusAID's existing budget.²¹

2.22 AusAID informed the Committee that any possible future funding from Australia would need to be considered by the Minister for Foreign Affairs. However, the possibility of further funding would be based on an assessment as to whether the GGGI:

- retains its strong focus in the Asia-Pacific;
- establishes strong governance procedures; and
- connects with some of Australia's leading research agencies.²²

Conclusion

2.23 The accelerated growth of Asia's industrialising states over recent years has generated concerns over resource constraints in energy, water and food. This in turn has the potential to affect a state's social cohesion, long-term economic development and regional stability. The Committee notes that international initiatives designed to enhance sustainable development are of fundamental importance to international stability and growth, particularly within developing regions such as Asia.

2.24 The Committee agrees that GGGI's conversion from a Korean non-profit organisation to an international organisation will assist the overall effectiveness of the Institute in its pursuit of improving the social, economic and environmental conditions of developing countries through a balance of economic growth and environmental sustainability initiatives.

2.25 Furthermore, the Committee is aware that GGGI's initiatives directly address Objective one and Objective seven of the United Nation's Millennium Development Goals (MDGs) concerning the eradication of poverty and sustainable development, thereby reasserting Australia's commitment to the MDGs.²³

2.26 No additional financial costs automatically apply should Australia decide to undertake binding treaty action. The Committee notes that Australia's provision of additional funding towards GGGI would only occur following an assessment of the GGGI's overall effectiveness in delivering results. This would also need to be approved by the Minister for Foreign Affairs.

21 NIA, para 20.

22 Mr Hilton, AusAID, *Committee Hansard*, 13 May 2013, p. 36.

23 The list and description of the eight MDGs can be located at <http://www.un.org/millenniumgoals/bkgd.shtml>

2.27 Given these factors, the Committee supports the Agreement and recommends that binding treaty action be taken.

Recommendation 1

The Committee supports the *Agreement on the Establishment of the Global Green Growth Institute (Rio de Janeiro, 20 June 2012)* and recommends that binding treaty action be taken.

Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education

Introduction

- 3.1 On 14 May 2013, the *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (Tokyo, 26 November 2011)* was tabled in the Commonwealth Parliament.

Background

- 3.2 Since 1983, both Australia's recognition of qualifications attained overseas and international recognition of qualifications attained in Australia have been supported by the United Nations Education, Scientific & Cultural Organisation's (UNESCO) *Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific* (the 1983 Convention).¹

Australia has been a party to the 1983 regional convention since 1985. Australia has also been a party since 2003 to the 1997 Convention on the Recognition of Qualifications concerning

1 Participating member states of the 1983 Convention are Armenia, Azerbaijan, Australia, China, Holy See, India, Kazakhstan, Kyrgyzstan, Maldives, Mongolia, Nepal, People's Democratic Republic of Korea, Republic of Korea, Russian Federation, Sri Lanka, Tajikistan, Turkey and Turkmenistan. For the full text of the 1983 Convention, see: http://www.unesco.org/education/studyingabroad/tools/conventions_apa_cover.shtml#preamble.

Higher Education in the European Region (the Lisbon convention).
That convention covers the European countries.²

3.3 In 2005, Parties of the 1983 Convention acknowledged the need for an updated Convention to reflect contemporary changes in the higher education system. An updated Convention was also seen as an opportunity for the implementation of practical measures to enhance information provision, as well as quality recognition and assurance measures.³

3.4 The *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education* (the proposed Convention) seeks to replace, but not terminate the 1983 Convention.⁴

Since the 1980s there have been huge changes in higher education in this region. It is no longer a purely elite exercise; it has become a mass part of the education system of the region. There is increased student mobility and much more requirement for qualifications recognition.⁵

Overview

3.5 The National Interest Analysis (NIA) explains that the proposed Convention provides a mechanism for countries in the Asia-Pacific region to facilitate recognition of higher education qualifications through increased information provision and transparency. Becoming a Party to the Convention would demonstrate Australia's commitment to improved mobility of students, academics and workers within the Asia-Pacific while also building on developments in recognition practices and international cooperation resulting from Australia's membership of other UNESCO regional recognition conventions.⁶

2 Ms Susan Bennett, General Manager, Mobility, South and South East Asia Branch, International Education and Science Division, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 30.

3 "Renewed Convention on Qualifications Recognition", Australian Education International website: <<https://aei.gov.au/International-network/Australia/policyupdates/Pages/Article-RenewedConventiononQualificationsRecognition.aspx>> accessed 22 May 2013.

4 National Interest Analysis [2013] ATNIA 9 with attachment on consultation *Asia Pacific Regional Convention on the Recognition of Qualifications in Higher Education* (Tokyo, 26 November 2011) (Hereafter referred to as NIA), para 5.

5 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 30.

