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The Parliament of the Commonwealth of Australia

# A history of the Joint Standing Committee on Treaties: 20 years

**Report 160**

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Canberra

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## Foreword

This year marks twenty years since the Joint Standing Committee on Treaties (JSCOT) came into operation. It was established by resolution of the Parliament in May 1996 and met for the first time on 17 June 1996. We felt that it would be a fitting time to publish a brief history of the Committee, its background and its work over the last twenty years.

Under the Australian Constitution, treaty making remains the prerogative of the Executive. The Constitution does not provide for the Parliament to play any role in the process.

As treaties became increasingly complex during the twentieth century, the lack of parliamentary scrutiny proved a contentious issue. Australians have become more connected to the broader world through trade, education and migration. Today, international agreements affect not only broad issues of state but the actions and responsibilities of individual citizens.

This report sets out the various attempts that have been made to improve the openness and transparency of the treaty making process in Australia, culminating in the 1996 Reforms.

The Committee has considered over 800 treaties and produced 160 reports to date. As well as examining all individual treaty actions, the Committee has undertaken a range of other inquiries into related topics, including the World Trade Organisation in 2000, a review of Australia's extradition law and policy in 2001 and nuclear non-proliferation and disarmament in 2009.

From its instigation, the Committee has worked hard to develop and refine its procedure, improving consultation with relevant stakeholders and providing a forum for public consideration of individual treaty actions.


Many of the treaty actions during the period have dealt with routine matters including taxation, air services, social security and the exchange of information. However, as this report shows, treaties are covering an increasingly wide range of subjects. During this Parliament, trade treaties have dominated the Committee's agenda. We have examined trade agreements with some of Australia's major trade

partners including China, Japan and Korea. Currently we are focused on the Trans-Pacific Partnership agreement which involves twelve nations in total.

The Committee has worked hard to fulfil its obligation to examine each treaty action brought before it, to determine if it is in the national interest. As the recollections from Members show, the Committee has a reputation for endeavouring to work in a bipartisan manner. On occasion, we have recommended that ratification be delayed or not take place. More often we recommend changes to either content or process.

In the decades ahead, the Committee will continue to diligently meet its responsibility, as set out in its resolution of appointment; adapting to the changes and meeting the challenges presented by our ever-more connected world.

The Hon Luke Hartsuyker MP  
Chair



## Membership of the Committee

**Chair**            The Hon Luke Hartsuyker MP (*from 22 February 2016*)

Mr Angus Taylor MP (*to 22 February 2016*)

**Deputy Chair**   The Hon Kelvin Thomson MP

**Members**        Mr Ken O’Dowd MP

Senator Chris Back

The Hon Melissa Parke MP

Senator David Fawcett

Ms Melissa Price MP  
(*from 22 February 2016*)

Senator the Hon David Johnston

Mr Tim Watts MP

Senator Sue Lines

Mr Brett Whiteley MP

Senator the Hon Joe Ludwig

Mrs Lucy Wicks MP

Senator Glenn Sterle

Mr Matt Williams MP  
(*from 22 February 2016*)

Senator Peter Whish-Wilson



## Committee Secretariat

Secretary	Lynley Ducker
Inquiry Secretary	Dr Narelle McGlusky
Senior Researcher	Kevin Bodel
Research Officer	Belynda Zolotto
Administrative Officer	Cathy Rouland



## Terms of reference

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;
  - (ii) a Minister; or
- 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 abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
AGD	Attorney-General's Department
ALP	Australian Labor Party
ATF	Agreement on Trade Facilitation
ATO	Australian Taxation Office
AUSFTA	Australia-US Free Trade Agreement
ChAFTA	China-Australia Free Trade Agreement
DFAT	Department of Foreign Affairs and Trade
FATCA	Foreign Account Tax Compliance Act
FTA	Free Trade Agreement
HR Deb	House of Representatives Parliamentary Debates (Hansard - House of Representatives)
ICC	International Criminal Court
JAEP	Japan-Australia Economic Partnership
JSCOT	Joint Standing Committee on Treaties
KAFTA	Korea-Australia Free Trade Agreement
LP	Liberal Party
MAI	Multilateral Agreement on Investment

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MP	Member of Parliament
NIA	National Interest Analysis
NIE	National Interest Exemption
OECD	Organisation for Economic Co-operation
S Deb	Senate Parliamentary Debates (Hansard – Senate)
Senate SO	Senate Standing Orders
SJ	Journals of the Senate
SO	Standing Orders (House of Representatives)
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
US	United States of America
VP	Votes and Proceedings of the House of Representatives
WTO	World Trade Organisation

### Chronology of relevant Parliaments

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<i>Parliament</i>	<i>General Election</i>	<i>Opening</i>	<i>House's last sitting day</i>	<i>Prorogation</i>	<i>Dissolution</i>
<b>38<sup>th</sup> Parliament</b>	02.03.1996				
First session		30.04.1996	15.07.1998	31.08.1998	31.08.1998
<b>39<sup>th</sup> Parliament</b>	03.10.1998				
First session		10.11.1998	27.09.2001	08.10.2001	08.10.2001
<b>40<sup>th</sup> Parliament</b>	10.11.2001				
First session		12.02.2002	12-13.08.2004	31.08.2004	31.08.2004
<b>41<sup>st</sup> Parliament</b>	09.10.2004				
First session		16.11.2004	20.09.2007	15.10.2007	17.10.2007
<b>42<sup>nd</sup> Parliament</b>	24.11.2007				
First session		12.02.2008	24.06.2010	19.07.2010	19.07.2010
<b>43<sup>rd</sup> Parliament</b>	21.08.2010				
First session		28.09.2010	27.06.2013	05.08.2013	05.08.2013
<b>44<sup>th</sup> Parliament</b>	07.09.2013				
First session		12.11.2013			

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**20 Years**  
**Joint Standing Committee on Treaties**



# Treaty making

## Introduction

- 1.1 Since ancient times, treaties have been a principal method to settle conflict between societies. In the early seventeenth century the subject matter of treaties broadened to include trade issues as well as military settlements. By the nineteenth century treaties were developing into their current form. Today treaties form the basis of international law and are the instruments that govern the legal rights and obligations of states.
- 1.2 For Australian citizens, treaties affect everyday life in a variety of ways. Environmental treaties determine the protection of wildlife and the use of resources. Human rights and labour relations obligations provide protection for individuals from discrimination and exploitation. How Australians use international postal services, travel by air, and access communications are all regulated by treaties.
- 1.3 This chapter examines the development of treaty making powers in Australia.

## Treaty making powers

### Before federation

- 1.4 Under Imperial arrangements the British Government held exclusive power in foreign affairs, including treaty making. Any treaty entered into by Britain applied to all the colonies in the Empire. During the nineteenth century, some concessions were made to the blanket application of these treaties to the self-governing colonies with the implementation of a system

of voluntary adherence.<sup>1</sup> Provision was later made for colonies to withdraw from an agreement if they wished to.<sup>2</sup>

- 1.5 Over time further concessions allowed representatives from the colonies to assist with the negotiation of treaties relevant to their colony, and both the colony and Britain had to approve a treaty before it could be ratified.<sup>3</sup> The signature of individual colonies began to appear on occasional treaties and colonial parliaments became responsible for implementing legislation.<sup>4</sup>

## 1901–1919

- 1.6 At the time of the federation of the Australian colonies in 1901, the treaty making power for Australia remained with the British Government. It would take some time before the Australian Commonwealth Government acquired that power.

- 1.7 Early drafts of the Constitution suggest that the Commonwealth Government would have the power to enter into treaties in its own right, but these references were removed from the final document.<sup>5</sup> It was not anticipated that Australia would require the power to make such agreements:

The Australian founding fathers at no stage envisaged that s 61 of the Constitution would be the source of executive power to conclude treaties, for the very simple reason that they did not contemplate that the treaty-making function would pass out of imperial into colonial hands.<sup>6</sup>

- 1.8 In 1901 the Commonwealth Government's foreign affairs powers in general and treaty-making capacity in particular were limited:
- It possessed no general independent capacity in the field of foreign affairs;
  - In regard to commercial treaties, it possessed a right of semi-independent negotiation, through the medium of the Imperial Government, with foreign countries, and an independent right of adherence to such commercial treaties concluded by Great Britain as were of benefit to it, coupled with an independent

1 D.P. O'Connell and James Crawford, 'The Evolution of Australia's International Personality', in *International Law in Australia*, ed. K.W. Ryan, The Law Book Company Limited, Sydney, 1984, p. 5.

2 O'Connell and Crawford, 'The Evolution of Australia's International Personality', pp. 6–7.

3 Sir Franklin Berman KCMG, 'Treaty-making Within the British Commonwealth', *Melbourne University Law Review*, vol 38, no 3, p. 900.

4 Cheryl Saunders, 'Articles of Faith or Lucky Breaks?: The Constitutional Law of international Agreements in Australia', *Sydney Law Review*, vol. 17, no. 150, p. 155.

5 Saunders, 'Articles of Faith or Lucky Breaks?', p. 155.

6 Leslie Zines, *Cowen and Zine's Federal Jurisdiction in Australia*, The Federation Press, 2002, p. 26.



right of withdrawal should continued adherence prove disadvantageous;

- It could not negotiate on matters of defence or high policy with foreign countries;
- It could consult with and endeavour to press a policy or course of action upon the Imperial Government; and
- It enjoyed a limited right of representation for trade purposes or technical matters.<sup>7</sup>

1.9 Incremental changes over the next two decades – many initiated by Australia – led to greater consultation between the British Government and the Dominions on treaty matters. However matters of high policy, including the Anglo-Japanese Treaty of Alliance (1902) and the Anglo-French Entente (1904), were entered into without consultation with the Dominions.<sup>8</sup>

1.10 It was not until the Treaty of Versailles that Australia and the other Dominions gained some standing in foreign affairs and recognition as separate international personalities. Australia, along with Canada, New Zealand and South Africa, signed the Treaty with the British Empire. It was an acknowledgment by Great Britain of the contribution made by the Dominions to the war effort.

1.11 The change in standing was further reinforced by individual membership of the newly formed League of Nations. The Dominions' separate signatures on the *Covenant of the League of Nations* gave them full national status.<sup>9</sup>

## 1919–1942

1.12 In 1923 the Imperial Conference adopted a resolution setting out the procedure for the negotiation, signature and ratification of international agreements to be followed by the Governments of the Empire. Individual Dominion governments were given the power to sign treaties on their own behalf:

Bilateral treaties imposing obligations on one part of the Empire only should be signed by a representative of the Government of that part.<sup>10</sup>

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7 J.G. Starke, 'The Commonwealth in International Affairs', in *Essays on the Australian Constitution*, ed The Hon. Mr. Justice Else-Mitchell, The Law Book Co of Australasia, Sydney, 1961, p. 346.

8 Starke, 'The Commonwealth in International Affairs', p. 347. The self-governing colonies, including Australia, became known as Dominions in 1907.

9 Berman, 'Treaty-making Within the British Commonwealth', pp. 901–902.

10 Department of Foreign Affairs and Trade, *Australian Treaty Series 1935 No 27*.

- 1.13 This was followed by the Balfour Declaration in 1926 which modified and refined the 1923 Resolution and implicitly stated that Britain and the Dominions were equal in status in all matters of internal and external affairs:
- They [Great Britain and the Dominions] are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.<sup>11</sup>
- 1.14 Section V of the Declaration set out the procedures for treaty making by the Dominions including negotiation, signature and ratification. The Declaration addressed some of the issues that had arisen from the procedure laid down in the 1923 Resolution. Designed to clarify the relationship between Great Britain, the Dominions, Colonies and Protectorates, the revisions were largely to do with treaty form and entry into force.<sup>12</sup>
- 1.15 To give effect to this resolution (and a further one taken at the Imperial Conference in 1930) the British Government passed the *Statute of Westminster* in 1931 recognising the independence of Australia and the other Dominions and giving them the 'full power to make laws having extra-territorial operation'. Australia did not adopt the Act until 1942.
- 1.16 As this process unfolded, the Commonwealth Government was able to 'assume full treaty-making authority' through the use of the executive power conferred by section 61 of the Australian Constitution.<sup>13</sup> A number of judgements from the High Court established that the external affairs power in section 51 (xxix) of the Constitution provided Parliament with the power to make any implementing legislation required for a treaty.<sup>14</sup>

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11 United Kingdom, *Imperial Conference 1926: Inter-Imperial Relations Committee: Report, proceedings and memoranda*, Inter-Imperial Relations Committee, E(I.R./26) Series, p. 2.

12 Berman, 'Treaty-Making within the British Commonwealth', pp. 903-904.

13 Saunders, 'Articles of Faith or Lucky Breaks?', p. 157.

14 Saunders, 'Article of Faith or Lucky Breaks?', pp. 157-160.

## Parliamentary role in treaty making

### Introduction

- 2.1 Unlike the treaty making power – which evolved step-by-step within legal parameters – treaty making practice and procedure in Australia developed in a much more haphazard way. This is particularly true of the Australian Federal Parliament’s involvement in the treaty process, which advanced on an ad hoc basis.
- 2.2 There are three stages in the treaty making process: negotiation, signature and ratification. The negotiation and signature phases are within the authority of the Executive under the treaty making power discussed in Chapter 1. Negotiations and signing take place between duly appointed representatives of the nations involved in the agreement. Ratification occurs once domestic processes have been concluded. Domestic processes differ between countries, and may include scrutiny by parliament or the implementation of enabling legislation.
- 2.3 Once ratified, entry into force for bilateral treaties usually occurs when the two parties exchange letters confirming that all domestic processes have been completed. For multilateral treaties it usually occurs after a designated number of countries have completed their domestic processes and lodged an instrument of ratification with the depository body, often the United Nations.
- 2.4 This Chapter sets out the history of domestic practice and procedure in Australia, particularly the role of Parliament in that process.

## Treaty making practice and procedure in Australia

- 2.5 As noted in Chapter 1, section 61 of the Australian Constitution is now considered to confer power on the Executive to enter into treaties. The Governor General exercises the power on the advice of the Executive Council. The decision to enter into treaty negotiations is made at Ministerial or Cabinet level.
- 2.6 Although the Commonwealth Parliament has no formal constitutional role in the treaty making process, if implementing legislation is required it does have the power under section 51 (xxix) and the external affairs power to provide that legislation. Although this is not part of the ratification process, it has provided the Parliament with the opportunity to scrutinise and debate international agreements.

### To 1963

- 2.7 In 1935 the Department of Foreign Affairs and Trade (DFAT) stated that it was 'now the practice for all international agreements entered into in respect of the Commonwealth to be brought to the notice of the Commonwealth Parliament'.<sup>1</sup> However, agreements could be laid before the Parliament at any stage in the treaty making process and may already have been signed, ratified or acceded to beforehand, depending on the nature of the agreement.
- 2.8 Between 1919 and 1963 the formal approval of the Parliament was sought for 55 treaties.<sup>2</sup> The treaty text was usually annexed to the Act in the schedule.<sup>3</sup> The first of these treaties was, of course, the Treaty of Versailles (*Treaty of Peace between the Allied and Associated Powers and Germany*) which included the *Covenant of the League of Nations* and the *Constitution of the International Labour Organisation*. Prime Minister Hughes moved that the House approve the Treaty on 10 September 1919 and it was debated on 17 September 1919. There was no resolution to approve the Treaty but the consequent Act states that a copy of the Treaty was 'laid before each House of the Parliament'.<sup>4</sup>
- 2.9 Throughout the 1930s a dozen treaties came before the Parliament for approval, mainly trade agreements. In the 1940s the peace treaties

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1 Department of Foreign Affairs and Trade, *Australian Treaty Series 1935 No 27*, p. 6, <<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1935/27.html>> viewed 23 December 2015.

2 Gunther Doeker, *The Treaty-Making Power in the Commonwealth of Australia*, Martinus Nijhoff, The Hague, 1966, p. 138.

3 Doeker, *The Treaty-Making Power in the Commonwealth of Australia*, p. 138.

4 *Treaty of Peace*, preamble.

generated by the conclusion of the Second World War were considered by the Parliament as were treaties setting up United Nations' agencies. By the 1950s and 1960s the treaties were becoming more diverse.

- 2.10 In the early stages the relevant act usually states that the treaty is 'hereby approved' but as time progressed the purpose and wording shifted slightly.<sup>5</sup> In 1944 the *United Nations Food and Agriculture Organization Act* provided for the Parliament to approve future amendments, embedding the need for Parliamentary approval.<sup>6</sup> Several acts specifically approved the ratification of the treaty concerned.<sup>7</sup> The purpose of the *Indus Basin Development Fund Agreement* in 1960 was to enable appropriation of funds to fulfil Australia's obligations and the *Antarctic Treaty Act* was to 'give effect to' the Treaty.<sup>8</sup>
- 2.11 The practice of ratifying treaties without the approval of the Parliament did not go unchallenged. For example, in 1944 the Opposition questioned whether or not the Parliament would have the opportunity to ratify the *Australian-New Zealand Agreement* when it was tabled in the Parliament. In his reply the Attorney-General and Minister for External Affairs, the Hon Dr Evatt, said that the agreement provided for ratification by the Government of both countries but not by the Parliament, adding that such a provision would be unusual.<sup>9</sup> The treaty had in effect already been ratified by the Australian and New Zealand Governments and come into force. However, the Government were aware of the importance of the treaty and saw value in it coming before the Parliament for discussion.<sup>10</sup>
- 2.12 The following day the Minister tabled the agreement in the Parliament, emphasising that the prerogative power for treaty making resided with the King, the Executive government had the power to bind the country by treaty and that, in this instance, parliamentary authority was not required to ratify the treaty. However, he conceded that parliamentary cooperation was required if an agreement 'lays a pecuniary charge upon the people or ... alters the law of the land'.<sup>11</sup> Although the value of the exercise was questioned if the Parliament was 'impotent to deal with' treaties, the Government argued that the process allowed the Parliament to be kept informed of the progress of negotiations and of Government policy.<sup>12</sup>

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5 *Trade Agreement (Belgium) Act 1936*, s 2; *Trade Agreement (Czechoslovakia) 1936*, s 2.

