National Interest Analysis [2017] ATNIA 6

with attachment on consultation

Loan Agreement between Australia and the International Monetary Fund

(Canberra, 19 December 2016 and Washington DC, 4 January 2017)

[2017] ATNIF 6

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

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Nature and timing of proposed treaty action

1. The proposed treaty action will bring into force the *Loan Agreement between Australia and the International Monetary Fund* (the Agreement). The Agreement will renew a line of credit that Australia currently extends to the International Monetary Fund (the IMF). The renewal of this arrangement will assist in maintaining the resources available to the IMF to prevent and resolve crises in the balance of payments and reserve position of IMF member countries. The Agreement was signed by Australia on 19 December 2016 and by the IMF on 4 January 2017.

2. The Agreement will enter into force on the date the IMF acknowledges receipt of a written communication from Australia stating that Australia has met all of its domestic requirements in regards to the entry into force of the Agreement. Australia will send this notification following consideration of the Agreement by the Joint Standing Committee on Treaties and after necessary legislative amendments have occurred.

3. The proposed treaty action will terminate an existing loan agreement between Australia and the IMF, signed on 13 October 2012 (the existing Agreement). The existing Agreement became active on 18 July 2013 and will expire on 17 July 2017. The Agreement will continue the existing Agreement's general terms and conditions and maximum borrowing limit for the IMF, but add a new multilateral voting structure for the activation of the Agreement.

Overview and national interest summary

4. The Agreement will oblige Australia to lend the IMF the equivalent of up to Special Drawing Rights (SDR) 4.61 billion (approximately $A8.3 billion as at 19 January 2017) under specific circumstances. Amounts lent under the Agreement will be repayable in full and with interest paid at the IMF's SDR interest rate.

5. The Agreement will form part of a broader global effort to ensure the IMF has sufficient lending resources available to it to effectively fulfil its global role in economic crisis prevention and resolution through bilateral borrowing. Australia has a strong interest in ensuring an effective and credible IMF.

Reasons for Australia to take the proposed treaty action

6. As a small, open economy, Australia benefits from an effective IMF that has the resources available to fulfil its mandate to support global economic and financial stability. The IMF is the central institution of a global financial safety net that promotes international financial and monetary stability by encouraging global monetary cooperation and providing a credible financial backstop for countries in economic difficulty.

7. The IMF derives its resources for lending to such countries from its permanent resource base (provided through quota contributions from member countries) and temporary borrowing arrangements (held with a subset of member countries and institutions). These temporary resources include bilateral loan agreements and the New Arrangements to Borrow (a quasi-permanent multilateral credit arrangement), which currently comprise around half of the IMF's total lending capacity.

8. The IMF is seeking to renew bilateral loan agreements with up to 35 member countries (including Australia), and is also engaging with additional member countries on the potential for undertaking new agreements. In November 2016, the IMF Executive Board (including the Executive Director representing Australia), agreed to renew the NAB for an additional five year period from November 2017.

9. Given ongoing uncertainty and risks in the global economy, confidence in the IMF's ability to respond to a crisis is critical in maintaining the confidence of economic participants to continue to invest and trade. The Global Financial Crisis demonstrated that it is important for the IMF to have financial resources in place before a crisis hits, rather than hurriedly having to seek new funding commitments in the midst of a crisis response.

10. Reforms have been made in recent years to enhance the IMF's effectiveness, including: a substantial permanent increase in the IMF's resources; a realignment of the quota (permanent funding contribution) and voting shares among IMF members to better reflect the changing economic weight of emerging and developing economies in the global economy; enhancement of the IMF's lending instruments; strengthened IMF surveillance of member country economies; and institutional governance reform.

Obligations

11. The Agreement requires Australia to lend the IMF up to the equivalent of SDR 4.61 billion (around A$8.3 billion, as at 19 January 2017) (Agreement paragraph 1) under specified conditions. This obligation will come into effect if and when the Agreement is activated. Activation will occur through a two-step process. First, the IMF's capacity to lend to member countries from quotas and the New Arrangements to Borrow must fall below SDR 100 billion ($A180 billion as at 19 January 2017). A new feature of the Agreement is that the IMF must then obtain agreement from creditor countries representing 85 percent of the value of all bilateral loan agreements held by the IMF (who are eligible to vote in accordance with certain terms and conditions (paragraph 2(b)).

12. The IMF may seek a drawdown of funds from creditor countries (including Australia) even though its available resourcing is above the SDR 100 billion threshold if extraordinary circumstances warrant it in order to forestall or cope with an impairment of the international monetary system (paragraph 2(b)).