6 NIA, paras 5-6.

The changes that will be incorporated ... will draw the region into higher education recognition best practice.⁷

- 3.6 In building on the 1983 Convention, this Convention aims also to provide for 'the establishment of national information centres in more countries, the implementation of diploma supplements, and catching up with developments in qualifications recognition thinking and practices'. It includes the role of qualifications frameworks and defining substantial difference between qualifications from different countries.⁸
- 3.7 In Australia, responsibility for recognition of qualifications is shared between federal, state and territory governments as well as higher education institutions.
- 3.8 Where the competence to make decisions in recognition matters lies with the federal, or state and territory governments, they are required to take the necessary measures to ensure implementation of the proposed Convention's relevant provisions. Where the competence to make decisions in recognition matters lies with higher education institutions, Australia is obliged only to transmit text of the proposed Convention to these institutions and take all possible steps to encourage their consideration and application.

Reasons for Australia to take proposed treaty action

- 3.9 The NIA provides three reasons as to why Australia should become a party to the proposed Convention. First, it will facilitate the mobility of students, academics and workers within the Asia-Pacific by providing a platform from which to enhance the national qualification, accreditation and quality assurance frameworks of Parties to the proposed Convention.⁹
- 3.10 Second, it will facilitate offshore experiences for Australian higher education students and improve employment prospects for individual holders of Australian higher education qualifications within the region.¹⁰

7 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 30.

8 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 30.

9 NIA, para 8.

10 NIA, para 7.

- 3.11 Third, becoming a Party to the proposed Convention will demonstrate Australia's commitment to UNESCO's agenda of strengthening engagement between countries and regions through higher education.¹¹

Australia, as an advanced economy that has successfully established systems to manage these issues, is well positioned to engage in information sharing with and further learning from its regional partners through the mechanism of the proposed convention.¹²

- 3.12 The Committee was informed that nine Member States of the UNESCO Asia-Pacific region signed the Convention at the UNESCO International Conference of States, at which the Convention text was endorsed in Tokyo in November 2011, but none have yet ratified.

These Member States are amongst the most likely to become Parties to the Convention in the relatively near future. Forty Member States participated in the ICS, and many of these are likely to become Party to the Convention in time.¹³

Obligations

- 3.13 **Article II.1** outlines how the responsibility for the recognition of qualifications within Australia is shared between the federal, state and territory governments as well as higher education institutions and other entities. Where competence to make decisions in recognition matters lies with any level of government, they must take the necessary measures to ensure the implementation of relevant provisions of the proposed convention.¹⁴

- 3.14 Where the competence to make decisions in recognition matters lies with individual higher education institutions or other entities, Australia is obliged only to transmit the text of the proposed Convention to these institutions or entities and take all possible steps to encourage its favourable consideration and application.¹⁵

11 NIA, para 9.

12 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 30.

13 Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Submission 3*, p. 1.

14 NIA, para 10.

15 NIA, para 10.

- 3.15 **Article III** obliges each Party to make appropriate arrangements for the assessment and recognition of qualifications that are transparent, coherent, reliable, fair, timely and non-discriminatory.¹⁶
- 3.16 **Article IV, Article V** and **Article VI** require each Party to recognise qualifications issued by other Parties that meet the general requirements for access to respective higher education programs, unless a substantial difference can be shown between the general requirements for access in the Party in which the qualifications were obtained and those in Australia. This includes, at least, the assessment of partial studies completed within the framework of a higher education program in another Party.¹⁷
- 3.17 **Article VII** specifies that each party shall develop procedures, including recognition of prior learning, designed to access fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education programs or for recognition of qualifications for employment activities, even in cases in which qualifications obtained in one of the Parties cannot be proven through documentary evidence.¹⁸
- 3.18 **Article VIII** requires each Party to provide relevant information on their national higher education system and qualifications, as well as to take adequate measures for the development and maintenance of a national information centre (NIC).¹⁹
- 3.19 In addition to these provisions, the proposed Convention establishes the Committee of the Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education to oversee, promote and facilitate the implementation of the proposed Convention (**Article IX.1**).²⁰
- 3.20 Australia is also obliged to appoint a member of its NIC to the network of NICs established under the proposed Convention (**Article IX.3**).²¹

Implementation

- 3.21 Australia does not require changes to domestic law or policy to implement the proposed Convention.²²

16 NIA, para 10.

17 NIA, para 10.

18 NIA, para. 10.

19 NIA, para. 10.

20 NIA, para. 11.

21 NIA, para 12.

- 3.22 Australia already maintains an NIC which provides qualifications assessment services to individuals in accordance with obligations established under the proposed Convention. Currently, Australian Education International's National Office of Overseas Skills Recognition (AEI NOOSR) serves as the NIC.²³
- 3.23 Through its NIC, Australia encourages higher education authorities and other entities that have the competence to make decisions in recognition matters to act in accordance with the proposed Convention.²⁴
- What it involves primarily is the use of the tools that we develop in the national information centre such as the country education profiles that give details about the qualifications that are given from other countries.²⁵
- 3.24 The Australian Higher Education Graduation Statement, awarded to students upon completion of their requirements for Australian higher education awards, accords with the UNESCO Diploma Supplement.²⁶
- ...it is just different terminology – providing a description of the nature, level, context, content and status of the studies successfully completed by the individual named on the original qualification to which the supplement is appendant.²⁷
- 3.25 As the Committee was informed, ratifying the Convention:
- ...will not change our practice but it would indicate our commitment to working in partnership with the other countries of the region to facilitate qualifications recognition for the purposes of mobility of students, graduates and academics.²⁸

22 NIA, para 13.

23 Australian Education International website: <<https://aei.gov.au/services-and-resources/services/assessment-of-overseas-qualifications/our-assessments/pages/default.aspx>>, accessed 23 May 2013.