6 *United Nations Food and Agriculture Organization Act 1944*, s 4(2).

7 *Genocide Convention Act 1949*, s 4; *South East Asia Collective Defence Treaty*, s 3.

8 *Antarctic Treaty Act 1960*.

9 HR Deb (09.02.1944) 23.

10 HR Deb (10.02.1944) 72.

11 HR Deb (10.02.1944) 71.

12 HR Deb (10.02.1944) 72.

## 1961–1996

- 2.13 In 1961 Prime Minister Menzies committed the Executive Government to tabling treaties in the Parliament at least twelve sitting days before ratification or accession:
- ... the Government as from the next parliamentary session proposes as a general rule to lay on the tables of both Houses, for the information of honourable members and senators, the text of treaties signed for Australia, whether or not ratification is required, as well as the texts of treaties to which the Government is contemplating accession.<sup>13</sup>
- 2.14 Prime Minister Menzies reiterated that treaty making was the prerogative of the Executive Government, but said it was appropriate that the Parliament be fully informed about treaties under consideration and given the opportunity 'to draw attention to any relevant considerations prior to ratification or accession'.<sup>14</sup> He tabled six treaties on the day, cautioning that the Government may have to act on these treaties during the upcoming parliamentary recess, but offering an assurance that in future the new procedure would be followed.<sup>15</sup>
- 2.15 This practice held during the 1960s and early 1970s. However by the late 1970s treaties were being tabled in bulk every six months, often after they had been ratified or come into force. For example, on 11 September 1980 44 treaties were tabled at one time, covering treaties signed or ratified in 1979 and 1980. Of these only four were not yet in force, 26 were already in force and 2 had been ratified. The Government was still considering the remaining 12.<sup>16</sup>
- 2.16 By the early 1990s, treaties were being tabled every six months with an average of 50 treaties tabled annually. The commitment to table treaties 12 sitting days before ratification had been virtually discarded. Large batches of treaties were tabled from time to time. For example on 18 October 1995 over one hundred treaties were tabled on the one day.<sup>17</sup> Of 36 treaties tabled in the Senate on 30 November 1994, 7 of the 11 bilateral treaties had already come into effect and 16 of the 25 multilateral treaties tabled had already been ratified or acceded to.<sup>18</sup>

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13 HR Deb (10.05.1961) 1693.

14 HR Deb (10.05.1961) 1693.

15 HR Deb (10.05.1961) 1694.

16 HR Deb (11 and 12.09.1980) 1657–1660; SJ 1980-09-11/1506–9.

17 VP 1995-10-18/2473–5; SJ 1995-10-18/3946–8. See also S Deb (18.10.1995) 2081.

18 SJ 1994-11-30/2595–8. The treaties were tabled in the House of Representatives on 5 December 1994 (see VP 1994-12-05/1631–4.)

## Proposals for reform

2.17 As early as the 1930s the perceived need for parliamentary oversight of the treaty making process was being considered.<sup>19</sup> However it was not until the 1980s that regular proposals began to be put forward to change the process in Australia, reflecting the impact of internationalisation on domestic law. Australia was becoming a signatory to a growing number of international agreements, largely initiated by the United Nations. The commitments within these treaties were increasingly affecting the lives of ordinary Australians; particularly in the areas of work, civil and economic rights and the environment.<sup>20</sup>

2.18 In the 1990s there was mounting concern that the executive's prerogative power for treaty making could no longer be justified, and calls for parliamentary participation in the scrutiny and approval of treaties:

Law-making in Australia was always been subject to the approval of a popularly elected representative assembly, namely the Federal parliament. The fact that treaty making was considered separately was due to circumstances which applied then, but not today. In particular:

- treaties no longer only govern relations between states; they frequently have implications for the rights and obligations of citizens within states;
- Britain no longer has ultimate responsibility for the conduct of our international affairs, and
- there is growing popular pressure for greater executive accountability, which has implications for the evolution of our system of democracy.<sup>21</sup>

2.19 The lack of parliamentary involvement in the process was perceived as creating a 'democratic deficit':

... there is a real deficit wherever rights and obligations are imposed on Australian citizens, under international law, without Parliament's consent. There is no popularly elected assembly which is empowered to approve, amend or reject the imposition of that obligation. That is a clear and unjustified democratic deficit.<sup>22</sup>

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19 N.D. Campbell, 'Australian Treaty Practice and Procedure', in *International Law in Australia*, ed K.W. Ryan, The Law Book Company Limited, North Ryde, 1984, p. 54.

20 S Deb (02.05.1996) 236-7.

21 S Deb (31.05.1995) 661.

22 S Deb (31.05.1995) 663.

## 1983

- 2.20 A significant challenge to the existing treaty making process came in 1983. The Commonwealth Government used the external affairs power contained at section 51(xxix) of the Australian Constitution to stop the building of a hydro-electric dam on the Franklin River in Tasmania. The Government claimed it had the power to take this action using legislation generated by obligations under the UN *Convention Concerning the Protection of the World Cultural and Natural Heritage*.<sup>23</sup>
- 2.21 Senator Harradine, a Tasmanian Senator, introduced a notice of motion into the Senate on 23 August 1983 to establish a Senate standing committee to consider and report on all treaties laid before the Senate as well as other treaties 'to which the Committee may have access'. The proposed committee was to report on:
- whether Australia should undertake to be bound by that treaty if that treaty is not already binding upon Australia, and
  - the effect which Australia's being bound by that treaty has or would have upon the legislative powers and responsibilities of the Australian States.<sup>24</sup>
- 2.22 The motion was never moved but was reintroduced in each session after 1983.<sup>25</sup>

## 1994–95

- 2.23 In 1994 the Australian Democrats introduced the Approval of Treaties Bill which proposed a system for parliamentary scrutiny of treaties based on the disallowance procedures for delegated legislation.<sup>26</sup> In her second reading speech, Senator Bourne identified the growing importance of treaties and the increased need for executive accountability in the treaty making process:

The Democrat's reason for introducing this bill is to make the Government more accountable in its conduct of our international relations. Global interdependence is growing rapidly, and it is a strange anachronism that Parliament has no say over the signing of treaties which can be of momentous significance to Australia.<sup>27</sup>

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23 *Commonwealth v State of Tasmania* (1983) 158 CLR 1.

24 SJ 1983-08-23/205.

25 Harry Evans and Rosemary Laing, eds, *Odger's Australian Senate Practice*, Department of the Senate, Canberra, 13<sup>th</sup> edition, p. 576.

26 S Deb (29.06.1994) 2207.

27 S Deb (29.06.1994) 2206.



2.24 Senator Bourne introduced a revised version of the Bill in 1995, correcting some technical problems and adding a requirement for a treaty impact statement. Additionally, the Senator proposed the creation of a Selection of Bills and Treaties Committee 'to streamline the reference of tabled treaties to legislation committees for inquiry'.<sup>28</sup>

2.25 The Bill proposed the following procedure for Parliamentary scrutiny of treaties:

Under the Bill the Minister would be required to publish a declaration in the Gazette when it was proposed that Australia enter into a treaty. In addition, the treaty would then have to be tabled in each House of Parliament within 15 sitting days of gazettal (Clause 5(2)). The members of each House would then have fifteen sitting days to give a notice of motion requesting that the treaty be considered by that House. If no notice of motion was given within the 15 sitting days, the treaty would be deemed to have been approved (Clause 6). If a notice of motion was given, no action could be taken by the executive to bring the treaty into effect until the treaty had been approved by the relevant House of the Parliament. If the treaty was not approved, then the executive would not have the power to enter into the treaty. Provision was also made for approval of reservations to treaties (Clause 9).<sup>29</sup>

2.26 In October 1994 the Government announced its intention to supplement the twice yearly tabling of treaties with further information and to 'wherever possible' table 'all treaties, other than sensitive bilateral ones, before action is taken to adhere to them'.<sup>30</sup> However, the Government did not commit to waiting for a specific period of time before proceeding to finalise ratification or accession, clearly delineating the role of the Executive and Parliament in the treaty making process:

But tabling treaties is not intended to be an exercise in ascertaining parliament's views about whether or not Australia should become

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28 S Deb (31.05.1995) 661.

29 Glen Cranwell, 'The Case for Parliamentary Approval of Treaties in Australia', *Murdoch University Electronic Journal of Law*, vol 8, no. 4, December 2001, <<http://www.austlii.edu.au/au/journals/MurUEJL/2001/25.html#n69>>, viewed 5 January 2016. Although the Bill was not passed it was restored to the Notice Paper in May 1996, November 1998 and February 2002.

30 Senate Legal and Constitutional References Committee, *Trick or Treaty? Commonwealth Power to Make and Implement Treaties*, November 1995, p. 97, <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/pre1996/treaty/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/pre1996/treaty/report/index)> viewed 6 January 2016.

a party. That decision is the responsibility of the executive under the Constitution, and it will remain so.<sup>31</sup>

2.27 As a result of the ongoing debate triggered by the concerns over the lack of parliamentary scrutiny of the treaty making process, in December 1994 the Senate asked the Legal and Constitutional References Committee to inquire into the Commonwealth's treaty making power and the external affairs power. The terms of reference were:

The meaning and operation of section 51(xxix) of the Constitution with particular reference to:

- a) the Commonwealth Parliament's function in ratifying international treaties and conventions entered into by the Australian Government;
- b) the Commonwealth Parliament's role in ensuring that the management of such treaties and conventions by the Executive is consistent with the spirit and intent of the Constitution;
- c) the means by which the Commonwealth Parliament pursuant to section 51(xxix) of the Constitution should regulate the Federal Government's power with respect to implementation of treaties and conventions which have been entered into;
- d) the extent to which it is desirable to proscribe the Federal Government's executive power to enter into such conventions and treaties; and
- e) the operation of equivalent external affairs powers by other federations.<sup>32</sup>

2.28 The Committee held public hearings in all the capital cities (except Darwin) and received 157 submissions. The main issues raised over the course of the inquiry were:

- the impact of international treaties on the federal system of Government in Australia;
- the impact of treaties on the sovereignty of Australia;
- the degree of consultation prior to joining international treaties; and
- the respective roles that the Parliament and the Government should play in the decision to enter into treaties.<sup>33</sup>

2.29 The Committee's unanimous Report contained 11 recommendations with five main objectives:

31 *Senate Estimates Hansard*, Foreign Affairs, Defence and Trade, 29 November 1994, <[http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2Fecomw941129a\\_sfa.out%2F0017;query=Id%3A%22committees%2Festimate%2Fecomw941129a\\_sfa.out%2F0000%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2Fecomw941129a_sfa.out%2F0017;query=Id%3A%22committees%2Festimate%2Fecomw941129a_sfa.out%2F0000%22)> viewed 7 January 2016.

32 SJ 1994-12-08/2760.

33 *Trick or Treaty?*, p. 23.

- to increase the information available to the public about treaty making;
- to improve consultation with the States in relation to treaty making;
- to improve consultation with the public, industry and interested groups in relation to treaty making;
- to strengthen the role of Parliament in relation to treaty making; and
- to put forward a mechanism which can accommodate the federal system.<sup>34</sup>

2.30 Recommendations 8–11 directly addressed the role of parliamentary scrutiny in the overall treaty making process. At Recommendation 8, the Committee recommended that all treaties (both bilateral and multilateral) be tabled in both Houses of Parliament at least 15 sitting days prior to Australia entering into them (whether by signature or ratification). Urgent or sensitive treaties could be exempted from tabling prior to Australia becoming a party to the treaty but must be tabled as soon as practicable afterwards, with a statement setting out the reasons for the decision.<sup>35</sup>

2.31 The Committee recommended that a Joint Parliamentary Committee on Treaties be established with the following functions and powers (Recommendation 9):

- the function of inquiring into and reporting on any proposals by Australia to ratify or accede to any treaty, proposed treaty, or other international instrument or proposed international instrument, including whether Australia should become a party to the treaty or instrument;
- the function of inquiring into and reporting on whether Australia should make any reservations or declarations upon ratification or accession to any treaty;
- the function of inquiring into and reporting on any other proposed treaty action, such as the removal of a reservation, or the making of a declaration which subjects Australia to additional obligations under a treaty;
- the function of inquiring into and reporting on treaties to which Australia is already a party, including the method of their implementation and how they should be dealt with in the future;
- the function of scrutinising treaty impact statements;
- the power to hold public hearings and hold hearings in camera;
- the power to call for documents and witnesses; and

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34 *Trick or Treaty?*, p. 300.

35 *Trick or Treaty?*, p. 266.

- the power to commence an inquiry into a treaty, proposed treaty, international instrument, proposed international instrument, or any other treaty action, at any time, regardless of whether it relates to a document that has been tabled in the Parliament.<sup>36</sup>

2.32 Further, the Government was to provide and table a treaty impact statement to assist the Committee in its deliberations (Recommendation 10). The statement should address the following matters:

- reasons for Australia being a party to the treaty;
- any advantages and disadvantages to Australia of the treaty entering into force in respect of Australia;
- any obligations which would be imposed on Australia by the treaty;
- any economic, social, cultural and environmental effects of the treaty, of the treaty entering in force in respect of Australia, and of the treaty not entering in force in respect of Australia;
- the costs to Australia of compliance with the treaty;
- the likely effects of any subsequent protocols to the treaty;
- measures which could or should be adopted to implement the treaty, and the intentions of the government in relation to such measures, including legislation;
- the impact on the Federal-State balance of the implementation of the treaty; and
- whether the treaty provides for withdrawal or denunciation.

2.33 However, the Committee stopped short of recommending that parliamentary approval of treaties be required (Recommendation 11). It considered that treaty approval legislation would have implications for sensitive security or defence treaties and that a means would be required to deal with urgent treaties. Instead, the Committee recommended that the question of legislative approval be referred to the proposed Treaties committee.<sup>37</sup>

## 1996 Reforms

2.34 The Legal and Constitutional References Committee's Report was tabled on the second last sitting day of the 37<sup>th</sup> Parliament. On the third sitting day of the 38<sup>th</sup> Parliament, the new Government tabled the Government Response to the Report and initiated reforms to the treaty making process.

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36 *Trick or Treaty?*, p. 267.

37 *Trick or Treaty?*, p. 299.

The Government accepted all but one of the recommendations and committed to immediate action on recommendations 8-10.

2.35 All treaties would be tabled in the Parliament at least 15 sitting days before the Government took definitive treaty action on each treaty. A Joint Standing Committee on Treaties would be set up by way of a resolution of both Houses. A National Interest Analysis would be prepared and tabled for each treaty which Australia intended becoming a party to.<sup>38</sup>

2.36 The Government would also action Recommendation 11 by reviewing the initiatives taken to reform the treaty making process after two years of operation:

The government considers that it would be sensible to review the experience to be gained from the establishment of a Joint Committee and the implementation of other recommendations before moving to consider the need for an approval or disallowance procedure.<sup>39</sup>

2.37 Accordingly the Government introduced a motion proposing the establishment of a Joint Standing Committee on Treaties to the House of Representatives on the 21 May 1996 and into the Senate on 22 May 1996.<sup>40</sup>

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38 S Deb (02.05.1996) 222-5.

39 S Deb (02.05.1996) 225.

40 VP 1996-05-21/134-5; SJ 1996-05-22/198-9.



## Joint Standing Committee on Treaties

### Introduction

- 3.1 The Joint Standing Committee on Treaties (JSCOT) met for the first time on 17 June 1996. Mr W L Taylor MP (LP, QLD) was elected Chair and Mr R B McClelland MP (ALP, NSW) Deputy Chair.
- 3.2 The Committee developed and refined a process for considering treaty actions tabled in the parliament and reporting its findings to the parliament. Over the past twenty years it has considered over 800 treaty actions and delivered 160 reports.
- 3.3 This chapter discusses the establishment of the Committee and provides an overview of the way the Committee goes about its work.

### Resolution of Appointment

- 3.4 As discussed in the previous chapter, the Resolution to establish JSCOT was introduced to the House of Representatives on 21 May 1996 and the Senate on 22 May 1996.<sup>1</sup> After some amendments from the Senate to membership and quorum requirements, the Resolution was passed by the House of Representatives on 30 May 1996.<sup>2</sup> Consequently the Resolution has been adopted by each succeeding parliament.
- 3.5 The Resolution provided for 16 members of the Committee, 9 from the House of Representatives and 7 from the Senate. A Government member

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1 VP 1996-05-21/134-5; SJ 1996-05-22/198-9.

2 SJ 1996-05-29/262-4; VP 1996-05-30/234-5.

was to be elected Chair and a non-Government member elected Deputy Chair. The Committee was to inquire into and report on:

- (a) matters arising from treaties and related National Interest Analyses and proposed treaty actions 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 matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.<sup>3</sup>

3.6 The only change to the powers of inquiry in the current Resolution of Appointment are that the words ‘and related Explanatory Statements’ has been added to (a).<sup>4</sup>

3.7 The Resolution provides the Committee with the power to seek private informal briefings on treaties under negotiation and related matters or to seek a reference from a Minister or either House of the Parliament to conduct a formal inquiry into a treaty under negotiation or other relevant subject.

## The Committee’s process

### Tabling of treaties in Parliament

3.8 Major treaty actions are classified into three categories. The category determines how the treaty will be treated by JSCOT:

- **Category 1** treaties are all treaties that do not fall into Category 2 or minor treaty actions as listed below. These treaties are tabled for 20 joint sitting days (that is, days when both Houses of Parliament – the House of Representatives and the Senate – sit). Twenty sitting days may equate to several calendar months.
- **Category 2** treaties are for the most part uncontroversial in nature and relatively routine in form (often based on a standard ‘template’ agreement), and are tabled for 15 joint sitting days.
- **Category 3** treaties or minor treaty actions that do not impact significantly on the national interest and would be likely to have

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3 VP 1996-05-21/134.

4 VP 2013-11-21/122; SJ 2013-12-02/183.



negligible financial or legal effect within Australia. Minor treaty actions are usually insignificant amendments to treaties to which Australia is already a party.

Minor treaty actions are not tabled, but they are referred to JSCOT, together with a one page Explanatory Statement which describes the practical and legal effect of the particular treaty action in question and why it is considered likely to have negligible impact.