13. In accordance with specific criteria and conditions, the IMF's ability to seek drawings under the Agreement will also be determined by Australia's current and prospective balance of payments and reserve position (paragraph 3(a)).

14. The IMF will provide advance notice of its best estimate for the amount it expects to draw under the Agreement (paragraph 3(a)). The IMF will repay amounts drawn within three months of the drawing date, extendable at the IMF's discretion in three month increments to a maximum of ten years (paragraph 5(a)). In exceptional circumstances as a result of a shortage of IMF resources, the IMF, with Australia's agreement, may extend the maximum maturity of drawings by up to a further five years (paragraph 5(a)). The rate of interest on drawings will be the SDR interest-rate (paragraph 6(a)). In accordance with Rule T-1 of the IMF By-Laws, the SDR interest-rate is determined weekly, based on a weighted average of representative short-term money market interest rates (currently the US dollar, euro, pound sterling, yen and renminbi rates).

15. Any default risk to Australia will be minimal as the IMF borrows from its creditor members with the backing of its full balance sheet and ultimately the resources of its global membership.

16. Australia may also obtain early repayment of all or a proportion of outstanding drawings if there is a need arising from its balance of payments and reserve position (paragraph 8). Australia will also be able to transfer all or part of any claim on the IMF resulting from outstanding drawings to any IMF member country, subject to limitations set out in the Agreement (paragraph 9).

17. The Agreement will expire on 31 December 2019, with the possibility of a one-year extension to 31 December 2020, with Australia's consent (paragraph 2(a)).

18. The entry into force of the Agreement will terminate the existing Agreement between Australia and the IMF. However, the IMF will still have the right to drawdown funds from Australia under the existing Agreement for commitments made by the IMF during the term of that agreement. In this circumstance, aggregate outstanding drawings by the IMF under both agreements will be limited to their common maximum borrowing limit of SDR 4.61 billion (paragraph 14(c)).

Implementation

19. The *International Monetary Agreements Act 1947* must be amended to provide the authority for the Australian Government to make payments under the Agreement with the IMF.

20. No action is required by the States or Territories to implement the Agreement.

Costs

21. The Agreement will be included in the budget papers as a quantifiable contingent liability. The IMF can draw on the agreement only when additional funds are required to support its lending to member countries, up to a maximum of SDR 4.61 billion (around $A8.3 billion, as at 19 January 2017). The Agreement is not expected to be drawn upon over the forward estimates as the IMF's current available resources are sufficient to cover its projected lending activities.

22. Any drawings would be financing transactions. The loan agreement would have an indirect impact on the underlying cash balance if the agreement is activated and funds are provided. This impact would arise where the Australian Government's lending to the IMF increased Australia's own borrowing requirement and where the interest payable on any money borrowed by Australia to meet an IMF drawdown exceeds the interest paid by the IMF in regard to that drawdown.

Regulation Impact Statement

23. The Office of Best Practice Regulation has been consulted and confirms that a Regulation Impact Statement is not required.

Future Treaty Action

24. The Agreement does not make express provision for amendments. In the absence of such specific provisions, the Agreement can be amended by agreement between the parties at any time in accordance with Article 39 of the *Vienna Convention on the Law of Treaties* (VCLT, [1974] ATS 2). Any future amendments to the Agreement will be subject to Australia's domestic treaty-making requirements.

25. The IMF may extend the Agreement for an additional year, from 1 January 2019 to 31 December 2020 in accordance with paragraph 2(a). The extension could only be made with Australia's consent.

26. The Agreement does not provide for the negotiation of any future legally binding instruments.

Withdrawal or Denunciation

27. The Agreement does not contain a specific right of termination for either party. In the absence of a specific provision on termination, the Agreement may be terminated at any time with the consent of both parties under Article 54(b) of the VCLT. The Agreement will expire on 31 December 2019 (paragraph 2(a)), unless it is extended in accordance with paragraph 2(a) or unless the parties agree to terminate it earlier.

Contact details

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ATTACHMENT ON CONSULTATION

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CONSULTATION

28. The IMF's Executive Board of Directors considered and agreed a template for the renewal of its bilateral loan agreements with creditor countries (35 agreements) on 29 August 2016. The Australian Government was formally represented on the Executive Board for this discussion.

29. Australia's agreement is consistent with this template, aside from a small number of minor technical amendments. All existing and any new participant countries will also make use of this template.

30. The Agreement is judged to have a negligible impact on the States and Territories and no State or Territory Government representatives were directly engaged in considering the Agreement.

31. The Agreement is judged to have a negligible impact on external stakeholders and none were directly engaged in considering the Agreement.