24 NIA, paras 14-15.

25 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 31

26 NIA, para 16.

27 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 31.

28 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 31.

Costs

- 3.26 There are no foreseeable financial costs to Australia of compliance with the treaty action;²⁹ as there 'are no new activities that we are not already performing'.³⁰

Consultation

- 3.27 The proposed treaty action is expected to have 'no to minimal impact on the states and territories and the higher education sector', due to there being no changes to domestic law or policy required for implementation.

Australia already complies with the obligations established under the proposed Convention.³¹

- 3.28 States and territories have been kept informed of the proposed Convention's development through the Commonwealth-State-Territory Standing Committee on Treaties (SCOT),³² with it listed on each biannual Schedule of Treaties sent to SCOT representatives since 2008.

No feedback has been provided by any state or territory. No request has been made for further information.³³

- 3.29 Universities Australia, the Australian Council for Private Education and Training, the Australian Qualifications Framework Council and the Council of Private Higher Education were also consulted.

Universities Australia ... responded positively and endorsed it.³⁴

No feedback has been provided by other organisations. No request has been made for further information.³⁵

29 NIA, para 17.

30 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 31.

31 NIA, para 32.

32 SCOT consists of representatives from every State and Territory and is chaired by a senior official of the Prime Minister's Department. It also has representatives from the Departments of Foreign Affairs and Trade, and Attorney General's.

33 NIA, para 29.

34 Ms Bennett, Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Committee Hansard*, 17 June 2013, p. 31.

35 NIA, para 31.

Conclusion

- 3.30 The Committee agrees that an updated Convention is required to reflect changes in the higher education system and to provide for enhanced information provision, quality recognition and assurance measures.
- 3.31 Given the benefits of the proposed Convention in providing a mechanism for countries in the Asia-Pacific region to facilitate recognition of higher education qualifications whilst improving the mobility of students, academics and workers in the region, the Committee supports the Treaty and recommends that binding treaty action be taken.

Recommendation 2

The Committee supports the *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (Tokyo, 26 November 2011)* and recommends that binding treaty action be taken.

Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

Introduction

4.1 The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) is a multilateral Convention that regulates international trade in endangered species.¹ Australia has been a party to the Convention since 1976.²

4.2 CITES provides a mechanism for the listing of species identified as being at risk if subject to international trade. The listings are recorded in three appendices to the Convention, according to the degree of that risk:

Appendix I is the strictest level of regulation and it generally prohibits all international trade, except for some non-commercial [purposes] such as conservation, breeding and so on. Appendix II lists species that could become endangered if their trade is not regulated and it requires documentation to be issued in order for international trade to occur in these species. There is also a third

1 Trade is defined as export, re-export, import and introduction from the sea. *National Interest Analysis* (NIA) [2013] ATNIA 11, 2013 Amendments, adopted at Bangkok on 14 March 2013, to Appendices I and II of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, [2013] ATNIF 9, para. 4. (Hereafter referred to as 'NIA').

2 Department of Sustainability, Environment, Water, Population and Communities, *How CITES works*, <<http://www.environment.gov.au/biodiversity/wildlife-trade/cites/cites.html>>, viewed 1 July 2013.

appendix, Appendix III, where the species are regulated at the initiation of an individual country. It requires, again, the issuing of documentation.³

- 4.3 The main objective of CITES is to regulate the commercial trade of wild animals and plants to ensure those species will not be endangered or put at risk. Timely adjustment of the CITES Appendices is therefore critical to the Convention's effective operation.⁴
- 4.4 Amendments to CITES Appendices are made in accordance with provisions of Article XV of the Convention and are put forward as nominations for consideration at the CITES triennial Conference of the Parties meetings.⁵
- 4.5 At the triennial Conference of the Parties meetings, species may be nominated for insertion or deletion, or moved to a different category to reflect a variation in necessary protection status. These proposals are then either agreed by consensus or voted on and agreed by a two thirds majority, with a second consideration possible in a plenary session.⁶

The 16th Conference of the Parties

- 4.6 The 2013 amendments propose inclusion, transferral or deletion of species in Appendices I and II of the Convention.⁷ The 16th Conference of the Parties, held from 3-4 March 2013 in Bangkok, Thailand, reviewed 70 listing proposals, of which 55 were adopted.⁸
- 4.7 Australia is not a Range State⁹ for the majority of the species covered by the 55 listing proposals (that is, they do not occur naturally in Australia), nor does Australia have an industry in the international trade of the majority of these species. As such, there will be no ramifications for Australia of the listing amendments for the majority of these species.¹⁰

3 Ms Deb Callister, Assistant Secretary, Queensland and South Australia Assessment Branch, Environment Assessments and Compliance Division, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 1.

4 *Report 116*, Joint Standing Committee on Treaties, 11 May 2011, p 7.

5 *Report 116*, Joint Standing Committee on Treaties, 11 May 2011, p 7.

6 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 1.