JSCOT does not usually conduct a public inquiry into minor treaty actions, but considers such treaties at its private meetings and its decisions are published in its reports. JSCOT may however decide to conduct a public inquiry on a minor treaty action or it may ask that the treaty be treated as a major treaty action in which case an NIA will need to be prepared and the treaty tabled.<sup>5</sup>

## The public inquiry process

- 3.9 When a treaty is tabled in the Parliament, the Committee calls for submissions from interested parties and determines a public hearing program. It invites the Government departments or agencies responsible for the treaty's implementation to give evidence before the Committee, as well as other expert witnesses and affected stakeholders. The Committee also advises nominated representatives in State and Territory governments and invites submissions.
- 3.10 Public hearings are held usually in Canberra but the Committee may travel to other locations if it sees fit, particularly if a treaty is controversial or has attracted wide public interest.
- 3.11 Occasionally the Committee will conduct a site visit to better educate its Members and understand the implications of the treaty for relevant stakeholders. An interesting early example was a visit to the Army Engineering Centre at Moorebank, NSW, during the Committee's inquiry into Protocol IV and amendments to Protocol II of the Inhumane Weapons Convention<sup>6</sup> in December 1996. To aid their understanding of the issues under consideration, the Committee witnessed a demonstration of landmines and their technologies:

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5 Treaties Secretariat, Department of Foreign Affairs and Trade, *Signed, Sealed and Delivered: Treaties and Treaty Making: Officials' Handbook*, 14<sup>th</sup> edition, Canberra, August 2014, pp.34–35.

6 The full title of the Convention is *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects*.

The demonstration included marking of a minefield, observing a mine detection team in action, detonation of a landmine and watching a dog detect explosives under the direction of a handler.<sup>7</sup>

## Reporting

- 3.12 The Committee prepares a report incorporating the evidence it has collected and the Chair tables the report in the Parliament, usually the House of Representatives. The report is tabled in the Senate shortly afterwards.
- 3.13 Other Members of the Committee may speak to the report when it is tabled. If the treaty implementation calls for changes to Australian legislation, the report may be referred to during the legislative debate.
- 3.14 Reports are published on the Committee's website and are available electronically or in hardcopy. All of the Committee's past reports are now available electronically on the website.

## Government responses

- 3.15 The Government is expected to respond to the Committee's recommendations, where required, within three months.<sup>8</sup> Even when the Committee supports the ratification of a treaty it may make recommendations within the report that require a Government response.

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<sup>7</sup> JSCOT, *Restrictions on the use of Blinding Laser Weapons and Landmines: 5<sup>th</sup> Report*, February 1997, p. 2.

<sup>8</sup> The Senate requires the Government to respond to recommendations within three months (Senate SO C42(1)), the House of Representatives within six months (House of Representatives Resolution 29 September 2010).

## Summary of activity

### Introduction

- 4.1 This chapter describes the most important activities of the Joint Standing Committee on Treaties (JSCOT) for each Parliament since it was established, and shows the evolution and development of JSCOT's practice. Some challenges recur throughout the Parliaments – such as the pressure to report quickly so the government can take action, and the concerns of the public about being excluded from the treaty negotiation process. Other matters have become more prominent in later years with the rise of bi-lateral trade treaties, and increased concerns about the climate and the environment.
- 4.2 The bulk of the treaties that JSCOT have examined in the last twenty years have been non-controversial. The most common recommendation from JSCOT is that binding treaty action be taken. This chapter focusses on the less common treaties; the ones that show the importance of Parliamentary oversight, and how the Committee has fulfilled its scrutiny role.

### 38th Parliament

- 4.3 The 38th Parliament, with a Coalition majority, opened on 30 April 1996. The Minister for Foreign Affairs introduced revised procedures for treaty-making on 2 May 1996, including the creation of the Joint Standing Committee on Treaties.<sup>1</sup> The resolution creating the Committee passed the House on 30 May 1996 and the Senate on 31 May 1996.

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1 HR Deb (02.05.1996) 231-5.

## First Report

- 4.4 The Committee tabled its first report on 9 September 1996, covering 25 treaties that had been tabled between 21 May and 18 June 1996. The report raised a number of process issues that had become apparent as the Committee settled into its role.
- 4.5 The Committee recommended that more information be included in the National Interest Analysis (NIA) including the legal effects and potential areas of conflict with State and Territory laws. It also wanted specific details of the consultation process, including organisations and individuals consulted and how much consultation had taken place. The Commonwealth department or agency with primary carriage for a particular treaty was to be identified in the NIA and relevant contact details supplied. The Committee included a suggested template for the NIA at Appendix 2 of the report.<sup>2</sup>
- 4.6 The Committee had become aware during its first inquiries that the 15 sitting days tabling timeframe 'could be insufficient for an inquiry and report to Parliament before binding treaty action is taken'.<sup>3</sup> Consequently the Committee determined to advise the Minister for Foreign Affairs as early as practicable after each tabling of treaties that:
- it does not propose to comment on specific treaties within a group which has been tabled;
  - it expects to table a report commenting on a treaty or other treaties in that group on a particular date; and
  - if it is not possible to report within the 15 sitting day period on a particular treaty or treaties in a group, that a report will be tabled as soon as practicable.<sup>4</sup>
- 4.7 Importantly the Committee made it clear that it expected that binding treaty action would not be taken until it had tabled its report. The Minister agreed to the proposal, noting that the process should not be necessary often and that 'the Government would accommodate requests for delays to taking binding action where compatible 'with national interests''.<sup>5</sup>
- 4.8 The Minister also clarified that there was nothing in the Committee's Resolution of Appointment 'to prevent it inquiring into completed treaty actions which had been tabled in Parliament'. The Committee therefore resolved to inquire into and report on the United Nations *Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or*

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2 Joint Standing Committee on Treaties (JSCOT), *First Report*, August 1996, pp. 3-4 and 19-20.

3 JSCOT, *First Report*, p. 4.

4 JSCOT, *First Report*, p. 4.

5 JSCOT, *First Report*, p. 4.

*Desertification*. Australia had signed the Convention on 14 October 1994 and it had been tabled in Parliament on 5 December 1994.<sup>6</sup>

## Urgent consideration - the National Interest Exemption

- 4.9 When the then Minister for Foreign Affairs, the Honourable Alexander Downer, introduced the treaty making reforms in 1996, he included provision to accommodate urgent treaty action in the case of exceptional circumstances. Such treaties would be exempt from the usual requirement to be tabled in Parliament at least 15 sitting days before the Government takes binding treaty action.<sup>7</sup> However, any treaty given the exemption was to be tabled as soon as possible together with an explanation of the reasons for the urgent action. The Government undertook to use the provisions 'sparingly and only where necessary to safeguard Australia's national interests, be they commercial, strategic or foreign policy interests'.<sup>8</sup> The process has become known as a National Interest Exemption (NIE).
- 4.10 The first treaty designated 'urgent' under the new procedures was examined in the Committee's first report. The *Subsidiary Agreement between the Government of Australia and the Government of Japan Concerning Japanese Tuna Long-Line Fishing* was signed on 29 May 1996, tabled on 18 June 1996 and came into force before the Committee tabled its first report. The negotiations had been delayed and the Agreement would have collapsed if the requirement for it to be tabled for 15 sitting days had been enforced.<sup>9</sup>
- 4.11 The Committee understood the reasons for the need for urgent action in this case but noted the assurance of the Ministers concerned that, in future, similar agreements would be processed in time to meet the new tabling procedures.<sup>10</sup>
- 4.12 However, the Committee warned it would not accept abuse of the provisions for exemption:

The Committee views with concern any attempt to manipulate timetables or any tardiness in finalising agreements that cause Ministers to have no option but to declare a treaty to be urgent, circumventing the new procedures for Parliamentary scrutiny.<sup>11</sup>

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6 JSCOT, *First Report*, p. 5.

7 This later became 20 joint sitting days for Category 1 treaty actions and 15 joint sitting days for Category 2 treaty actions (see paragraph 4.73 below).

8 HR Deb (02.05.1996) 232-3.

9 JSCOT, *First Report*, pp. 14-15.

10 JSCOT, *First Report*, p. 15.

11 JSCOT, *First Report*, p. 15.

## Agreement with Kazakhstan

- 4.13 The *Agreement between the Government of Australia and the Government of the Republic of Kazakhstan on Economic and Commercial Cooperation* was tabled in the Parliament on 26 August 1997. The Committee held an initial public hearing into the treaty action on 1 September 1997. At the time Telstra Australia was involved in a joint venture with Kazakh-Telecom to supply telecommunication services to multi-national companies operating in Kazakhstan.<sup>12</sup> Following the hearing reports appeared in the media of the revocation of Telstra Corporation's licence to operate in Kazakhstan. On the basis of the issues raised, the Committee decided to re-open its inquiry into the Agreement and recall the relevant Departments and invite Telstra Corporation to appear.<sup>13</sup>
- 4.14 Kazakhstan had only recently become an independent republic and was in the process of moving from a centrally planned economy to an independent market economy. Business conditions in the country remained difficult with widespread corruption and little in the way of commercial frameworks. Telstra experienced severe difficulties when the law changed and it had trouble re-registering the company.<sup>14</sup>
- 4.15 The information regarding Telstra's problems was not included in the NIA. The Committee considered that the information provided at the time of the original hearing was 'seriously deficient'.<sup>15</sup> Additionally, two-way trade between Australia and Kazakhstan amounted to only \$2.11 million annually. Further, the Committee received no evidence that stakeholders outside Government agencies had been consulted about the Agreement.<sup>16</sup>
- 4.16 Consequently, for the first time the Committee declined to recommend ratification of a treaty action. The Committee recommended that:
- Australia not ratify the proposed Economic and Commercial Agreement with Kazakhstan at this time;
  - the Agreement should not be reconsidered for ratification unless and until there are demonstrations by Kazakhstan of good faith in its trade and investment relations with Australia, in particular appropriate compensation for Telstra; and
  - should the situation change in Kazakhstan, and before a decision is made to ratify such an Agreement, a revised National Interest Analysis should be tabled in both Houses of

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12 JSCOT, *Eleventh Report*, November 1997, p. 10.

13 JSCOT, *Eleventh Report*, p. 1.

14 JSCOT, *Eleventh Report*, pp. 10-11.

15 JSCOT, *Eleventh Report*, p. 13.

16 JSCOT, *Eleventh Report*, pp. 13-14.

the Parliament including the reasons for the new circumstances.<sup>17</sup>

- 4.17 The Agreement was not returned to the Committee until late 2003. At that time, the Committee reluctantly recommended ratification but questioned the value of the Agreement and noted that it appeared to provide little benefit to Australia.<sup>18</sup>

## Multilateral Agreement on Investment

- 4.18 On 5 March 1998, the then Minister for Foreign Affairs, the Hon Alexander Downer MP, referred the proposed Organisation for Economic Co-operation (OECD) *Multilateral Agreement on Investment* (MAI) to the Committee for consideration requesting the Committee to inquire and report on:

- the potential consequences for Australia arising from the matter known as the MAI.<sup>19</sup>

- 4.19 On 9 March 1998, the Senate also referred the same matter to the Committee with more specific terms of reference. The Committee decided that the Minister's and Senate's terms of reference were not mutually exclusive and determined to investigate the matter in one inquiry.<sup>20</sup> The Committee was asked by the Minister to deliver an interim report by 25 May 1998 and by the Senate to deliver a full report by 25 May 1998. The Committee considered that the Senate timeframe was unreasonable and elected to provide an interim report by the required date and a more complete report after further deliberation.<sup>21</sup>
- 4.20 It was the first occasion on which the Committee received a referral regarding a *draft* treaty. The proposed treaty was generating considerable public concern and the Committee received 792 submissions by the time of the Interim Report. The Committee concluded that, as it stood, the proposed treaty was not in the national interest and recommended that it not be signed 'unless and until' a further thorough assessment was made.<sup>22</sup>
- 4.21 The inquiry lapsed at the end of the 38<sup>th</sup> Parliament but the Committee reopened it in the 39<sup>th</sup> Parliament and provided a full report in March 1999. In the meantime, the OECD had ceased negotiations on the MAI in late 1998 and instead turned its attention to developing an international

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17 JSCOT, *Eleventh Report*, pp. 15–16.

18 JSCOT, *Report 56: Treaties tabled n 8 October 2003*, November 2003, pp.13–14.

19 JSCOT, *Multilateral Agreement on Investment: Interim Report: 14<sup>th</sup> Report*, May 1998, p. 2.

20 JSCOT, *Multilateral Agreement on Investment: Interim Report*, p. 3.

21 JSCOT, *Multilateral Agreement on Investment: Interim Report*, pp. 2–4.

22 JSCOT, *Multilateral Agreement on Investment: Interim Report*, p. 16.

framework of rules for investment. However, the Committee believed that the 'issues it raised, and the concerns it generated in the Australian community' warranted its attention.<sup>23</sup>

- 4.22 The Final Report provided an opportunity to examine the broader issues surrounding globalisation and foreign direct investment and to canvas the concerns of the Australian public and stakeholders. Overall, the inquiry received 904 submissions and 75 exhibits, and held six public hearings.

## OECD Convention on Combating Bribery

- 4.23 The *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (the Convention) was tabled in the Parliament on 3 March 1998. The Convention required implementing legislation and the then Minister for Justice, the Hon Amanda Vanstone, referred the draft enabling legislation to the Committee for consideration concurrently with the treaty.<sup>24</sup>
- 4.24 This was the first time that the Committee was asked to undertake such an inquiry. The Minister subsequently appeared before the Committee to give evidence, also a first.<sup>25</sup>
- 4.25 At the suggestion of the Committee, the Government held off introducing the draft legislation into the Parliament until the Committee had completed its inquiry and tabled its report.<sup>26</sup> The Committee supported ratification of the Convention but made a number of recommendations to amend the draft legislation, some of which were adopted by the Government.<sup>27</sup>

## UN Convention on the Rights of the Child

- 4.26 The *United Nations Convention on the Rights of the Child* was ratified by Australia in 1990. The impact of the Convention on Australian law as a result of the High Court's decision in the *Teoh*<sup>28</sup> case contributed to the eventual 1996 reforms to the treaty making process in Australia. The

23 JSCOT, *Report 18: Multilateral Agreement on Investment: Final Report*, March 1999, p. 3.

24 JSCOT, *OECD Convention on Combating Bribery and Draft Implementing Legislation: 16<sup>th</sup> Report*, June 1998, pp. 2-3.

25 JSCOT, *OECD Convention on Combating Bribery*, p. 4.

26 JSCOT, *OECD Convention on Combating Bribery*, p. 2.

27 JSCOT, *OECD Convention on Combating Bribery*, pp. xi-xiii; Government Response to the Joint Standing Committee on Treaties Report 'OECD Convention on Combating Bribery and Draft Implementing Legislation', 11 March 1999, <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=jscot/reports.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jscot/reports.htm)> viewed 28 January 2016.

28 *Minister for Immigration and Ethnic Affairs v Teoh* [1995] HCA 20 (1995) 183 CLR 273.



significance of the Convention and ongoing public concern prompted the Committee to instigate its first self-initiated inquiry. The Committee decided to inquire into the status of the implementation of the Convention in Australia and identified the following specific issues:

... the lack of consultation directly with the community prior to ratification; the continuing concerns within some sections of the community in relation to the potential infringement of parental rights; some perceptions of a lack of progress in improving the lot of Australia's children; the legislative implications of some recent court decisions; and community concerns about the impact of the Convention on Australia's sovereignty.<sup>29</sup>

- 4.27 The Committee received 764 submissions, 100 supplementary submissions and five petitions containing 164 signatures. Public hearings were held in all States and Territories with 270 witnesses representing 170 organisations or individuals and included a number of children. Additionally, the Committee held informal discussions in Alice Springs and Members visited accommodation sites for homeless children in the area. The Committee also meet with the Chairperson and the Deputy Chairperson of the United Nations Committee on the Rights of the Child to clarify interpretative and other issues relevant to Australia's implementation of the Convention.<sup>30</sup>
- 4.28 The Report ran to over 500 pages (the largest the Committee has produced to date) and contained 49 recommendations. The Report was tabled in August 1998 and the Government Response received on 6 March 2003. The Government agreed to 12 of the recommendations, disagreed with five and had already undertaken four. Of the remaining 28 recommendations, the Government agreed in part to eight of them and noted 20. Of those 20, five were identified as being State and Territory responsibilities.<sup>31</sup>

## Refining process

- 4.29 During the course of the 38<sup>th</sup> Parliament, the Committee actively considered refinements to its work processes, repeatedly identifying two areas of particular concern: the information provided in NIAs and meaningful consultation with relevant stakeholders. In the majority of

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29 JSCOT, *United Nations Convention on the Rights of the Child: 17<sup>th</sup> Report*, August 1998, p. 17.

30 JSCOT, *United Nations Convention on the Rights of the Child*, p. xvii.

31 Government Response to Joint Standing Committee on Treaties' Inquiry into the Conventions on the Rights of the Child', March 2003, <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=jsct/reports.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsct/reports.htm)> viewed 28 January 2016.

reports tabled in the 38<sup>th</sup> Parliament, the Committee made comments or recommendations to address both issues.

- 4.30 As noted above (paragraph 4.5), the Committee discussed both issues in its first report and made recommendations to improve the content of the NIA and the consultation process. Individual inquiries elicited calls for specific information to assist the Committee's deliberations.<sup>32</sup> For example, the Committee took the Australian Taxation Office (ATO) to task over the lack of relevant information provided in the NIA for the Double Taxation Agreement with Vietnam. The Committee eventually obtained the detailed information it required but it unnecessarily extended the inquiry:

Neither the submission nor the second hearing would have been necessary had the ATO included all relevant material in the NIA and/or provided it at the first hearing.<sup>33</sup>

- 4.31 The failure to consult with States and Territories and with organisations and individuals who could be expected to be affected by the implementation of a treaty, was an ongoing irritant to the Committee. The Committee continually reiterated the Foreign Minister's emphasis on consultation when he introduced the 1996 reforms:

[These measures] will also ensure that every Australian individual and interest group with a concern about treaty issues has the opportunity to make that concern known. Consultation will be the key word ...<sup>34</sup>

- 4.32 The Committee was of the opinion that merely informing the States and Territories, or others, that a treaty was under consideration did not meet the requirements for consultation:

This limited approach has clearly become the form of consultation which Departments and agencies regard as acceptable. We believe, however, that it means real and effective discussion with those bodies and individuals with a known or likely interest in the provisions of a particularly treaty.<sup>35</sup>

- 4.33 For example, in its report on the inquiry into the *Australia-Indonesia Maritime Delimitation Treaty*, the Committee commented extensively on the inadequacy of the consultation process, noting that neither the people of East Timor nor the residents of Christmas Island, both of whom would be expected to be significantly affected by the implementation of the treaty,
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32 For example, JSCOT, *Tenth Report*, September 1997, p. 41.

33 JSCOT, *Australia's Withdrawal from UNIDO & Treaties Tabled on 11 February 1997: 7<sup>th</sup> Report*, March 1997, p.24.

34 HR Deb (02.05.1996) 231.

35 JSCOT, *Tenth Report*, p. 7.

had been consulted. Likewise the consultation process with the States and Territories over the treaty appeared insufficient.<sup>36</sup>

- 4.34 The Committee recommended in its first report that the NIA include specific details of the organisations and individuals consulted and the amount and type of consultation undertaken.<sup>37</sup> It reiterated its request throughout the Parliament, emphasising the importance of developing a more comprehensive and inclusive consultation process.

## 39<sup>th</sup> Parliament

- 4.35 The 39<sup>th</sup> Parliament, with a Coalition majority, opened on 10 November 1998. The resolution appointing the Committee passed the House on 3 December 1998 and the Senate on 7 December 1998.

## Kyoto Protocol

- 4.36 The *Kyoto Protocol to the United Nations Framework Convention on Climate Change* (the Protocol) was signed by Australia on 29 April 1998. On 29 June 2000, the Committee resolved to inquire into whether ratification of the Protocol was in Australia's best interest. At the time, the Protocol was not yet in force, having not been ratified by the required number of parties.<sup>38</sup> The Protocol had not been tabled in Parliament.
- 4.37 Given the controversial nature of the Protocol, the Committee undertook an inquiry prior to the treaty tabling. The Committee considered this to be within its Parliament-appointed role 'as a means to exposing proposed treaty actions to public review before a final decision is made'.<sup>39</sup> One hundred and forty-five submissions and 26 exhibits were received during the inquiry. The Committee heard from over forty witnesses in five public hearings and also had discussions with local government and industry in the Latrobe Valley.
- 4.38 The Committee sought expert opinion on threshold questions as to the quantum and cause of climate change, and whether the Protocol measures would stop global warming. In the end Committee members were divided about what action should be taken, asking whether it was better to take some steps, even if they are flawed or ineffective, or wait until further

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36 JSCOT, *Australia-Indonesia Maritime Delimitation Treaty: 12<sup>th</sup> Report*, November 1997, pp. 65–68.

37 JSCOT, *First Report*, p. vii.

38 JSCOT *Report 38: The Kyoto Protocol – Discussion Paper*, April 2001, p. 13.

39 JSCOT *Report 38*, p. 1.

investigation resolves the outstanding issues and then move forward on firmer ground.<sup>40</sup>

- 4.39 There was also a divide over the social, economic and environmental implications of ratifying and implementing the Protocol in Australia. The Committee noted the ‘passionate, often contradictory’ debate about the scale and nature of the impacts. The Committee considered that there would be costs of reducing greenhouse gas emissions, but also new opportunities in energy efficiency or emissions trading. The impact could not be properly estimated until a number of other questions were resolved.<sup>41</sup>
- 4.40 Given these uncertainties the Committee considered that it was not possible to accurately predict the domestic impact of the emissions targets in the Protocol. The Committee was of the view that the final decision about ratification should be withheld until a number of unresolved issues – around the design, scope and implementation of the Protocol – were settled.
- 4.41 The Report did not draw any conclusions or make any recommendations, and was released as a ‘discussion paper’. At the time, the Committee intended to release a further paper later that year.<sup>42</sup> However in September 2001 the Committee decided that there were still too many unresolved issues to be able to give definitive advice to Parliament as to whether Australia should ratify the Protocol.
- 4.42 Eventually, the Protocol was ratified on 12 December 2007, and entered into force for Australia on 11 March 2008. The Protocol was then tabled in Parliament on 25 June 2008, and the Committee conducted another inquiry (see paragraphs 4.111–4.116 below).

## WTO

- 4.43 The largest inquiry of this Parliament – and one of the most comprehensive in the history of the Committee – was examining the many ways that Australia interacts with the World Trade Organisation (WTO). The committee initiated this inquiry on 29 July 2000, and it generated a large public response. The Committee held formal public hearings in five cities, and a further four forums in which members of the public could make a short statement. The Committee also held five round-tables on specific subjects, where experts discussed the issues with each other and the Committee. There were 316 submissions received.

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40 JSCOT, *Report 38*, p. 18.

41 JSCOT, *Report 38*, p. 33.

42 JSCOT, *Report 38*, p. 2.

- 4.44 At the time of the inquiry, the WTO had been in existence for five years. There was a great deal of uncertainty about the advantages of trade liberalisation, whether Australia was fully realising the benefits of the WTO, or even if Australia should be moving towards increased globalisation at all.
- 4.45 While carefully examining the advantages and disadvantages, the Committee considered that globalisation ‘was an ongoing process that cannot be reversed’.<sup>43</sup> Many other issues that would occupy the Committee in the future were first raised in this report; such as the particular issues facing rural and regional areas, how to protect cultural content, the level of consultation during negotiations, how to use dispute settlement schemes, quarantine, food safety, and the role of non-government organisations in international trade negotiations.
- 4.46 The Committee also looked at regional and bi-lateral trade agreements; recommending that Australia pursue the benefits of regional trade agreements, but only ‘if those benefits cannot be advanced expeditiously through other mechanisms’.<sup>44</sup>
- 4.47 The Committee also examined the operations of the WTO itself, and made recommendations on how Australia could act to make the WTO more inclusive. The Committee was concerned about the impact of the WTO on developing nations, particularly specific WTO agreements relating to services and intellectual property. Although the structure of the WTO itself is out of the Committee’s remit, it did consider that there were a number of actions that Australia could take through its aid program to assist developing countries to participate in the WTO and take advantage of the Special and Differential Treatment provisions.<sup>45</sup>
- 4.48 There were 21 recommendations made by the Committee that they considered to be ‘necessary to address concerns and to strengthen Australia’s ability to participate in the WTO’.<sup>46</sup> In its response of 29 August 2002, the government agreed with most of the Committee’s recommendations, advising that many reflect current practice or advocate action that is being taken in another forum or format. The Government did not support the following three specific recommendations, considering that the current framework was sufficient:
- establishing a Parliamentary Committee on Trade Liberalisation;

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43 JSCOT, *Report 42: Who’s afraid of the WTO? Australia and the World Trade Organisation*, September 2001, p. 21.

44 JSCOT, *Report 42*, p. 173.

45 JSCOT, *Report 42*, pp. 188–9.

46 JSCOT, *Report 42*, p. xii.

- establishing a WTO advisory panel of legal advisers with trade expertise for the private profession and academia; and
- advocating the establishment of an Asia-Pacific Regional Centre of the WTO.

## Extradition inquiry

- 4.49 Treaties governing extradition routinely come before the Committee. Although extradition is an essential part of ensuring that alleged criminals do not escape the criminal justice system, it has serious implications for the rights of the accused individual. In 1988, Australia's extradition laws underwent significant reform. In its inquiry into the *Agreement on Extradition between Australia and the Republic of Latvia*,<sup>47</sup> the Committee expressed its concerns about the operation of Australia's extradition arrangements, particularly the 'no evidence' basis of the arrangements established by the 1988 reforms.
- 4.50 On 31 October 2000 the Committee adopted terms of reference for a general inquiry into extradition law, policy and practice in Australia. The Committee received 22 submissions and held four public hearings in Canberra, Melbourne and Sydney.
- 4.51 In its report of August 2001<sup>48</sup> the Committee recommended against continuing the default 'no evidence' model in relation to requests for extradition from Australia. The Committee acknowledged the practical difficulty such a change would cause, and recommended that the Australian Law Reform Commission conduct an inquiry and report to further examine these issues.
- 4.52 The government did not accept this recommendation<sup>49</sup>, arguing that the 'no evidence' standard has allowed Australia to enter into treaties with 31 countries, significantly expanding Australia's extradition network. However in 2005 the Attorney-General's Department commenced a significant review of the extradition and mutual assistance schemes. Exposure drafts of legislation were released in 2009 and 2011 before the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill* was introduced into Parliament in July 2011.
- 4.53 The Bill was referred to the House of Representatives Standing Committee on Social Policy and Legal Affairs. In its report of September 2011, the

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47 JSCOT, *Report 36: An Extradition Agreement with Latvia and an Agreement with the United States of America on Space Vehicle Tracking and Communication*, October 2000.

48 JSCOT, *Report 40: Extradition - a review of Australia's law and policy*, August 2001.

49 Government Response to the Joint Standing Committee on Treaties Inquiry into Australia's extradition law and policy, 13 May 2004, p. 1.

Standing Committee noted the long process of consultation and inquiry, going back to the JSCOT report, and the amendments that had been made to the legislation as a result of that consultation and inquiry. The Standing Committee supported the Bill, stating:

It is the conclusion of the Committee that the Bill achieves an appropriate balance in streamlining processes and maintaining appropriate safeguards in terms of grounds for refusal and the discretionary powers of the Attorney-General.<sup>50</sup>

- 4.54 The 2012 legislative amendments have since formed the basis of Australia's extradition treaties. The Committee continues to examine these treaties and ensure that the framework for extradition processes conform to Australia's human rights and criminal justice standards.

### Seminar – the role of Parliaments in Treaty Making

- 4.55 On 24 and 25 June 1999 the Committee, in association with the Australasian Study of Parliament Group, convened a seminar on the Role of Parliaments in Treaty Making. The seminar was a continuation of the 1996 reforms and a way to continue to 'explore the opportunities that exist for Australian parliaments to become more aware of and involved in the process of treating making'.<sup>51</sup>
- 4.56 The Committee issued a report in August 1999 containing the main issues discussed at the seminar, and setting out proposed ideas for future action. Because the focus of the seminar was on Parliaments – rather than solely the Committee – the discussions and proposals were broad ranging.
- 4.57 A particular emphasis was on including the State and Territory Parliaments in treaty making. The seminar concluded with a proposal for an Inter-Parliamentary Working Group on Treaties to meet regularly to review upcoming treaty actions, in much the same way as Commonwealth and State officials meet in the Standing Committee on Treaties.<sup>52</sup>

### 40<sup>th</sup> Parliament

- 4.58 The 40th Parliament, with a Coalition majority, opened on 12 February 2002. The resolution establishing JSCOT and appointing members passed

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50 House of Representatives Standing Committee Social Policy and Legal Affairs, *Advisory report: Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011*, September 2011, p. 39.

51 JSCOT, *Report 24: The Role of Parliaments in Treating Making*, August 1999, p. 2.

52 JSCOT, *Report 24*, p. 16.

both houses on 14 February 2002 and the Committee held its first meeting on 21 March 2002.<sup>53</sup>

## The Statute of the International Criminal Court

- 4.59 The Statute of the International Criminal Court (ICC) was signed by Australia on 9 December 1998 and tabled in Parliament on 10 October 2000. The ICC was a significant development in international relations; creating a permanent international criminal tribunal to prosecute war crimes, genocide and crimes against humanity.
- 4.60 The Committee considered not only the text of the Statute but the implementing legislation.<sup>54</sup> As drafts of the legislation were not available until mid-2001, the Committee conducted a lengthy inquiry across both the 39th and 40th Parliament. The Committee received 252 submissions and took evidence at six public hearings from February 2001 to April 2002.
- 4.61 Although most of the submissions agreed with the Statute's aims and objectives, there were a number of objections to the structure of the proposed court. The Committee acknowledged the risks, but considered that with careful management those risks were outweighed by the benefits for Australia and for the international community as a whole. In her Foreword to the report, the Chair stated:
- At the beginning of the 21st century, the international community is prepared to take a significant step forward in pursuit of international peace and security. Given international support, the ICC has the potential to be a valuable and effective instrument in that pursuit.<sup>55</sup>
- 4.62 The Committee recommended that Australia ratify the Statute of the ICC, subject to an additional ten recommendations. The additional recommendations were mainly to amend the legislation to address concerns raised during the inquiry about consistency and clarity. In its response of 12 February 2004, the Government accepted eight of the ten recommendations, including all those that related to legislative amendment.

## USA Free Trade Agreement

- 4.63 A major treaty for Australia during the 40<sup>th</sup> Parliament was the free trade agreement with the United States. This was agreed on 8 February 2004,
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53 VP 2002-02-14/40-1; SJ 2002-02-14/96-7.

54 The *International Criminal Court Act 2002* and the *International Criminal Court (Consequential Amendments) Act 2002*

55 JSCOT, *Report 45: Statute of the International Criminal Court*, May 2002, p xi.



tabled in Parliament on 8 March 2004 and signed at Washington on 18 May 2004. The Committee held its inquiry over April and May, and tabled its report on 23 June 2004.

- 4.64 In its report, the Committee noted that the AUSFTA is 'of unprecedented breadth and complexity'.<sup>56</sup> The Committee received 215 submissions and heard from over 105 witnesses in 11 days of public hearings in seven cities. The quantity of evidence and the short time-frame made it the most challenging inquiry – both logistically and intellectually – the Committee had yet conducted.
- 4.65 The Committee considered that ratification was in Australia's best interest, and recommended that Australia take binding treaty action. However the Committee made 22 additional recommendations to address concerns raised during the inquiry. The Committee drafted these recommendations to ensure they were consistent with 'the spirit and text of the Agreement'.<sup>57</sup> In summary groups, the Committee recommended:
- *Process* – more consultation with State and Territory governments.
  - *Review* – the Productivity Commission to conduct a five-year review of the Agreement, a future review to ensure the terminology in the Agreement covers emerging technologies, and a review to be undertaken of the environmental impact of the Agreement.
  - *Clarification* – side letters to clarify the obligations in relation to future mechanisms for dispute resolution.
  - *Policy* – in relation to self-sufficiency in blood products, and pharmaceutical advisory review.
  - *Excluded issues* – access to the US market for sugar producers.
  - *Implementation* – consultation with stakeholders on quarantine and food safety and further pursuing issues around blending and labelling of wine, mutual recognition of qualifications, local content in broadcasting and generic pharmaceuticals.
  - *Additional safeguards* – introducing legislation or otherwise ensuring rights of access to material for education and research, raising intellectual property standards, and ensuring exceptions for legitimate use.
- 4.66 The Government did not make a response to these recommendations. The Report appeared on the Speaker's Schedule of outstanding responses until 26 November 2009 with the following note:

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56 JSCOT, *Report 61: The Australia – United States Free Trade Agreement*, June 2004, p 273.

57 JSCOT, *Report 61*, p. 274.

Legislation to give effect to the Free Trade Agreement has now been passed. The government has stated that no further response is required. The committee awaits a response to recommendations of the Free Trade Agreement report.

- 4.67 In May 2010 the Committee concurred with the government that a response was no longer required.<sup>58</sup>

## Timor Sea Treaties

- 4.68 On 20 May 2002, the day that East Timor became a sovereign state, it signed two treaties with Australia relating to petroleum in the Timor Sea. Both treaty actions were tabled in Parliament on 25 June 2002.

- 4.69 The Committee held seven public hearings in four cities, and received 87 submissions. Given the events around East Timor's creation, the Treaty inquiry attracted more public attention than the content may have warranted in other circumstances. Normally most submissions to an inquiry are concerned about the impact on Australian interests; either individually or as a nation. In this inquiry, many submitters wanted to ensure that Australia was treating East Timor fairly, and not taking advantage of its fragility. The Committee stated:

Continued ill ease at the vulnerability of East Timor was reflected in expressions of concern to the Committee that Australia had failed to treat its northern neighbour fairly in treaty negotiations.<sup>59</sup>

- 4.70 The Committee considered that the national interests of Australia and East Timor were interrelated, and that the 'ratification of the Treaty is a fundamental condition precedent to the exploitation of the resources that lie beneath the Timor Sea'.<sup>60</sup> Given the benefits that would flow to both countries from using those resources, the Committee recommended that Australia take binding treaty action.

- 4.71 This inquiry is an example of how broader ideas of being a good international citizen, and treating other countries fairly, are important to the Australian community. These are therefore relevant considerations for the Committee when inquiring into treaties.

## Other developments

- 4.72 On 20 August 2002 the first stage of the Australian Treaties Database was launched. This database – managed by DFAT – has been amended and
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58 *The Speaker's Schedule of Outstanding Government Responses to Reports of House of Representatives and Joint Committees*, 24 June 2010, note 12, p. 15.

59 JSCOT, *Report 49: The Timor Sea Treaty*, November 2002, p. 15.

60 JSCOT, *Report 49*, p. 35.

improved since its launch, and is now an invaluable on-line research tool. The database allows flexible searches for treaties, and brings together a range of background material including Committee reports and government responses.

- 4.73 At the time of launching the database, the Foreign Minister also announced changes to the time frames for Committee inquiries. Treaty actions were now divided into two categories; with routine treaties in Category A and more significant or sensitive treaties in Category B. Category A would continue to be dealt with within the current 15 day parliamentary sitting period, but Category B treaties would be extended to 20 sitting days.<sup>61</sup> This later changed to the current classification system (see Chapter 3, paragraph 3.8).
- 4.74 In 2003 a third category of treaty was introduced; Category C treaties for minor amendments that did not require any inquiry. This process was formalised during 2008 and 2009. (See paragraph 4.125 below.)