7 NIA, para 1.

8 NIA, para 12.

9 A Range State is a country in which a named species is found.

10 NIA, para 13

4.8 The amendments that are relevant to Australia include eight terrestrial species and seven marine species. The relevant amendments apply to the following species:

- *Pristis microdon* (freshwater sawfish);
- *Pteropus brunneus* (dusky (Percy Island) flying fox);
- *Thylacinus cynocephalus* (Thylacine);
- *Onychogalea lunata* (crescent nail-tail wallaby);
- *Caloprymnus campestris* (buff-nosed rat-kangaroo);
- *Chaeropus ecaudatus* (pig-footed bandicoot);
- *Macrotis leucura* (lesser rabbit-eared bandicoot);
- *Rheobatrachus silus* and *Rheobatrachus vitellinus* (gastric-brooding frog species);
- *Manta birostris* and *Manta alfredi* (manta ray species);
- *Carcharhinus longimanus* (oceanic whitetip shark);
- *Lamna nasus* (porbeagle shark); and
- *Sphyrna lewini*, *S. mokarran*, and *S. zygaena* (hammerhead shark species).¹¹

Freshwater sawfish

4.9 The *Pristis microdon* (freshwater sawfish) has been moved from Appendix II to Appendix I. According to the NIA:

Pristis microdon populations have suffered severe declines since the 1960s and the species is now considered critically endangered according to the global IUCN [Red List], and the species is listed as vulnerable under the EPBC Act.¹² Australia currently has a zero export quota for this species, so there will be little change to Australia's regulation of the international trade in the species as a result of this listing amendment.¹³

11 NIA, para 14.

12 *Environment Protection and Biodiversity Conservation Act 1999*.

13 NIA, para 17.

4.10 The species was listed in Appendix II at the triennial Conference in 2007. At the time, Australia acted to prevent the proposed listing of the species in Appendix I. Australia's objection to the listing was the subject of close examination by the Treaties Committee in its Report 93.

4.11 The Report stated:

The Committee has in-principle concerns about the CITES listing process that has permitted a species considered critically endangered internationally to be traded, irrespective of any argument that the Australian populations are more robust. While this may be the case, it is also clear that population numbers of the species are uncertain.¹⁴

4.12 The Committee was also concerned at the presence of the sole exporter of freshwater sawfish on Australia's delegation to the Annual Conference:

The Committee is concerned about the inclusion of parties with an obvious commercial interest in the outcome of negotiations on an Australian delegation.¹⁵

4.13 Representatives of the Department of Sustainability, Environment, Water, Population and Communities (the Department) explained what had changed since the 2007 Conference of the Parties:

Since then a range of information has come to light and some more studies have been done on the populations in situ in Northern Australia and that has indicated that our belief that it could maintain a small level of trade was incorrect and that there were particular pressures on the population. Also, some information about some genetics indicated that even small levels of trade could be detrimental. So Australia introduced what we call a non-detriment finding, which indicated that there could not be any trade in this from Australia and Australia stopped allowing the trade of it. Consequently, we felt that, in order to match our domestic position, we should not allow any of that trade, that we would move to have it listed on appendix 1.¹⁶

14 Joint Standing Committee on Treaties, *Report 93*, 4 September 2008, p 11.

15 Joint Standing Committee on Treaties, *Report 93*, 4 September 2008, p 11.

16 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 2.

Dusky flying fox

4.14 The *Pteropus brunneus* (dusky (Percy Island) flying fox) has been removed from Appendix II. Representatives of the Department explained:

...it had been listed as *Pteropus brunneus*, and had been listed on the appendices, but it appears that at the time that it was taxonomically described it was not actually a valid species – that it came from one specimen which was probably a different type of flying fox, and it had never been seen since and has never been described since. Part of this was about trying to tidy up the appendices, so we were not seeking to regulate something which really was not a valid taxonomic species.¹⁷

Removing extinct species

4.15 A number of species believed to be extinct were removed from Appendix I. The species were:

- *Thylacinus cynocephalus* (Thylacine);
- *Onychogalea lunata* (crescent nail-tail wallaby);
- *Caloprymnus campestris* (buff-nosed rat-kangaroo);
- *Chaeropus ecaudatus* (pig-footed bandicoot); and
- *Macrotis leucura* (lesser rabbit-eared bandicoot).¹⁸

4.16 In addition, two species believed to be extinct were removed from Appendix II. The species were:

- *Rheobatrachus silus* (southern gastric-brooding frog); and
- *Rheobatrachus vitellinus* (northern gastric-brooding frog).¹⁹

4.17 The species were removed as they are presumed extinct and do not meet the biological and trade criteria for listing on the Appendices.²⁰

17 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 6.