### Assistance from government officials

- 4.75 The Committee would be unable to undertake any meaningful inquiry without the information and assistance of the government departments that make submissions and appear as witnesses. In almost all cases, officials are well-informed, co-operative and responsive. However on two occasions in this Parliament the Committee commented in its report about a lack of information from government witnesses that was significant enough to threaten the thoroughness of the committee inquiry.
- 4.76 In its report on its inquiry into the *UN Convention on Transitional Organised Crime* the Committee stated:

The Committee notes that there were several areas ... on which departmental officials were unable to provide an adequate briefing. Further, the Committee was advised that certain evidence given at the hearing required amendment. The Committee is still to receive formal notification of where inaccuracies occurred in evidence provided by the Departmental officials.

... the Committee remains concerned that the Department of Defence and the Defence Security Authority have yet to provide specific answers to requests from Committee members on issues arising under Article 11 of the Treaty.<sup>62</sup>

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61 The Hon. Alexander Downer, MP, speech at launch of Australian Treaties Database, 20 August 2002, <[http://foreignminister.gov.au/speeches/2002/020820\\_fa\\_treaties.html](http://foreignminister.gov.au/speeches/2002/020820_fa_treaties.html)> viewed 11 January 2016.

62 JSCOT, *Report 44: Treaties tabled in August and September 2002*, October 2002, p. 33.

- 4.77 The comments were included in the report after the Committee had not received corrections and further information between the public hearing on 16 September 2002 and tabling the report on 21 October 2002. The Minister for Defence and the Committee exchanged correspondence in the months after the report was tabled. In the end, the additional information was provided to the Committee, and the Committee changed aspects of its procedures to accommodate additional approvals for Defence evidence. Despite the resolution of the individual problem, this is an example of a tension that continues to this day; where the Committee's ability to conduct a quick treaty inquiry – at government request – is hampered by a Ministerial wish to control the information coming from government officials to the Committee.
- 4.78 In *Report 59: Treaties tabled on December 2003* the Committee commented on the evidence given by the Attorney-General's Department (AGD) into the *UN Convention Against Transnational Organized Crime*. In the hearing, AGD had advised that it would be inappropriate to comment on 'operational matters' of another government agency.<sup>63</sup> Given that AGD was responsible for co-ordinating witnesses to the hearing, the Committee felt that it should have either ensured that all relevant witnesses were present, or undertaken to procure an answer on notice to any question that was asked.
- 4.79 This issue re-occurred in the Committee's inquiry into the *Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict*. Officials from the Department of Defence withdrew from the public hearing at the last minute, leaving the co-ordinating agency (the Department and Foreign Affairs and Trade) to attempt to answer questions relating to the Australian Defence Force.<sup>64</sup> After correspondence with the relevant Ministers, the Committee held another public hearing the following evening which Defence officials attended.

## 41<sup>st</sup> Parliament

- 4.80 The 41<sup>st</sup> Parliament, with a Coalition majority, opened on 16 November 2004. The resolution establishing JSCOT and appointing members passed both houses on 18 November 2004.

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63 Ms Joanne Blackburn, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department (AGD), *Committee Hansard*, Canberra, 13 February 2004, p. 26.

64 Mr Richard Sadlier, Assistant Secretary, International Organisations Branch, Department of Foreign Affairs and Trade (DFAT), *Committee Hansard*, Canberra, 9 August 2004, p. 23.

## Security cooperation with Indonesia

- 4.81 One treaty that attracted public interest and debate, even though it had a minimal impact on the day to day lives of Australians, was the *Agreement between Australia and Indonesia on the Framework for Security Cooperation*, signed at Lombok on 13 November 2006. This Agreement is 'designed to provide a framework for cooperation between Australia and Indonesia on traditional and non-traditional security threats'.<sup>65</sup> The Committee received 56 submissions and heard from 36 witnesses over 3 public hearings.
- 4.82 The inquiry examined whether the treaty would, in fact, enhance this important but vulnerable bi-lateral relationship. This was necessarily done in the context of the then political situation. For example, although the Agreement did not contain an express reference to the Indonesian province of Papua, many witnesses were concerned that the provision requiring parties not to support threats to the stability or territorial integrity of the other party was aimed at restricting support to advocates of Papuan independence.
- 4.83 One concern about intelligence cooperation was that, unlike extradition or mutual assistance treaties, there was no safeguard on using or sharing intelligence that may result in a conviction for an offence that carries the death penalty. The Committee heard that such a safeguard would effectively stop most of the Australian Federal Police's activities with Indonesia on counter-terrorism and drug trafficking.<sup>66</sup>
- 4.84 Submitters were also concerned that the agreement did not contain any reference to human rights. Although such a reference may not be strictly necessary, witnesses felt that the express inclusion of human rights would emphasise Australia's recognition of their importance. The Committee acknowledged these concerns, but did not recommend that human rights be included in the treaty; instead recommending that the government continue to address widely expressed concerns about human rights with the Indonesian Government.<sup>67</sup>
- 4.85 The Committee recommended binding treaty action in relation to this Agreement, and made four additional recommendations for Australian government action. In its response of 13 September 2007 the government outlined how it was taking steps to implement those recommendations.

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65 JSCOT, *Report 84: Treaty Tabled on 6 December 2006*, June 2007, p. 3.

66 JSCOT, *Report 84*, p. 25.

67 JSCOT, *Report 84*, p. 16.

## National Interest Exemption

- 4.86 As discussed earlier (paragraph 4.9) the treaty scrutiny process can accommodate urgent treaty action in exceptional circumstances. Such treaties are exempt from the usual requirement to be tabled in Parliament at least 15 sitting days before the Government takes binding treaty action. Known as the National Interest Exemption (NIE), the provisions are used sparingly by government. The 41<sup>st</sup> Parliament demonstrated the single highest number of NIE treaties to date, with four examples during the life of the Parliament.
- 4.87 The first urgent treaty in the 41<sup>st</sup> Parliament was triggered by a need to provide a legal framework to safeguard Australian personnel deployed overseas at short notice in 2004. The Agreement between Australia and Nauru concerning additional police and other assistance to Nauru was signed on 10 May 2004, tabled in Parliament on 22 June 2004 and entered into force on 29 July 2004. At the time there was fear that Nauru was on the verge of state failure and facing economic collapse.<sup>68</sup> Australia agreed to deploy police and other personnel to Nauru to work in partnership with the Government of Nauru to ‘address core issues in the areas of governance, law and order and justice and financial management.’<sup>69</sup>
- 4.88 In its report, the Committee noted that the NIE had been invoked for the Treaty and suggested that it may be timely for the Committee ‘to review the national interest exemption’ process. The Committee considered that it may be appropriate for JSCOT to receive an urgent briefing ‘in the case of these national interest exemptions’.<sup>70</sup>
- 4.89 In similar circumstances, the Joint Agreement on Enhanced Cooperation between Australia and Papua New Guinea, was signed on 30 June 2004 and entered into force on 13 August 2004. This Agreement enabled Australia to deploy police and other personnel to Papua New Guinea. The Agreement had taken longer to negotiate than expected and, when it was finalised, the Government considered that the reasons for the deployment were urgent and accordingly invoked the NIE. The Committee supported the Agreement but noted that ‘a number of treaties relating to the stability of Pacific Island Countries’ had required the NIE to be invoked and this time recommended that the Minister for Foreign Affairs provide the Committee with an urgent briefing whenever the NIE was invoked.<sup>71</sup>

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68 Mr Damian Craig White, Executive Officer, International Law and Transnational Crime Section, Legal Branch, DFAT, *Committee Hansard*, 9 August 2004, p. 7.

69 JSCOT *Report 64: Treaties tabled on 7 December 2004*, 10 May 2005, p. 69.

70 JSCOT, *Report 64*, pp. 75–6.

71 JSCOT, *Report 65: Treaties tabled 7 December 2004 (3) and 8 February 2005*, May 2005, p. 21.

- 4.90 The Government did not accept the recommendation, considering that the arrangements already in place to provide the Committee with an explanation for the action were adequate. However, the Government did agree to examine each case individually and consider whether 'any special additional briefing for the Committee was necessary'.<sup>72</sup>
- 4.91 The need to expedite the implementation of the *United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport* in time for the Commonwealth Games in Melbourne in 2006, again called the NIE into play. The Convention was signed in Paris on 19 October 2005 and required ratification by 31 December 2005. The Committee recognised the importance of ratifying the Treaty in time to meet the deadline but suggested the device 'may not have been required had the Committee been asked to progress its review of the Convention in view of the upcoming Commonwealth Games'.<sup>73</sup>
- 4.92 In February 2007 the NIE was invoked to enable prompt binding treaty action to be taken for the *Treaty between the Government of Australia and the Government of the Democratic Republic of Timor-Leste on Certain Maritime Arrangements in the Timor Sea*. The Treaty had been signed in January 2006 but the implementation process had been stalled. The Australian Government was presented with a small window of opportunity to finalise the process and feared that the changing political situation in East Timor would further delay implementation if it didn't act immediately. The Australian and Timor-Leste Governments agreed to synchronise their domestic processes to ensure the Treaty entered into force.
- 4.93 In this instance, the Committee considered that the NIE should not have been invoked, pointing out that the Treaty had been available publicly for some twelve months prior to being tabled in the Parliament.<sup>74</sup> The Treaty had been signed in January 2006, published on the Department of Foreign Affairs and Trade (DFAT) website and made available to the media.<sup>75</sup> However it was not tabled in Parliament until 6 February 2007 and was ratified on 23 February 2007.

## Ten-year anniversary seminar

- 4.94 In March 2006 the Committee hosted a one-day seminar to mark ten years since its establishment. The seminar was an opportunity for Committee members past and present, academics, public servants and interested

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72 Government Response to Report 65 of the Joint Standing Committee on Treaties, 10 August 2006.

73 JSCOT, *Report 50: Treaty tabled 9 November 2005*, December 2005, p. 10.

74 JSCOT, *Report 85: Treaties tabled on 6, 7 & 27 February 2007*, June 2007, p. 51.

75 JSCOT, *Report 85*, p. 52.

experts to talk about parliamentary scrutiny of treaties. Speakers at the seminar discussed whether the Committee had fulfilled the objectives of the 1996 reforms in practice, and whether further reform was needed.

- 4.95 The Committee issued a report to mark the ten year anniversary, including the transcript of the seminar presentations and discussions.

### Reference by the Senate

- 4.96 On 7 December 2004 the Senate re-referred a matter to the Committee for inquiry. The matter related to a proposed agreement between Australia and the United States of America (US), under which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US.<sup>76</sup>
- 4.97 This matter had been previously referred to the Committee in December 2002. The Committee undertook preliminary investigations in the first half of 2003 and was advised that although a model agreement had been circulated to a number of countries, no action was being undertaken on such an agreement at that stage. In July 2003 the Committee advised the Clerk of the Senate that it had decided to defer inquiring into the matter referred until the text of any agreement was available. The reference lapsed at the end of the Parliament in August 2004.
- 4.98 With the new reference, the Committee again sought further information on the status of the agreement. The Minister for Foreign Affairs advised that the Government continues to 'consider carefully the US proposal and discussions with the US are ongoing'.<sup>77</sup>
- 4.99 The Committee therefore concluded that it was not in a position to consider this proposal until agreement had been reached, and made a statement to the Senate to that effect.<sup>78</sup> The Committee advised the Senate:
- If any agreement is reached with the US, the Joint Standing Committee on Treaties will be conducting a thorough review of the proposed Agreement when the precise terms of the Agreement are available to the Committee.<sup>79</sup>
- 4.100 One member of the Committee disagreed with this course of action in a vigorous dissenting statement, arguing that the Committee had ignored the clear will of the Senate. In this situation, the dissenting statement
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76 SJ 2004-12-07/243-4.

77 Letter from Minister for Foreign Affairs, 22 March 2005.

78 SJ 2005-06-20/744.

79 Dr Andrew Southcott MP, 'Statement on a matter referred by the Senate on 7 December 2004 to the Joint Standing Committee on Treaties for inquiry and report by 30 June 2005', Senate Paper No. 4844, 20 June 2005.



considered that the Committee could make inquiries before treaties are negotiated to completion, and that in many cases such an inquiry would be far more beneficial than one made after the terms of the treaty are finalised.<sup>80</sup>

## **42<sup>nd</sup> Parliament**

4.101 The 42nd Parliament, with a Labor majority, opened on 12 February 2008. The resolution establishing JSCOT and appointing members was passed by the House of Representatives and the Senate on 12 and 14 February 2008 respectively. The Committee held its first meeting on 13 March 2008.

### **Nuclear non-proliferation and disarmament**

4.102 A significant inquiry of the Committee during the 42<sup>nd</sup> Parliament was into the nuclear non-proliferation and disarmament treaties involving Australia. This inquiry did not come to the Committee in the usual way – by a specific treaty tabling in the Parliament – but through a referral from the Prime Minister.

4.103 The terms of reference for the inquiry were broader than the normal assessment of a single treaty. The terms of reference set up a thorough examination of the existing treaties relating to nuclear non-proliferation and disarmament, including how the treaties advance Australia's objectives in this area and their effectiveness. The Committee was also tasked with inquiring into how inter-parliamentary action can assist in strengthening treaty-based aspects of the nuclear non-proliferation and disarmament regime, and, even more broadly, how the Committee and the Parliament can contribute to the work of the International Commission on Nuclear Non-proliferation and Disarmament.

4.104 The Committee received 87 submissions, 92 exhibits and heard from 30 witnesses over six public hearings in Canberra, Sydney, Darwin and Melbourne. The Committee travelled to Geneva, Vienna, Washington and New York to meet with, among others, the United Nations Conference on Disarmament, the International Atomic Energy Agency, the Comprehensive Nuclear Test Ban Treaty Organization and the US National Nuclear Security Administration.

4.105 The result of this activity was a unanimous report of more than 200 pages, making 22 recommendations. The Committee acknowledged Australia's history of involvement and achievement in nuclear non-proliferation and

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80 Senator Andrew Bartlett, 'Dissenting Statement', Senate Paper No. 4844, 20 June 2005.

disarmament issues, and – given Australia’s uranium exports – its on-going responsibility to strengthen and support the non-proliferation regime.

- 4.106 In its report the Committee showed its support for the ultimate objective of abolishing nuclear weapons, and made both specific and general recommendations for Australia to work towards that long-term aim. This theme continued in later Parliaments when matters concerning the peaceful uses of nuclear energy came before the Committee.
- 4.107 Seventeen of the 22 recommendations were directed at the Government. In its response of 25 February 2010, the Government supported 14 of those recommendations and noted the remaining three.
- 4.108 Recommendations 18 – 22 were directed at the Presiding Officers of Parliament. In their joint response of 16 March 2010, the President of the Senate and the Speaker of the House of Representatives declined to implement these recommendations for a variety of reasons. In relation to Recommendation 21 – that the Parliament adopt a resolution on the Parliament’s commitment to the abolition of nuclear weapons – the Presiding Officers considered such a resolution to be a matter for the Parliament as a whole rather than the Presiding Officers.
- 4.109 To further this recommendation, the Committee worked on the wording of a resolution during the 42<sup>nd</sup> Parliament, and again as a new Committee in the 43<sup>rd</sup> Parliament. In March 2011 the Committee requested the Prime Minister to introduce the resolution in the House. The Prime Minister agreed, and introduced the motion on 21 March 2012, saying:
- I commend the members of the Joint Standing Committee on Treaties, including its chair, the member for Wills, for their tireless advocacy of non-proliferation and disarmament that led to this motion.
- ...A world without nuclear weapons is a long-term commitment. We may not see it, any of us, in our time in this House. Indeed, we may not live to see it. But one day our successors should say of nuclear fear: the threat has passed, the game is over – never again. I commend this motion to the House.<sup>81</sup>
- 4.110 The motion was referred to the Federation Chamber, where it received strong bi-partisan support.<sup>82</sup> Debate was adjourned, but did not resume before the end of the Parliament, and the motion was never formally

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81 HR Deb (21.03.2012) 3686.

82 HR Deb (09.05.2012) 4466–80.

passed by the House. In the Senate, Senator Singh introduced the motion, where after a brief debate it was passed on 22 March 2012.<sup>83</sup>

## Kyoto Protocol

- 4.111 The Committee also undertook an inquiry instigated through a non-standard process with its examination of the *Kyoto Protocol to the United Nations Framework Convention on Climate Change*. The Protocol was signed by Australia on 29 April 1998 and ratified on 12 December 2007. The Protocol entered into force for Australia on 11 March 2008, 90 days after the instrument of ratification was deposited at the United Nations. The Protocol entered into force generally on 16 February 2005.<sup>84</sup> The Protocol was then tabled in Parliament on 25 June 2008.
- 4.112 As discussed earlier, the Committee released a discussion paper on the Kyoto Protocol in April 2001, and intended to release a further paper later that year.<sup>85</sup> However in September 2001 the Committee decided that there were too many unresolved issues to be able to give definitive advice to Parliament as to whether Australia should ratify the Protocol.
- 4.113 This inquiry therefore took place after ratification, and was necessarily more concerned with how Australia should implement the Protocol, than whether Australia should take binding treaty action.
- 4.114 In this inquiry the Committee consciously adopted a scientific evidence-based approach. The Committee received 32 submissions, 11 exhibits and heard from 33 witnesses over 8 public hearings in Canberra, Brisbane and Perth. The Committee made 12 recommendations for action on the following issues:
- global heating;
  - addressing climate change;
  - greenhouse gas reductions; and
  - climate change adaptation.
- 4.115 In a dissenting report, six members of the Committee described the tabling of a treaty that had already been ratified, and the subsequent inquiry, as an 'abuse of the Committee process'.<sup>86</sup> The dissenting members argued that the Committee report barely mentioned the Protocol itself, and was a 'grandstanding exercise on climate change'.

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83 SJ 2012-03- 22/2355.

84 National Interest Analysis [2008] ATNIA 21 with attachment on consultation , *Kyoto Protocol to the United Nations Framework Convention on Climate Change* done at Kyoto on 11 December 1997, [2008] ATS 2.

85 JSCOT, *Report 38*.

86 JSCOT, *Report 100: Treaties tabled on 25 June 2008*, March 2009, p. 90.

- 4.116 The government did not make a response until 9 August 2012, over three years after the report was tabled. The government agreed with seven of the recommendations, and noted the remaining five.