18 NIA, para 19

19 NIA, para 20

20 NIA, para 19

Manta ray species

- 4.18 Manta ray species (currently including *Manta birostris* and *Manta alfredi*) were listed in Appendix II. Australia is a Range State for manta rays, but manta rays are not targeted nor taken as a by-product in Australian fisheries. According to the NIA, the listing may have positive implications, as there are tourism industries in Australia focused on diving and snorkelling with these species.²¹

Shark species

- 4.19 A number of shark species have now been included in Appendix II, including:
- *Carcharhinus longimanus* (oceanic whitetip shark);
 - *Lamna nasus* (porbeagle shark); and
 - *Sphyrna lewini*, *S. mokarran*, and *S. zygaena* (scalloped, great and smooth hammerhead sharks).²²
- 4.20 According to the NIA, with the exception of the hammerhead sharks, none of these species is directly targeted in Australian fisheries.²³
- 4.21 Hammerhead sharks are taken in much larger numbers than the other sharks subject to this listing, particularly in Queensland, the Northern Territory and Western Australia.²⁴
- 4.22 Exports of any of the listed sharks will in future require an export permit underpinned by a non-detriment finding, which will need to be undertaken by the Department.²⁵
- 4.23 At present, Australian fisheries management authorities have some difficulty in determining the take of each of these species. When shark is exported from Australia it is coded generically, for example as 'shark fins' or 'shark mixed.'²⁶

21 NIA, para 21.

22 NIA, paras 22-26.

23 NIA, paras 22-24.

24 NIA, para 26.

25 NIA, para 22.

26 Mr Geoff Richardson, Assistant Secretary, Marine Biodiversity and Biosecurity Branch, Wildlife Heritage and Marine Division, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 5.

- 4.24 The listing of the shark and manta ray species is unusual because, unlike all the other listings from the 16th Conference of the Parties, it will not come into effect until September 2014.²⁷
- 4.25 The Department is making use of the extended timeframe before the listing comes into effect to identify gaps in the information available on the quantity of each shark species that is exported, and work with State and Territory fisheries management authorities to address these gaps.²⁸

State and Territory opposition

- 4.26 The States and Territories where the bulk of these shark species are commercially fished (Western Australia, the Northern Territory, and Queensland) had, during consultation on the changes proposed for the 16th Conference of the Parties, indicated their opposition to the listing of the shark species. In general, the grounds for their opposition related to the fact that the species were either abundant, or were sustainably fished, within the waters of these States and Territories.²⁹
- 4.27 While not disagreeing with the claims of the State and Territory fisheries management authorities, the Australian Government nevertheless supported the listing of these species because:

...we are looking at not just the state of the Australian population of these particular stocks but the global context. So while we consult and we obviously are interested in and need to take into account the views of our state governments, we then have to weigh that up against the scientific evidence of the global population informing the view that we take to the conventions. We are not just voting on what the population is in Australia; we are voting on what the population is in the international context and whether it meets the requirements that CITES has for listing on its particular appendices... As I said earlier, because something is CITES Appendix II listed does not mean that zero export can happen. It actually is export that needs to be done in conjunction

27 Mr Geoff Richardson, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 5.

28 Mr Geoff Richardson, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 5.

29 NIA, para 61.

with a non-detriment finding about the level of take within Australian waters.³⁰

Consultation

- 4.28 The Committee has in the past been critical of the Department's consultation processes, particularly in relation to the listing of shark species in multilateral conservation treaties. In Report 111, the Committee reviewed the *Amendments to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals*, which involved the listing of shark species in Appendix II of that Convention.³¹
- 4.29 The Committee received over 40 submissions to that inquiry, including many from recreational fishing groups and individuals opposed to the listing of those species. One of the most significant grounds for opposition was the lack of consultation with people involved in recreational fishing.³²
- 4.30 Before the end of that inquiry, the Department told the Committee that the Minister for the Environment, Heritage and the Arts had announced that the Government would move to introduce legislation to ensure that the listing of sharks in Appendix II of the Convention on Migratory Species would not affect recreational fishing activities in Australia.³³
- 4.31 The Committee was keen to ensure that appropriate levels of consultation on the proposals before the 16th Conference of the Parties had occurred prior to the Conference.
- 4.32 In relation to recreational fishing, the Department was able to demonstrate consultation:
- ...in the lead-up to this and in formulating our position against these nominations we did write out to a number of recreational fishing bodies... The few that responded basically said that they did not believe that this would impact on their constituents in any way.³⁴

30 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 4.

31 Joint Standing Committee on Treaties, *Report 111*, 21 June 2010, p 4.

32 Joint Standing Committee on Treaties, *Report 111*, 21 June 2010, p 7.

33 Joint Standing Committee on Treaties, *Report 111*, 21 June 2010, p 10.

34 Mr Geoff Richardson, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 3.

4.33 The Department also noted that:

...the CITES convention only regulates international trade, so it does not actually impact at all on how the species is taken by the recreational industry in Australia. The listing of the porbeagle under CITES will not impact on the level of recreational take.³⁵

4.34 In relation to commercial fishing, the Department also advised that:

...we did quite a lot of consultation, both with fishers themselves and with state management bodies around the country, and the Australian Fisheries Management Authority for Commonwealth fishers... it is important that it is understood that... being appendix 2 listed does not mean zero export; it means that export must be done with a permit from an approved source, where the approved source is one where a non-detriment finding has been made that the arrangements in place for the level of take of those species is sustainable from Australian waters. The delay of 18 months before these arrangements come into effect – they will not come into effect until September 2014 – gives SEWPaC³⁶, the management authorities and the industry itself the time it takes in which to put in place the arrangements to support a non-detriment finding where that is appropriate.³⁷

Regulation of international trade

4.35 The Conference of the Parties also adopted a Resolution for the better regulation of international trade in species.³⁸ This may require an amendment to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in the future, to reflect the agreed procedures for implementing the Convention in relation to listed specimens harvested in international waters.³⁹

4.36 According to the NIA:

Since the Convention came into force 40 years ago, Parties have disagreed on whether specimens listed under the Convention

35 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 3.

36 The Department's abbreviation of its name.

37 Mr Geoff Richardson, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 24 June 2013, p. 3.

38 Resolution Conf. 14.6 (Rev CoP16) on 'Introduction from the Sea'.

39 NIA, paras 30- 31.

which are harvested on the high seas are the responsibility of the port State where the catch is landed, the flag State of vessel registration, or the chartering State in instances where a vessel 'rental' agreement is in place.⁴⁰

- 4.37 The agreed resolution represents a combination of each of these scenarios, which allows for transparency, monitoring and review. It includes clear delineation of which State holds responsibility for making non-detriment findings and issuing Convention documents.⁴¹
- 4.38 Domestic regulatory amendments may be required to reflect the intent of this Resolution such that in order for an Australian vessel to fish on the high seas and land its catch in the port of another State, a Convention 'export permit' would be required from Australia's Convention Management Authority, rather than an 'Introduction from the Sea certificate'.⁴²

Implementation

- 4.39 Under CITES Article XV(1)(c), amendments to the Appendices automatically enter into force 90 days after the meeting at which they are agreed unless a party lodges a reservation.⁴³ Consequently, with the exception of the amendments relating to the listing of manta ray and shark species discussed above, these amendments entered into force for Australia on 12 June 2010.⁴⁴
- 4.40 The Minister for Sustainability, Environment, Water, Population and Communities wrote to the Committee on 19 February 2013,⁴⁵ informing of the proposed amendments to CITES to be debated at the 16th Conference of the Parties.
- 4.41 On 16 May 2013, the Minister further advised that the amended Appendix I and II would enter into force 90 days after the Conference, and

40 NIA, para 31.

41 NIA, para 31.

42 NIA, para 31.

43 Article XV (3) provides that reservations may be made in respect to a particular amendment during that 90 day period see NIA, para. 2.

44 NIA, para. 2.

45 Included in papers for the Committee's Meeting 53 of 12 March 2013.

requested the Committee consider the treaty actions prior to dissolution of the Parliament.⁴⁶

- 4.42 CITES is implemented in Australia via the EPBC Act, which requires the Minister to establish a list of CITES species for the purposes of the Act. This list now contains the most recent amendments.⁴⁷

Conclusion

- 4.43 As amendments to CITES enter force automatically (and, for the most part, have already done so), it is not necessary for the Committee to make a recommendation on these amendments.
- 4.44 Nevertheless, the Committee supports the amendments made by the 16th Conference of the Parties and commends the Department's improved consultation with stakeholders, including the Minister's regular advice to the Committee on the matters being considered by the Conference.

46 Included in papers for the Committee's Meeting 58 of 5 June 2013.

47 NIA, para. 20.

Four Minor Treaty Actions

Introduction

- 5.1 Minor treaty actions are generally technical amendments to existing treaties which do not impact significantly on the national interest.
- 5.2 Minor treaty actions are presented to the Committee with a one-page explanatory statement and are listed on the Committee's website. The Committee has the discretion to formally inquire into these treaty actions or indicate its acceptance of them without a formal inquiry and report.

Minor treaty actions

- 5.3 There are four minor treaty actions reviewed in this chapter. The Committee determined not to hold a formal inquiry into these treaty actions, and agreed that binding treaty action may be taken in each case.
- 5.4 The first three treaty actions are closely related. They were all adopted at the 91st session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) and will be given effect through Marine Order 31 (*Ship surveys and certification*).

Amendments, adopted at London on 30 November 2012, to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.338(91).

- 5.5 The Explanatory Statement by the Department of Infrastructure and Transport (DIT) states that the proposed treaty matter will revise international regulations for the construction and operation of ships, specifically: noise protection for seafarers, fire protection of cargo spaces and provision of equipment to recover persons from the water. There are