### Migratory wild animals

- 4.117 One outwardly non-controversial treaty received more submissions than the Kyoto Protocol as it struck two chords with the community – conservation and fishing. The *Convention on the Conservation of Migratory Species of Wild Animals* obliges parties to protect listed migratory species that live within, or pass through, their jurisdiction.
- 4.118 Australia has been a party to the Convention since 1991, which was amended in 2008 to include three shark species (shortfin mako, longfin mako and porbeagle) that exist in Australian waters. The effect of the amendment was to prohibit both commercial and recreational fishing of these species.
- 4.119 The Committee received submissions both for and against the amendment. Commercial fishers argued that there was no evidence that these species were in decline; recreational fishers argued that commercial fisheries had a far greater impact than recreational fishing; and conservation groups argued that shark populations are inherently vulnerable to overfishing and have shown significant declines.
- 4.120 Many groups were also critical of the lack of consultation from government about the changes. The Committee recommended that the Department of the Environment, Water, Heritage and the Arts review its consultation processes.
- 4.121 The Committee also reiterated previous comments about the need for timeliness in treaty processes. In this case, the amendments had automatically entered into force 90 days after the Conference, in March 2009, and were not tabled in Parliament until November 2009, after the amendments had been in force for Australia for nearly nine months.

### Recommending against binding action

- 4.122 On one occasion in the 42nd Parliament the Committee recommended that the government not take binding treaty action until a lengthy list of conditions were fulfilled. In relation to the *Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Use of Nuclear Energy for Peaceful Purposes*, the Committee considered that Australia's responsibilities to nuclear non-proliferation and disarmament required it to implement the highest possible standards and safeguards in the supply of Australian uranium.

- 4.123 The Committee did not think that the safeguards were adequate, and that ratification of the treaty should be delayed until reform of Russia's nuclear industry was more complete.<sup>87</sup> The inquiry also broadened to include recent political events involving Russia, and noted that the United States had recently formally withdrawn an agreement for civilian nuclear cooperation with Russia.<sup>88</sup>
- 4.124 The Government response of 18 March 2010 explained in detail why the government was satisfied that the issues and concerns that the Committee had raised had been addressed. The treaty entered into force on 11 November 2010.<sup>89</sup>

### Changes to Committee process for Minor Treaty Actions

- 4.125 Over 2008 and 2009 the Minister and the Committee agreed to new processes formalising the treatment of Minor Treaty Actions (Category 3 treaties).<sup>90</sup> These are mostly technical amendments to treaties that do not appear to impact significantly on the national interest.
- 4.126 These new processes reflected the Committee practice that had evolved over time. It allowed Minor Treaty Actions to be referred directly to the Committee with a one page Explanatory Statement, without tabling in Parliament. The Committee could then, if it wished, decide to treat a Minor Treaty Action as a Major Treaty Action and hold an inquiry, or it could report on the Minor Treaty Action without further inquiry.
- 4.127 By providing for direct referral to the Committee without the need for tabling in Parliament, the new processes also allowed for expedited Committee consideration of Minor Treaty Actions that were due to come automatically into force. This issue had caused the Committee concern in the past, when considering matters to which Australia was already bound.

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87 JSCOT, *Report 94: Treaties tabled on 14 May 2008*, p. 28.

88 JSCOT, *Report 94: Treaties tabled on 14 May 2008*, p. 27.

89 Australian Treaties Series, *Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the use of Nuclear Energy for Peaceful Purposes* (Sydney, 7 September 2007) <<http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/dfat/treaties/ATS/2010/22.html?stem=0&synonyms=0&query=nuclear%20energy%20russia>> viewed January 2016.

90 Correspondence between the Hon Stephen Smith, Minister of Foreign Affairs, and JSCOT, 28 July 2008, 25 February 2009 and 12 March 2009.

## 43<sup>rd</sup> Parliament

- 4.128 The 43rd Parliament, with a Labor minority government supported by Independent members, opened on 28 September 2010. The resolution of appointment for the establishment of JSCOT passed the House of Representatives on 29 September 2010 and the Senate on 30 September 2010.<sup>91</sup>
- 4.129 The work of the Committee started in earnest on 16 November 2010, when 40 treaties that had been outstanding at the end of the 42<sup>nd</sup> Parliament were referred by the Minister for Foreign Affairs. Two treaties inquiries stood out in this Parliament as attracting significant amounts of public attention. These are discussed further below.

### Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- 4.130 This treaty received the largest number of submissions—37 in total—to any inquiry held during this Parliament. The high level of public feeling did not mean that the treaty was controversial; on the contrary, the submissions showed an overwhelming support for the Protocol and a strong belief that Australia should ratify as soon as possible.
- 4.131 The Committee had previously considered the Protocol in its Report 58, tabled on 24 March 2004. At that time, the Committee did not believe the Protocol was necessary, and recommended against signature or ratification. However in 2012 the Committee considered that further analysis had shown that there were some gaps in oversight of detention, and believed that it was now appropriate for Australia to ratify the Protocol.<sup>92</sup>
- 4.132 Implementation of the Protocol was not straightforward. The Australian Government proposed that on ratification, a declaration would be made to delay Australia's obligations under the Protocol in relation to the national preventive mechanism by three years. A number of witnesses criticised this delay, and the Committee recommended that the Australian Government work with the states and territories to implement a national preventive mechanism as quickly as possible.<sup>93</sup>
- 4.133 Although the Government agreed with this recommendation,<sup>94</sup> and advised that that work would be done as quickly as possible, Australia has

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91 VP 2010-10-25/119; SJ 2010-10-26/213.

92 JSCOT, *Report 125: Treaties tabled on 7 and 28 February 2012*, June 2012, p. 52.

93 JSCOT, *Report 125*, p. 48.

94 Government Response: *Joint Standing Committee on Treaties Report 125: Review into treaties*

not yet ratified.<sup>95</sup> As at the date of this report, 80 countries had ratified the Protocol.<sup>96</sup>

## Anti-Counterfeiting Trade Agreement

- 4.134 The *Anti-Counterfeiting Trade Agreement* (ACTA) is a multi-lateral agreement that focuses on trademark and copyright enforcement, and establishes a legal framework for intellectual property enforcement. During this inquiry the Committee received 21 submissions and heard from 22 witnesses over three public hearings.
- 4.135 The Committee was concerned about the quality of the NIA; in particular the lack of a cost-benefit analysis or detailed economic assessment. The Committee considered that the NIA was inadequate in providing an economic analysis of the agreement and this hindered the Committee's assessment of the costs and benefits for Australia. The Committee went so far as to say that it was not possible to reach an evidence based decision using the information provided by DFAT and other government witnesses.
- 4.136 The Committee recommended that, in future, NIAs for treaties that are clearly intended to have an economic impact include an assessment of the economic benefits of the treaty, or, if no assessment of the economic benefit of a treaty has been undertaken, a statement to that effect, along with an explanation as to why it was not necessary. In this case, the Committee also recommended that the government commission an independent and transparent assessment of the economic and social benefits and costs of the ACTA.
- 4.137 The Committee also considered the NIA was inadequate in relation to whether Australia would need to change its domestic law to comply with the ACTA. The NIA and government witnesses were of the view that the ACTA reflected current Australian standards, and Australia would meet all obligations under the ACTA through existing legislation and common law.
- 4.138 Other witnesses to the Committee disagreed with that claim, arguing that significant changes would need to be made to the overall regulatory and

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*tabled on 7 and 28 February 2012, 1 November 2012.*

95 United Nations Treaty Collection, *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&lang=en)> viewed 22 December 2015.

96 United Nations Treaty Collection, *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&lang=en)> viewed 2 March 2016.

enforcement framework for Australia to comply with its obligations under the ACTA. The witnesses argued that even though these changes may not require legislative amendment, there would still be a serious impact on individuals and businesses.

- 4.139 The Committee noted that its inquiry must include the effect a treaty would have on the community, whether or not this was caused by legislation. The Committee urged future NIAs to include potential changes to domestic administration, regardless of whether the treaty required legislative change.<sup>97</sup>
- 4.140 Another point of contention was the ACTA's requirement to implement criminal procedures and penalties for certain copyright offences, including a penalty of imprisonment. A number of witnesses argued that the penalties were disproportionate to the offences. The Committee found it difficult to make a judgement on these issues, due to a lack of empirical evidence in the NIA as to the proportionality of the criminal penalties. The Committee recommended that, in circumstances when the international framework is proposed to be changed through a significant increase in the scope of criminal penalties, the NIA should contain empirical evidence to support such a change.<sup>98</sup>
- 4.141 A number of provisions of the ACTA caused the Committee difficulty through a lack of explanation or ambiguous wording. The Committee recommended that the government resolve these issues by publishing the protections that will be read into the ACTA<sup>99</sup>, and clarifying and publishing the meaning of 'aiding and abetting'<sup>100</sup> and 'commercial scale'.<sup>101</sup>
- 4.142 The Committee was also concerned about the negotiation and consultation process of the ACTA. Most submitters to the inquiry felt that the process had not been sufficiently open or transparent. Witnesses also stated that even where consultation took place, departmental officers did not take account of stakeholders' viewpoints, and did not reflect their concerns in the NIA.
- 4.143 The Committee took the opportunity to re-visit the inherent tension between the requirement for confidentiality in negotiations, and the democratic principle of accountability to the public. The Committee noted that there was a significant degree of mistrust about the process, and

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97 JSCOT, *Report 126: Treaty tabled on 21 November 2011*, June 2012, p. 17.

98 JSCOT, *Report 126*, p. 29.

99 JSCOT, *Report 126*, p. 31.

100 JSCOT, *Report 126*, p. 33.

101 JSCOT, *Report 126*, p. 34.



concluded that there was ‘no valid rationale for the level of secrecy that DFAT has maintained for what is essentially a copyright treaty’.<sup>102</sup> The Committee noted that although DFAT’s consultation processes were adequate for the vast bulk of treaties, DFAT should adopt higher profile consultations and processes for those treaties that attracted a higher degree of public interest.

- 4.144 Given the concerns about the ACTA, and the lack of ratification at the time by other countries, the Committee recommended that Australia not ratify the ACTA until a number of conditions were met. This was the only time during the 43<sup>rd</sup> Parliament that the Committee recommended against ratification.
- 4.145 The Government response, tabled in Parliament on 27 November 2012, agreed with this recommendation in part. The Government advised that it intended to consider ratification of ACTA following the receipt of the analysis recommended in the Committee’s report. To date, Australia has not ratified the ACTA. With only one ratification – Japan – the ACTA is not in force, falling short of the required six ratifications.

## **Inquiry into the Treaties Ratification Bill 2012**

- 4.146 The Committee conducted one bill inquiry during this Parliament, into the Treaties Ratification Bill 2012 (‘the Bill’) that was introduced into the House of Representatives on Monday, 13 February 2012, by the Hon. Robert Katter MP, (Kennedy). On 16 February 2012, the House of Representatives Selection Committee referred the Bill to the Committee for inquiry under Standing Order 222.
- 4.147 The Bill has only one substantive provision:
- The Governor-General must not ratify a treaty unless both Houses of the Parliament have, by resolution, approved the ratification.
- 4.148 The Committee held a public inquiry into the Bill, receiving seven submissions and holding a public hearing in Canberra. In its report, the Committee made a brief overview of the history of attempts – both successful and unsuccessful – to increase Parliamentary scrutiny of the treaty process.
- 4.149 The Committee noted that it had previously called for greater transparency in treaty negotiations, particularly trade treaties. In this report, it recommended that prior to commencing negotiations for a new agreement, the Government table in Parliament a document setting out its

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102 JSCOT, *Report 126*, p. 54.

priorities and objectives including the anticipated costs and benefits of the agreement.<sup>103</sup>

- 4.150 One of the problems with the proposed Bill is potential conflict with the Australian Constitution, which gives the power to enter into treaties to the executive. However the Committee heard from legal experts that there are a number of ways in which Parliament could legislate to modify or control the prerogative powers of the executive without breaching the Constitution.
- 4.151 There were also a number of practical concerns that were likely to arise from the Bill. Requiring resolutions of both Houses of Parliament would be unwieldy and time-consuming for the number of treaties (on average over 40 per year). The Bill did not have any scope for emergency or urgent treaties.
- 4.152 A more fundamental problem with requiring treaties to pass both Houses of Parliament is the likelihood of the government not having control of the Senate. While such a check and balance is appropriate for domestic legislation, it is unsuitable for the approval of treaties where the government – the executive – has the treaty-making power under the Constitution.
- 4.153 The Committee also discussed other countries that had introduced various forms of Parliamentary scrutiny of treaties. However given the very brief nature of the Bill, the Committee did not feel that it could be amended without changing its intent.
- 4.154 After considering the practical and political difficulties posed by the Bill, the Committee could not support it, and recommended that the Bill not be passed by the House of Representatives or the Senate.<sup>104</sup>

## Timing

- 4.155 As mentioned earlier, 40 bills were referred to the Committee immediately at the start of the new Parliament. A further 9 treaties were tabled in the first month of the Parliament, and 7 more in the first sitting week of 2011. This led to a number of Ministers requesting the Committee respond urgently to outstanding matters, or requesting the Committee to agree to the introduction of implementing legislation before the Committee had finished its inquiry.
- 4.156 The Committee made a formal note of timing problems in its Report 116 on 13 treaty actions. In relation to the *Amendments to the Annex of the*

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103 JSCOT, *Report 128: Inquiry into the Treaties Ratification Bill 2012*, August 2012, p. 15.

104 JSCOT, *Report 128*, p. 25.

*Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships*, the Committee noted that this treaty action was tabled five months after the period during which Australia could lodge an objection, which “effectively removes an opportunity for the Parliament to express a meaningful view of the amendments”.<sup>105</sup>

4.157 In relation to the *Amendments to the Convention Establishing the Multilateral Investment Guarantee Agency to Modernise the Mandate of the Multilateral Investment Guarantee Agency and Amendment to the International Finance Corporation Articles of Agreement*, the Committee noted:

...this is another example of a treaty for which it is impossible for the Committee to make a meaningful contribution because the amendments foreshadowed in the treaty will have already occurred by the time this report is tabled.<sup>106</sup>

4.158 In both cases the Committee recommended that future amendments are tabled in sufficient time for the view of the Parliament to be taken into consideration before the period for objections closes, or before the amendments come into force.<sup>107</sup>

## Re-visiting extradition

4.159 In early 2011 the Minister for Justice circulated for public comment an exposure draft of the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011 (‘the bill’). The Committee had previously recommended on several occasions that the Government develop and implement formal monitoring arrangements for Australia’s bilateral extradition treaties.<sup>108</sup>

4.160 The Committee took the opportunity to write to the Attorney-General pointing out that the draft did not reflect these recommendations, and urging the Government to reconsider the recommendations and incorporate their principles in the bill.<sup>109</sup>

## Free Trade Agreements

4.161 The Committee considered two free trade agreements (FTAs)<sup>110</sup> during this Parliament, with Singapore and Malaysia. Although these inquiries

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105 JSCOT, *Report 116: Treaties tabled on 24 and 25 November 2010, 9 February and 1 March 2011 and Treaties referred on 16 November 2010 (Part 3)*, April 2011, p. 64.

106 JSCOT, *Report 116*, p. 71.

107 JSCOT, *Report 116*, pp. 65 and 72.

108 See JSCOT, *Report 91: Treaties tabled on 12 March 2008*, June 2008, pp. 16–17.

109 Letter to the Hon Robert McClelland, Attorney-General, 25 March 2011.

110 These agreements, usually referred to as free trade agreements, are more correctly termed ‘preferential trade agreements’. Such agreements are signed between two or more countries

did not generate the public interest of the FTAs in the 44<sup>th</sup> Parliament the Committee made the following recommendation for future FTA negotiations:

That prior to commencing negotiations for a new agreement, the Government table in Parliament a document setting out its priorities and objectives including independent analysis of the anticipated costs and benefits of the agreement. Such analysis should be reflected in the National Interest Analysis accompanying the treaty text.<sup>111</sup>

- 4.162 The Government did not accept this recommendation. In its response of 14 August 2012, the Government advised that it currently provides information about treaties under consideration or negotiation in a variety of ways. However it is constrained in what it can disclose about negotiations, and adopting the Committee’s recommendation could “circumscribe the capacity of Australia’s negotiators to secure the best possible outcomes for Australia in the treaty negotiations”.
- 4.163 Assessing the costs and benefits of FTAs – and the difficulty of finding an evidentiary basis for claims of future advantages – would continue to be a challenge for the Committee in the following Parliament.

## 44<sup>th</sup> Parliament

- 4.164 The 44th Parliament, with a Liberal-National Coalition majority, opened on 12 November 2013. The resolution of appointment for the establishment of JSCOT passed the House of Representatives on 21 November 2013 and the Senate on 2 December 2013.

### Free trade agreements

- 4.165 To date, the major inquiries of the 44<sup>th</sup> Parliament have been three bilateral trade agreements:
- *Agreement between Australia and Japan for an Economic Partnership (JAEP)*
  - *Free Trade Agreement between the Government of Australia and the Government of the Republic of Korea (KAFTA); and*
  - *Free Trade Agreement between the Government of Australia and the Government of the People’s Republic of China (ChAFTA).*

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providing them with favourable market access conditions by reducing tariff and non-tariff barriers.

111 JSCOT, *Report 130: Treaty tabled on 14 August 2012*, October 2012, p. 32.

4.166 There was much public interest in these complex treaties, and the Committee undertook a lengthy series of public hearings as part of its inquiry. The following table shows comparative statistical information for the three inquiries:

Table 1: Inquiry comparison for free trade agreements

	Tabled on	Report	Report date	Number of submissions	Witnesses – individuals	Witnesses - organisations	Public hearings
KAFTA	13 May 2014	142	Sept 2014	78	37	19	4
AJEP	2 Sept 2014	144	Oct 2014	34	14	8	2
ChAFTA	17 June 2015	154	Oct 2015	91	65	38	7

4.167 FTAs present particular issues for JSCOT inquiry and consideration. The treaties are the product of a lengthy and detailed process. The ChAFTA was negotiated over a period of ten years, during which time DFAT consulted with 710 stakeholders and received 195 submissions.<sup>112</sup> Participants in the inquiry, and the Committee, were aware that changes to the text or content of the FTAs would be difficult.