- no perceived adverse effects and additional administrative requirements on the shipping industry are expected to be minimal.
- 5.6 The *International Convention for the Safety of Life at Sea, 1974*, (SOLAS, [1983] ATS 22) is administered by the IMO. The IMO Committee with responsibility for SOLAS is the MSC.
- 5.7 Chapter II-1 of SOLAS provides requirements for the construction of ships including their structure, subdivision and machinery and electrical installations. Resolution MSC.338(91), adopted at the 91st session of the MSC, amends Chapter II-1 to require ships to be constructed to reduce onboard noise and to protect personnel from noise in accordance with the new *Code on noise levels on board ships*.¹
- 5.8 The amendment to Chapter II-1 will apply to ships of 1600 gross tonnage and above, contracted for construction from 1 July 2014, or which have their keels laid on or after 1 January 2015, or are delivered from 1 July 2018.
- 5.9 Chapter II-2 of SOLAS provides requirements for the construction and equipment of ships regarding fire protection. Chapter II-2 is amended to require ro-ro (roll on-roll off) and vehicle spaces to be constructed with higher fire resistance rating, and updates requirements of fixed fire-extinguishing systems for such spaces. These amendments will apply to ships built from 1 July 2014.
- 5.10 Chapter II-2 is also amended to provide for fire-fighters' communication arrangements, with two-way portable radiotelephone apparatus being provided for fire-fighting teams. These amendments will apply to all ships with a phase-in period from 1 July 2014 to 1 July 2018.
- 5.11 The amendments to these chapters generally apply to the construction of new ships. The explanatory statement says the amendments will have minimal regulatory impact as they will be allowed for in the early design phase of the construction of a ship, or will require the use of equipment already carried on most ships.
- 5.12 Chapter III of SOLAS provides requirements for lifesaving appliances and arrangements on board ships. Chapter III is amended to require ships to have plans and procedures in place for recovery of persons from the water, and the procedures will identify equipment to be used for these purposes. The amendments will apply to all ships from their first safety

1 Adopted by the MSC at the same meeting through resolution MSC.337(91). The Code is to limit noise levels and reduce seafarers' exposure to noise; so to provide for safe working conditions; protect the seafarer from excessive noise levels which may give rise to a noise-induced hearing loss; and provide the seafarer with an acceptable degree of comfort and rest, recreation and other spaces.

equipment survey after 1 July 2014, with all ships required to comply by 1 January 2017. The requirement for such plans and procedures is expected to be incorporated into existing procedures carried on-board ships and should be implemented relatively easily.

- 5.13 The Appendix to SOLAS details the forms of certificates to be carried by ships; it is amended by replacing all existing certificates with updated certificates. This amendment is of an administrative nature and harmonises certificates between the SOLAS Convention and its 1978 and 1988 Protocols. The amendments to the SOLAS Appendix will reduce the number of different types of certificates a ship may be required to carry, and therefore should reduce administrative burdens on both ship owners and organisations that conduct survey and certification of ships.
- 5.14 The Australian ship building industry is relatively small and current construction companies have been consulted and are satisfied with the proposed changes.
- 5.15 The amendments will be deemed to have been accepted on 1 January 2014, unless a sufficient number of Contracting Parties (not less than 50 per cent of the gross tonnage of the world's merchant fleet), notify an objection prior to that date. If accepted, the amendments will enter into force on 1 July 2014.
- 5.16 Australia's endorsement of this Resolution is consistent with its long-standing support for protection of life and safety at sea, and also with its active backing of (and participation in) the International Maritime Organization.
- 5.17 Marine Order 31 (*Ship surveys and certification*) gives effect to the certification requirements of SOLAS. This Marine Order will require only minor amendments to the forms of certificates contained within the schedule to the Marine Order.

Amendments, adopted at London on 30 November 2012, to the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.343(91)

- 5.18 The Explanatory Statement by DIT states that the proposed treaty matter will revise international regulations for the certification of cargo ships, specifically, the forms used for certification. There are not expected to be any adverse effects for stakeholders, with no additional costs or administrative requirements placed on the shipping industry.
- 5.19 The *Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974*, (1978 SOLAS Protocol, [1983] ATS 28) is administered by the IMO, with the MSC having responsibility for it. The amendments were

- adopted at the 91st session of the MSC under IMO Resolution MSC.343(91).
- 5.20 The Appendix to the 1978 SOLAS Protocol details forms of certificates to be carried by ships. The appendix is amended by replacing existing forms of the Cargo Ship Safety Construction and Cargo Ship Safety Equipment certificates with updated certificates. This amendment is of an administrative nature and is focussed on harmonising the forms of certificates between the SOLAS Convention and its 1978 and 1988 Protocols.
- 5.21 This harmonisation will reduce the number of different types of certificates a ship may be required to carry, by requiring a single certificate that meets the requirements of both the 1978 and 1988 Protocols. This should reduce administrative burdens on both ship owners and organisations that conduct survey and certification of ships.
- 5.22 These amendments will be deemed to have been accepted on 1 January 2014, unless a sufficient number of Contracting Parties (not less than 50 per cent of the gross tonnage of the world's merchant fleet), notify an objection prior to that date. If accepted, the amendments will enter into force on 1 July 2014.
- 5.23 Australia's endorsement of this Resolution is consistent with its long-standing support for protection of life and safety at sea, and also with its active backing of (and participation in) the International Maritime Organization.
- 5.24 Marine Order 31 (*Ship surveys and certification*) gives effect to the certification requirements of SOLAS. This Marine Order will require only minor amendments to the forms of certificates contained within the schedule to the Marine Order.

Amendments, adopted at London on 30 November 2012, to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended IMO Resolution MSC.344(91)

- 5.25 The Explanatory Statement by DIT states that the treaty matter proposed will revise international regulations for certification of cargo and passenger ships, specifically, the forms used for certification. There are not expected to be any adverse effects for stakeholders, with no additional costs or administrative requirements placed on the shipping industry.
- 5.26 The *Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974*, (1988 SOLAS Protocol, [2000] ATS 3) is administered by the IMO, with the MSC having responsibility for it. The amendments were adopted at the 91st session of MSC under IMO Resolution MSC.344(91).

- 5.27 The Appendix to the 1988 SOLAS Protocol details the forms of the certificates to be carried by ships. The Appendix is amended by replacing all existing forms of certificates with updated certificates. This amendment is of an administrative nature and is focussed on harmonising the forms of certificates between the SOLAS Convention and its 1978 and 1988 Protocols.
- 5.28 This harmonisation will reduce the number of different types of certificates that a ship may be required to carry, by requiring a single certificate that would meet the requirements of both the 1978 and 1988 Protocols. This should reduce administrative burdens on both ship owners and organisations that conduct the survey and certification of ships. The amendments will not affect compliance costs to ship construction companies or ship operators.
- 5.29 These amendments will be deemed to have been accepted on 1 January 2014, unless a sufficient number of Contracting Parties (not less than 50 per cent of the gross tonnage of the world's merchant fleet), notify an objection prior to that date. If accepted, the amendments will enter into force on 1 July 2014.
- 5.30 Australia's endorsement of this Resolution is consistent with its long-standing support for protection of life and safety at sea, and also with its active backing of (and participation in) the International Maritime Organization.
- 5.31 Marine Order 31 (*Ship surveys and certification*) gives effect to the certification requirements of SOLAS. This Marine Order will require only minor amendments to the forms of certificates contained within the schedule to the Marine Order.

Amendments, adopted at London on 30 November 2013, to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended IMO Resolution MSC.345(91).

- 5.32 The Explanatory Statement by DIT states that the treaty matter proposed will revise international regulations for the method of calculating minimum freeboards assigned to ships. It is perceived there will be no adverse effects on stakeholders, as there will be no additional cost or administrative requirements on the shipping industry.
- 5.33 The *International Convention on Load Lines, 1966* (Load Lines Convention, [1968] ATS 3) and the *Protocol of 1988 relating to the International Convention on Load Lines, 1966*, (1988 Load Lines Protocol, [2000] ATS 2) establish uniform principles and rules regarding the limit to which ships on international voyages may safely be loaded. The IMO Committee with responsibility for the 1988 Load Lines Protocol is the MSC, which at its 90th

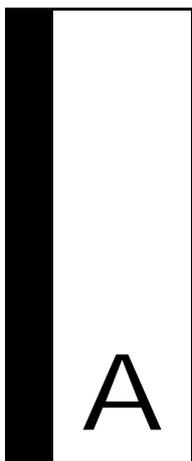
session adopted amendments to the 1988 Load Lines Protocol under IMO Resolution MSC.345(91).

- 5.34 This resolution amends the method by which an initial condition of loading is determined when calculating freeboards² to be assigned to a ship. Minimum freeboards are assigned to vessels by registered shipping classification societies. The amendment provides for an alternative method to allow for the free surface effect of liquids in tanks³ when calculating an initial loading condition.
- 5.35 The Government states that the amendments do not change the requirements for assigning freeboards to ships but simply provide an alternative method for certain factors to be taken into account when determining freeboards. This will not affect the way in which vessels will be loaded, nor the amount of cargo a vessel can carry and will not affect compliance costs on the shipping industry.
- 5.36 The Explanatory Statement says Australia's endorsement of the Resolution is consistent with its long-standing support for protection of life and safety at sea, as well as its active backing of (and participation in) the IMO.
- 5.37 Marine Order 16 (Load Lines) will give effect to the amendment to the 1988 Load Lines Protocol without need for further amendment to the Marine Order.

Senator Bridget McKenzie
Acting Chair

2 Freeboard refers to the height above the waterline of the uppermost continuous deck, below which all openings in the side of the ship are fitted with a watertight closing.

3 The free surface effect refers to the action of liquids in a space when the angle of the space changes (i.e. as the ship rolls or lists to one side, the liquid in the space will naturally move to the lower side). The free surface effect of liquids causes an effective reduction in the stability of the ship, therefore increasing the angle of roll or list.



Appendix A – Submissions

Treaties tabled on 12 March 2013

- 13 Australian Agency for International Development (AusAID)

Treaties tabled on 14 May 2013

- 3 Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education
- 4 Department of Sustainability, Environment, Water, Population and Communities



Appendix B – Witnesses

Monday, 13 May 2013 - Canberra

Australian Agency for International Development (AusAID)

Mr Rod Hilton, Assistant Director General, International Development Policy & Finance Branch, International Policy & Partnerships Division, Humanitarian & International Group

Mr Ewen McDonald, Deputy Director General, Humanitarian and International Group

Monday, 17 June 2013 - Canberra

Department of Foreign Affairs and Trade

Mr David Mason, Executive Director, Treaties Secretariat, International Legal Branch

Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education

Ms Susan Bennett, General Manager, Mobility, South and South East Asia Branch, International Education and Science Division

Monday, 24 June 2013 - Canberra

Department of Sustainability, Environment, Water, Population and Communities

Ms Deb Callister, Assistant Secretary, Queensland and South Australia Assessment Branch, Environment Assessments and Compliance Division

Mr Geoff Richardson, Assistant Secretary, Marine Biodiversity and Biosecurity Branch, Wildlife, Heritage and Marine Division