4.168 Free trade agreements are, by their nature, a platform for opportunities in the future. In contrast to treaties that regulate behaviour or set international rules, the advantages and disadvantages of FTAs are open to differing interpretations. The Committee heard a broad range of views on the likely effects – both positive and negative – of provisions in the FTAs.

4.169 A major challenge for the Committee was to not only accurately capture these differing interpretations in its reports; but also to assess and weigh the disadvantages and advantages of each provision. Although the Committee recommended that binding treaty action be taken for all three FTAs, the Committee also recommended the government take specific action to mitigate negative outcomes.

4.170 For the ChAFTA, the Committee also had to deal with an unprecedented degree of public protest. There were organised protests, objecting to the proposed agreement, outside the hearings in Canberra, Brisbane, Sydney, Perth, Melbourne and Devonport. Although no hearings were disrupted, the protests required additional planning and security to ensure the safety of Committee members and witnesses.

112 National Interest Analysis [2015] ATNIA 7 with attachments, *Free Trade Agreement between the Government of Australia and the Government of the People's Republic of China*, done at Canberra, 15 June 2015, [2015] ATNIF 15, Attachment 1, p. 17.

## India nuclear co-operation

- 4.171 Another controversial treaty that attracted public interest was the *Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy*. This Agreement allowed Australia to sell uranium to India for use in its nuclear power plants.
- 4.172 The Committee received 23 submissions and held 4 public hearings in Canberra and Melbourne with witnesses from a range of government organisations, peak bodies, non-government organisations, experts and interested individuals. As with the FTAs, the Committee heard widely differing views of the likely effect of the Agreement.
- 4.173 In this case, there was broad agreement on the risks that the Agreement presented in relation to India's possession and use of nuclear material. The question was whether the safeguards in the Agreement were sufficient to mitigate the risks, and if the risk was acceptable in view of the advantages to both Australia and India.
- 4.174 There were also varying interpretations of the effect of several provisions in the Agreement. The Committee found itself in the position of hearing apparently irreconcilable interpretations put forward by legal experts. The Committee's view was that it is not able to make an informed decision as to the accuracy of legal advice, and therefore recommended that the government outline its own legal advice in relation to two specific provisions. The Government declined to do so in its response to the report, noting that it was not normal practice to provide legal advice.<sup>113</sup>
- 4.175 In its report on this Agreement, the Committee gave serious weight to the risks presented by the sale of nuclear material to India. Although it recommended that binding treaty action be taken, it did so on the basis that sales only commence when a number of specific conditions are met.<sup>114</sup> By putting in place these conditions to its recommendation, the Committee sought to minimise the risks of the Agreement while allowing both countries to take full advantage of the benefits.

## The timing of Committee review

- 4.176 As discussed in Chapter 3, JSCOT review takes place after the treaty is signed and tabled in Parliament, but before binding action, such as implementing legislation, is taken. Depending on the Parliamentary calendar, the 15 or 20 sitting days allowed for the JSCOT review can

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113 Australian Government response to the Joint Standing Committee on Treaties report: *Report 151: Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy*, November 2015, p. 4.

114 JSCOT, *Report 150: Treaties tabled on 3 March, 5 March and 12 May 2015*, June 2015, p. 21.

amount to several calendar months. In the 44<sup>th</sup> Parliament the Committee agreed to alter its time frames on a number of separate occasions in different sets of circumstances.

### National interest exemption

- 4.177 On 17 July 2014 flight MH 17 was shot down over the Ukraine with the loss of 298 lives. On 1 August 2014, the Australian government entered into the *Treaty between Australia and the Kingdom of the Netherlands on the presence of Australian personnel in the Netherlands for the purpose of responding to the downing of Malaysia Airlines Flight MH17*.
- 4.178 The treaty entered into force on the date that it was signed. It was tabled in the Parliament later, on 30 September 2014. The Committee then inquired into the treaty and reported back to the Parliament in February 2015.<sup>115</sup> Entry into force was fast-tracked at the request of the Acting Minister for Foreign Affairs under the National Interest Exemption (NIE). This process, which allows the government to take urgent treaty action in exceptional circumstances, has been used before (see paragraphs 4.9–4.10 and 4.86–4.93 above for previous examples).
- 4.179 In this situation the Committee considered that the Treaty was necessary to ensure the safe deployment of Australian personnel to the Netherlands in response to the downing of Malaysia Airlines Flight MH17, and agreed that the use of the NIE was appropriate.<sup>116</sup>

### Expedited consideration

- 4.180 As in previous Parliaments, on several occasions the relevant Minister requested the Committee to take less time in considering a particular treaty.

### MH17 prolongation

- 4.181 On 12 May 2015 the *Protocol Establishing the Prolongation of the Treaty between the Kingdom of the Netherlands and Australia on the Presence of Australian Personnel in the Netherlands for the Purpose of Responding to the Downing of Malaysia Airlines flight MH17* was tabled in Parliament. This Protocol extended the original Treaty, which was due to expire on 1 August 2015, for another year until 1 August 2016.
- 4.182 The Minister for Foreign Affairs wrote to the Committee, requesting that consideration of this treaty be expedited. The Committee agreed to this request, noting that the Committee had recently (October 2014) held an inquiry into the original treaty. Given that the Prolongation only extended

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115 JSCOT, *Report 146: Treaty tabled on 30 September 2014*, February 2015.

116 JSCOT, *Report 146*, p. 4.

the term of the original Treaty, with no other changes, the Committee decided not to hold any public inquiry, and included its decision to support the Prolongation in its next published report.<sup>117</sup>

## FATCA

- 4.183 In May 2014 the Treasurer wrote to the Committee requesting that the Committee expedite its consideration of the *Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and Implement FATCA* (FATCA agreement).
- 4.184 The FATCA agreement was signed on 28 April 2014 and tabled in the Parliament on 13 May 2014. It was designed to assist Australian business in complying with a United States tax law, the Foreign Account Tax Compliance Act, or FATCA. FATCA is a unilateral anti-tax evasion regime which would affect non-US financial institutions from 1 July 2014. The FATCA agreement removed existing Australian legal impediments that prevent compliance with FATCA and allowed for simplified reporting obligations for Australian financial institutions. The Agreement also removed some Australian institutions from the scope of FATCA.<sup>118</sup>
- 4.185 The Committee was advised that, if the 1 July deadline is not met, Australian financial institutions with interests in the United States would be faced with either significant compliance costs or a withholding tax of 30 per cent on income derived in the United States.<sup>119</sup> Based on this advice, the Committee made an interim report, tabled in the Parliament on 23 June 2014:

The Committee, despite reservations about the Agreement, appreciates that it makes the best of a less than satisfactory situation.

Accordingly, the Committee supports the Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and Implement FATCA and recommends that binding treaty action be taken.<sup>120</sup>

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117 JSCOT, *Report 150*, pp. 20–21.

118 Letter from the Hon JB Hockey, Treasurer, undated.

119 National Interest Analysis [2014] ATNIA 9 with attachment on consultation, *Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA*, done at Canberra on 28 April 2014 [2014] ATNIF 5, paragraph 12.

120 JSCOT, *Report 140: Treaty tabled on 13 May 2014*, June 2014, p. 3.



4.186 The Committee then inquired more fully into the FATCA Agreement, and reported back to the Parliament in Report 141, tabled on 15 July 2014. In this Report the Committee expanded on its reservations about the FATCA Agreement, noting that the compliance cost of the Agreement was significant, and appeared to be a disproportionate response to the identified problem. However, the Committee concluded that the Agreement ‘represents the best possible accommodation to a difficult situation’.

#### Implementing legislation

4.187 Legislation to implement a treaty is not normally introduced until after the JSCOT review is complete and the report has been tabled in Parliament. This is fundamental to the 1996 treaty reforms, where the process was altered to ensure that consultation took place before binding action – ratification or accession – was taken.<sup>121</sup>

4.188 However, on occasion the relevant Minister has sought JSCOT’s agreement to introducing implementing legislation during the period of the Committee’s inquiry. The Minister for Defence did so in August 2014 in relation to the *Force Posture Agreement between the Government of Australia and the Government of the United States of America* (the Force Posture Agreement).

4.189 The Minister had signed the Force Posture Agreement on 12 August 2014 in order to put in place a legal, policy and financial framework for US force posture initiatives in Australia. One part of this was an amendment to the Income Tax Assessment Act 1936 to avoid US government contractors being subject to taxation in both Australia and the US.

4.190 Given the Minister’s advice that the Income Tax amendment could only be practicably undertaken through an omnibus bill planned for late September, the Committee agreed to the amendment being introduced. The Force Posture Agreement was tabled in Parliament on 26 August 2014, and JSCOT’s report was tabled on 25 November 2014. The amendments to the Income Tax Assessment Act 1936 commenced on 12 December 2014, at the time the *Tax and Superannuation Laws Amendment (2014 Measures No. 6) Act 2014* received royal assent.

4.191 A similar issue arose in relation to the *First Protocol to Amend the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area* (the First Protocol). The First Protocol was signed on 26 August 2014, and the

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121 HR Deb (02.05.1996) 232.

parties had agreed to expedite the implementation of the First Protocol and seek to bring it into force by the middle of 2015.<sup>122</sup>

- 4.192 In November 2014 the Minister asked the Committee to agree to allow implementing legislation to be introduced before JSCOT had made its report. This was based on a tabling date for the First Protocol of February 2015, which would not allow sufficient time for both the JSCOT inquiry and the passage of the legislation before mid-2015.
- 4.193 The Committee agreed, on the basis that the legislative change<sup>123</sup> only implemented a technical transposition of the rules of origin into the current version of the World Customs Organisation's Harmonized Commodity Description and Coding System. The Committee advised that it would follow its regular process for the remaining aspects of the First Protocol.<sup>124</sup>

### WTO Trade Facilitation – suspension and resumption

- 4.194 In Report 147, tabled on 26 March 2015, the Committee examined the *Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization* (the Protocol) and the *World Trade Organization (WTO) Agreement on Trade Facilitation* (ATF).
- 4.195 The ATF was adopted in Bali on 7 December 2013 and tabled in the Parliament on 18 June 2014. At the time, the WTO General Council were expected to meet no later than 31 July 2014 to adopt the Protocol of Amendment and open it for acceptance by WTO Members. However, at the meeting in Geneva on 31 July 2014, WTO Members failed to accept the Protocol. Australia could not proceed and the Minister for Trade and Investment wrote to the Joint Standing Committee on Treaties (JSCOT) on 13 August 2014 requesting that the Committee suspend consideration of the Agreement.
- 4.196 On 27 November 2014, WTO Members agreed to adopt the Protocol enabling Members to accept the ATF. The Minister for Trade and Investment wrote to JSCOT on 18 December 2014 requesting that the inquiry into the Agreement be resumed. The Protocol was tabled in the Parliament on 25 February 2015, and Report 147 addresses both the Protocol and the ATF.

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122 Letter from the Hon Andrew Robb, Minister for Trade and Investment, 21 November 2014.

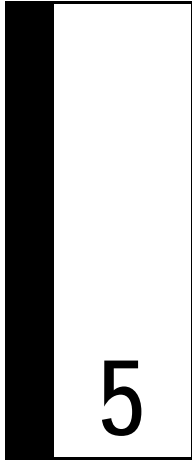
123 Amendment of the Customs (ASEAN–Australia–New Zealand Free Trade Agreement Rules of Origin) Regulations (2009)

124 Letter to the Hon Andrew Robb, Minister for Trade and Investment, 25 November 2014.

## Conclusion

- 4.197 Of the over 800 treaty actions that the Committee has considered over the last twenty years many have dealt with routine matters including taxation, air services, social security and the exchange of information. However, as this chapter shows, treaties are becoming more and more complex and covering an increasingly wide range of subjects.
- 4.198 The Committee has actively developed and refined its processes, ensuring relevant information is provided in the National Interest Analysis and continuing to push for broader, more effective consultation. It has endeavoured to work in a bipartisan manner and, on occasion, it has recommended that ratification be delayed or not take place. Where it has seen fit, it has recommended changes to both content and process.
- 4.199 The Committee will host a one day seminar at Parliament House in Canberra on 18 March 2016 to mark the 20<sup>th</sup> anniversary of its establishment. The seminar will provide a forum to reflect on the past twenty years, and to look forward to the next decades. The material from the seminar will be published in a Committee report to contribute to the historical record and the continuing developments in the treaty making process in Australia.





## Reflections

### **The Hon Melissa Parke MP**

#### **Reflections on the Treaties committee by Melissa Parke MP 2007-2016**

I have been a member of the treaties committee since I first entered parliament.

With my background as a lawyer with the United Nations, I have found the treaties committee and the intersection between international law and domestic realities without doubt to be the most interesting and worthwhile experience of my parliamentary committee work.

During my time on the committee, the treaties committee has been chaired in a responsibly bipartisan manner, whichever government has been in power, which has assisted the committee to formulate reports that fairly represent the evidence given to the committee. The Committee has also been blessed with wonderful parliamentary staff who have always been professional and helpful.

Particularly notable treaties dealt with by the committee include the Extradition treaty with the UAE, the Amendments to Appendices I and II of the CITES Convention (re sawfish), the Nuclear Cooperation Agreements with Russia and India, the UN Convention on the Rights of Persons with Disabilities, OPCAT, ACTA, KAFTA and CHAFTA and the present inquiry into the Trans-Pacific Partnership.

It was a momentous achievement in March 2012 when, following a request from the treaties committee, the then PM Gillard, supported by Opposition Leader Abbott moved a motion in the parliament that was passed unanimously, in support of a nuclear weapons free world.

It is clear to me that the present system, whereby the treaties committee only gets to review a treaty once it has been signed, is flawed. It is usually too difficult, once a treaty has been signed with one or more other countries, to propose

amendments before ratification. The treaties committee's recommendations thus usually only serve as a message to government as to what not to do next time, rather than having any real impact on the treaty being examined by the committee. It is important in my view for the treaties committee to gain the power to examine treaties that are under negotiation and have not been signed. If other committees, such as the intelligence committee, can be trusted with potentially sensitive information, why not the treaties committee?

*The Hon Melissa Parke MP*

*Member for Freemantle*

## **The Hon Wyatt Roy MP**

Chairing the Joint Standing Committee on Treaties proved to be an incredibly exciting, engaging and rewarding opportunity.

In particular, it was a privilege to have played a role in the parliament's review of landmark free trade agreements with Korea, Japan and China.

The essence of JSCOT is its drawing together of committee members in a bi-partisan fashion – rising above the day-to-day political fray – to find meaningful consensus on a wide range of issues and then make powerful recommendations to government.

*The Hon Wyatt Roy MP*

*Member for Longman*

## **The Hon Kelvin Thomson MP**

The Treaties Committee was initiated by the Howard Government to give comfort to those on the political right who were suspicious that the power to enter into Treaties was being used by Labor Governments to pursue left-wing agendas. Some of them had a conspiratorial view about the role of the United Nations as well.

Over the years, however, it has also received considerable support from the left of politics, who have wanted to use it to scrutinise the globalisation/free trade agenda of large corporations. It has also received support from independent observers who have seen it playing a positive role in ensuring that Treaties receive more scrutiny than they used to, and that the States, stakeholders, and the general public are given an opportunity to express a view about them.

I cannot speak for Senate Committees, but I think there are good grounds for thinking the Treaties Committee to be the most important Committee that a

Member of the House of Representatives can serve on. Whereas other Committees depend on Ministers to give them work, and frankly most of their work ends up gathering dust in a bookshelf, Treaties signed by governments are always referred to the Committee, and governments don't proceed to ratify a Treaty until they have received and considered the Committee Report. I think Treaties Committee Reports are taken seriously by government, and during my time many of our recommendations have been adopted.

I joined the Treaties Committee as Chair in 2007. At the time I said to other Committee members that I didn't believe in insincere unity, that there was no shame in legitimate disagreement, and I would not be upset if Members wanted to dissent or express individual rather than Party positions. Notwithstanding that, I am proud that during my time as Chair Committee Members worked very hard to achieve unanimous reports, and we were able to do so on controversial issues such as nuclear non-proliferation and disarmament, even though Committee members came to these issues from quite different perspectives. A spirit of commonsense and goodwill has continued in my experience of the Committee as Deputy Chair post the 2013 election.

The biggest frustration for Committee Members and public alike is that we do not get to see the text of any Treaties while they are being negotiated - they only come to us after they have been signed. People understandably think we are being presented with each Treaty on a "take it or leave it" basis, that the Treaty is a fait accompli, and the Committee a rubber stamp. I believe it would be considerably better if the Committee had some form of access to Treaty negotiations while they were being conducted, as I understand happens in relation to the United States Congress.

I have enjoyed working with some very talented and professional staff at the Committee Secretariat, as well as with numerous entertaining, intelligent and conscientious colleagues. It has been a pleasure to serve on this Committee, despite the amount of reading involved!

*The Hon. Kelvin Thomson*

*Federal Labor Member for Wills*

## **Mr Brett Whiteley MP**

When I was elected at the 2013 election I made a commitment to keep my focus on Braddon and Tasmania - both while in the electorate and in Parliament.

It was clear from the outset that there was no parliamentary committee with more influence to produce positive outcomes for the Tasmanian economy and for Braddon than the Joint Standing Committee on Treaties. That statement may seem out of place to some, but the reality is that Tasmania is perhaps the most

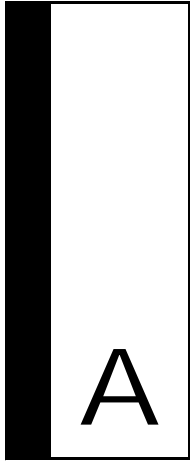
trade exposed state economy in Australia and has the most to gain, or lose, through our trade agreements with other countries.

The key highlights of my time on the JSCOT were its inquiries examining the free trade agreements with Japan, South Korea and China. These agreements have already begun to have significant impacts on the Tasmanian economy and will no doubt produce significant outcomes for decades to come.

*Mr Brett Whiteley MP*

*Federal Member for Braddon*





## Appendix A—Resolution of Appointment

### Proposed Powers and Proceedings of Joint Standing Committee on Treaties

That:

- 1) a Joint Standing Committee on Treaties be appointed 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 questions 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
    - iii. 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;
- 2) the committee consist of 16 members, 6 members of the House of Representatives to be nominated by the Government Whip or Whips, 3 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any minority group or independent Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or independent Senator.
- 3) every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives;
- 4) the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time;
- 5) the committee elect a:

- a) Government member as its chair; and
  - b) non-Government member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee;
- 6) at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting;
  - 7) in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote;
  - 8) three members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include one Government member of either House and one non-Government member of either House;
  - 9) the committee:
    - a) have power to appoint not more than three subcommittees each consisting of three or more of its members, and to refer to any subcommittee any matter which the committee is empowered to examine; and
    - b) appoint the chair of each subcommittee who shall have a casting vote only;
  - 10) in addition to the members appointed pursuant to paragraph (9), the chair and deputy chair of the committee be ex officio members of each subcommittee appointed;
  - 11) at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting;
  - 12) two members of a subcommittee constitute the quorum of that subcommittee, provided that in a deliberative meeting the quorum shall include one Government member of either House and one non-Government member of either House;
  - 13) members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum;
  - 14) the committee or any subcommittee have power to:
    - a) call for witnesses to attend and for documents to be produced;
    - b) conduct proceedings at any place it sees fit;
    - c) sit in public or in private;
    - d) report from time to time; and

- e) adjourn from time to time and sit during any adjournment of the Senate and the House of Representatives;
- 15) the committee or any subcommittee have power to consider and make use of the evidence and records of the Joint Standing Committees on Treaties appointed during previous Parliaments;
- 16) the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.





## Appendix B—Members

Senator the Hon Eric Abetz	30 May 1996	—	31 August 1998
Hon Dick Adams MP	30 May 1996	—	31 August 1998
	7 December 1998	—	8 October 2001
	14 February 2002	—	31 August 2004
	18 November 2004	—	15 October 2007
Hon Kevin Andrews MP	11 March 2008	—	10 November 2008
Senator Chris Back	11 February 2014	—	
Hon Bruce Baird MP	7 December 1998	—	8 October 2001
Hon Bob Baldwin MP	14 February 2002	—	5 June 2002
Senator Guy Barnett	27 June 2002	—	18 November 2002
Mr Kerry Bartlett MP	30 May 1996	—	31 August 1998
	7 December 1998	—	8 October 2001
	14 February 2002	—	31 August 2004
Senator Andrew Bartlett	7 March 2000	—	8 October 2001
	14 February 2002	—	18 November 2002
	12 December 2002	—	31 August 2004
	18 November 2004	—	15 October 2007
	14 February 2008	—	30 June 2008
Hon Sharon Bird MP	25 October 2010	—	14 March 2012
Senator the Hon Simon Birmingham	20 June 2007	—	15 October 2007
	14 February 2008	—	19 July 2010
	30 September 2010	—	12 September 2012
Hon Julie Bishop MP	14 February 2002	—	4 November 2003
Senator Vicki Bourne	30 May 1996	—	31 August 1998
	7 December 1998	—	20 October 1999
Hon Jamie Briggs MP	10 November 2008	—	19 July 2010
	25 October 2010	—	9 October 2012

Mr Andrew Broad MP	4 December 2013	—	2 February 2016
Senator Carol Brown	13 September 2005	—	15 October 2007
Senator the Hon David Brownhill	7 December 1998	—	1 July 1999
Senator David Bushby	14 February 2008	—	30 June 2008
Hon Anthony Byrne MP	16 February 2000	—	8 October 2001
Senator the Hon Kim Carr	30 May 1996	—	4 December 1996
	14 May 2013	—	5 August 2013
Senator the Hon Michaelia Cash	1 July 2008	—	19 July 2010
	30 September 2010	—	7 July 2011
Hon Steven Ciobo MP	14 February 2002	—	31 August 2004
Senator the Hon Jacinta Collins	1 December 2004	—	30 June 2005
Senator the Hon Helen Coonan	26 February 1997	—	31 August 1998
	7 December 1998	—	8 October 2001
	1 July 2011	—	23 August 2011
Senator Barney Cooney	4 December 1996	—	31 August 1998
	7 December 1998	—	8 October 2001
	14 February 2002	—	30 June 2002
Senator the Hon Mathias Cormann	14 February 2008	—	11 March 2008
Hon Janice Crosio MP	7 December 1998	—	16 February 2000
Senator Kay Denman	30 May 1996	—	12 December 1996
Senator Natasha Stott Despoja	20 October 1999	—	7 March 2000
	18 November 2002	—	5 December 2002
Hon Dr Sharman Stone MP	25 October 2010	—	5 August 2013
Hon Justine Elliot MP	6 February 2013	—	22 April 2013
Senator the Hon Christopher Ellison	30 May 1996	—	26 February 1997
Mrs Kay Elson MP	7 December 1998	—	23 May 2001
Mr Martyn Evans MP	14 February 2002	—	31 August 2004
Senator the Hon Don Farrell	1 July 2008	—	19 July 2010
Senator David Fawcett	23 August 2011	—	5 August 2013
	4 December 2013	—	
Mr Laurie Ferguson MP	30 May 1996	—	31 August 1998
	7 December 1998	—	12 August 1999
	14 March 2012	—	20 September 2012
	14 March 2013	—	5 August 2013
Mr John Forrest MP	11 March 2008	—	19 July 2010
	25 October 2010	—	5 August 2013
Hon Gary Hardgrave MP	30 May 1996	—	31 August 1998
	7 December 1998	—	8 October 2001

Hon Luke Hartsuyker MP	22 February 2016	—	
Ms Sharon Grierson MP	25 October 2010	—	5 August 2013
Mr Barry Haase MP	23 May 2001	—	8 October 2001
Ms Jill Hall MP	18 February 2008	—	19 July 2010
Hon Bob Halverson MP	27 May 1998	—	31 August 1998
Hon Greg Hunt MP	5 June 2002	—	31 August 2004
Mrs Julia Irwin MP	5 February 2009	—	12 March 2009
Ms Susan Jeanes MP	24 September 1997	—	31 August 1998
Mr Harry Jenkins MP	7 February 2012	—	5 August 2013
Dr Dennis Jensen MP	4 December 2013	—	19 October 2015
Mr Michael Johnson MP	18 November 2004	—	15 October 2007
Senator the Hon David Johnston	12 December 2015	—	
Hon Michael Keenan MP	11 August 2005	—	15 October 2007
Hon De-Anne Kelly MP	7 December 1998	—	8 October 2001
Hon Duncan Kerr MP	26 November 2009	—	19 July 2010
Mr Peter King MP	14 February 2002	—	31 August 2004
Mr Luke Simpkins MP	11 March 2008	—	19 July 2010
Senator Linda Kirk	27 June 2002	—	31 August 2004
Senator Helen Kroger	4 December 2013	—	11 February 2014
Mr Andrew Laming MP	14 February 2007	—	15 October 2007
Senator Sue Lines	4 December 2013	—	
Ms Kirsten Livermore MP	25 October 2010	—	5 August 2013
Senator Scott Ludlam	4 September 2008	—	19 July 2010
	30 September 2010	—	5 August 2013
	4 December 2013	—	7 July 2014
Senator the Hon Joe Ludwig	9 August 1999	—	8 October 2001
	14 February 2002	—	27 June 2002
	4 December 2013	—	
Hon Robert McClelland MP	30 May 1996	—	31 August 1998
	20 September 2012	—	14 March 2013
Senator the Hon Ian Macdonald	23 March 2007	—	15 October 2007
Senator the Hon Sandy MacDonald	11 March 2008	—	30 June 2008
Senator Sue Mackay	18 November 2004	—	29 July 2005
Hon Richard Marles MP	22 April 2013	—	5 August 2013
Senator Gavin Marshall	27 June 2002	—	31 August 2004
	14 February 2008	—	30 June 2008
Senator the Hon Brett Mason	1 July 1999	—	8 October 2001
	14 February 2002	—	31 August 2004

	18 November 2004	—	23 March 2007
Mrs Margaret May MP	18 November 2004	—	15 October 2007
Hon Peter McGauran MP	23 October 1997	—	31 August 1998
Senator Julian McGauran	14 February 2002	—	27 June 2002
	13 February 2006	—	15 October 2007
	1 July 2008	—	19 July 2010
	30 September 2010	—	30 June 2011
Senator the Hon James McGrath	1 July 2014	—	12 October 2015
Senator Bridget McKenzie	12 September 2012	—	5 August 2013
Mrs Sophie Mirabella MP	18 November 2004	—	14 February 2007
Mr John Murphy MP	12 March 2009	—	19 July 2010
Senator Shayne Murphy	12 December 1996	—	31 August 1998
Senator Belinda Neal	30 May 1996	—	5 March 1998
Ms Belinda Neal MP	18 February 2008	—	19 July 2010
Senator Bill O'Chee	30 May 1996	—	31 August 1998
	7 December 1998	—	30 June 1999
Senator Kerry O'Brien	30 September 2010	—	30 June 2011
Mr Ken O'Dowd MP	11 December 2013	—	
Hon Melissa Parke MP	18 February 2008	—	19 July 2010
	25 October 2010	—	6 February 2013
	4 December 2013	—	
Mr Jim Pearce MP	18 September 2001	—	8 October 2001
Senator Louise Pratt	1 July 2008	—	19 July 2010
	30 September 2010	—	1 July 2011
Hon Jane Prentice MP	9 October 2012	—	5 August 2013
	4 December 2013	—	25 February 2014
Ms Melissa Price MP	22 February 2016	—	
Senator the Hon Margaret Reynolds	5 March 1998	—	31 August 1998
	7 December 1998	—	30 June 1999
Hon Bernie Ripoll MP	18 November 2004	—	15 October 2007
Ms Michelle Rowland MP	25 October 2010	—	7 February 2012
Hon Wyatt Roy MP	4 December 2013	—	12 December 2015
Senator the Hon Santo Santoro	18 November 2002	—	31 August 2004
	18 November 2004	—	13 February 2006
Senator the Hon Chris Schacht	14 February 2002	—	30 June 2002
Hon Bruce Scott MP	14 February 2002	—	31 August 2004
	18 November 2004	—	15 October 2007
Senator the Hon Chris Schacht	7 December 1998	—	8 October 2001



Senator the Hon Lisa Singh	1 July 2011	—	5 August 2013
Mr Anthony Smith MP	30 May 1996	—	27 May 1998
Senator Dean Smith	9 May 2012	—	5 August 2013
	4 December 2013	—	1 July 2014
Dr Andrew Southcott MP	4 November 2003	—	31 August 2004
	18 November 2004	—	15 October 2007
Senator the Hon Ursula Stephens	27 June 2002	—	31 August 2004
	18 November 2004	—	23 June 2005
Senator Glenn Sterle	23 June 2005	—	15 October 2007
	14 February 2008	—	1 July 2008
	1 July 2014	—	
Hon Sharman Stone MP	4 December 2013	—	11 December 2013
	25 February 2014	—	11 November 2015
Mr Mike Symon MP	6 February 2013	—	5 August 2013
Hon Angus Taylor MP	12 October 2015	—	22 February 2016
Mr Bill Taylor MP	30 May 1996	—	31 August 1998
Senator Tsebin Tchen	1 July 1999	—	8 October 2001
	14 February 2002	—	31 August 2004
	18 November 2004	—	30 June 2005
Senator Matthew Thistlethwaite	1 July 2011	—	14 May 2013
Hon Andrew Thomson MP	7 December 1998	—	18 September 2001
Hon Kelvin Thomson MP	18 February 2008	—	19 July 2010
	25 October 2010	—	6 February 2013
	4 December 2013	—	
Senator the Hon Lin Thorp	25 June 2012	—	5 August 2013
	4 December 2013	—	30 June 2014
Mr Chris Trevor MP	18 February 2008	—	5 February 2009
Senator Russell Trood	23 June 2005	—	20 June 2007
Hon Warren Truss MP	30 May 1996	—	23 October 1997
Hon Wilson Tuckey MP	30 May 1996	—	24 September 1997
Hon Malcolm Turnbull MP	18 November 2004	—	11 August 2005
Senator Anne Urquhart	1 July 2011	—	25 June 2012
Ms Maria Vamvakinou MP	18 February 2008	—	26 November 2009
Mr Tim Watts MP	4 December 2013	—	
Senator Peter Whish-Wilson	7 July 2014	—	
Mr Brett Whiteley MP	4 December 2013	—	
Mrs Lucy Wicks MP	19 October 2015	—	
Mr Kim Wilkie MP	12 August 1999	—	8 October 2001

	14 February 2002	—	31 August 2004
	18 November 2004	—	15 October 2007
Mr Matt Williams MP	22 February 2016	—	
Senator Dana Wortley	23 June 2005	—	15 October 2007
	14 February 2008	—	19 July 2010
	30 September 2010	—	30 June 2011



## Appendix C—Chairs and Deputy Chairs

### Chairs

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The Hon Luke Hartsuyker MP	22 February 2016	Current
The Hon Angus Taylor MP	15 Oct 2015	18 February 2016
The Hon Wyatt Roy MP	10 December 2013	12 October 2015
The Hon Richard Marles MP	8 May 2013	5 August 2013
Senator Matthew Thistlethwaite	14 February 2013	8 May 2013
The Hon Kelvin Thomson MP	20 October 2010	6 February 2013
The Hon Kelvin Thomson MP	13 March 2008	19 July 2010
Dr Andrew Southcott MP	11 December 2005	15 October 2007
Ms Margaret May MP (Acting)	5 September 2005	11 December 2005
Dr Andrew Southcott MP	6 December 2004	5 September 2005
Dr Andrew Southcott MP	4 November 2003	31 August 2004
The Hon Julie Bishop MP	21 March 2002	4 November 2003
Mr Kerry Bartlett MP	17 September 2001	8 October 2001
The Hon Andrew Thomson MP	9 December 1998	17 September 2001
Mr W L Taylor MP (Bill)	30 May 1996	31 August 1998

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## Deputy Chairs

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The Hon Kelvin Thomson MP	10 December 2013	Current
Senator Bridget McKenzie	12 September 2012	5 August 2013
Senator Simon Birmingham	12 September 2011	12 September 2012
Senator Julian McGauran	16 November 2010	12 September 2011
Senator Julian McGauran	2 September 2008	19 July 2010
Senator the Hon Sandy Macdonald	13 March 2008	30 June 2008
Mr Kim Wilkie MP	6 December 2004	15 October 2007
Mr Kim Wilkie MP	21 March 2002	31 August 2004
Senator Barney Cooney	9 December 1998	17 September 2001
The Hon Robert McClelland MP	17 June 1996	31 August 1998

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## Appendix D—Government responses

Report	Name	Report tabled	Government response
Report 157	Treaties tabled on 13 October 2015	2 Dec 2015	
Report 156	Treaties tabled on 8 September 2015	23 Nov 2015	
Report 155	Treaties tabled on 11 August and 12 August 2015	19 Oct 2015	Not required
Report 154	Treaty tabled on 17 June 2015	19 Oct 2015	
Report 153	Treaties tabled on 16 June and 23 June 2015	14 Sept 2015	Not required
Report 152	Treaty tabled on 16 June 2015	18 Aug 2015	Not required
Report 151	Treaty tabled on 28 October 2014	8 Sept 2015	11 Nov 2015
Report 150	Treaties tabled on 3 March, 5 March and 12 May 2015	16 June 2015	Not required
Report 149	Treaty tabled on 10 February 2015	16 June 2015	11 Nov 2015
Report 148	Treaties tabled on 10 February 2015	12 May 2015	Not required
Report 147	Treaties tabled on 18 June, 24 November, 2 December 2014 and 25 February 2015	26 March 2015	Not required
Report 146	Treaty tabled on 30 September 2014	10 Feb 2015	Not required
Report 145	Treaties tabled on 26 August and 2 September 2014	25 Nov 2014	Not required
Report 144	Treaty tabled on 14 July 2014	28 Oct 2014	Not required
Report 143	Treaties tabled on 17 June and 15 July 2014	24 Sept 2014	Not required
Report 142	Treaty tabled on 13 May 2014	4 Sept 2014	Not required
Report 141	Treaties tabled on 19 March and 13 May 2014	15 July 2014	Not required
Report 140	Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and Implement FATCA – Interim Report	23 June 2014	Not required
Report 139	Review into Treaties tabled on 11 December 2013, referred on 15 January and tabled on 11 February 2014	13 May 2014	Not required
Report 138	Review into Treaties tabled on 11 and 12 December 2013, 20 January 2014 and referred on 15 January 2014	26 March 2014	Not required

Report 137	Review into Treaty referred on 15 January 2014	18 March 2014	27 Nov 2014
Report 136	Treaty tabled on 14 May 2013	Presented to the Speaker on 5 Aug 2013	13 Feb 2014
Report 135	Treaties tabled on 12 March and 14 May 2013	Presented to the President on 23 July 2013	Not required
Report 134	Treaties tabled on 12 March and 14 May 2013	25 June 2013	Not required
Report 133	Treaties tabled on 1 November 2012	27 May 2013	Not required
Report 132	Treaties tabled on 18 September and 30 October 2012	13 March 2013	Not required
Report 131	Treaties tabled on 21 August, 11 and 18 September 2012	28 Nov 2012	16 May 2013
Report 130	Treaty tabled on 14 August 2012	31 Oct 2012	17 July 2014
Report 129	Treaties tabled on 19 and 26 June 2012	10 Sept 2012	Not required
Report 128	Review of the Treaties Ratification Bill 2012	15 Aug 2012	27 March 2014
Report 127	Treaties tabled on 20 March and 8 May 2012	15 Aug 2012	Not required
Report 126	Treaty tabled on 21 November 2011	27 June 2012	27 Nov 2012
Report 125	Treaties tabled on 7 and 28 February 2012	21 June 2012	1 Nov 2012
Report 124	Treaties tabled on 22 November 2011 and 7 February 2012	10 May 2012	Not required
Report 123	Treaties tabled on 13 October, 2, 22 and 24 November 2011	14 March 2012	Not required
Report 122	Treaties tabled on 23 August, 13 and 20 September and 13 October 2011	22 Nov 2011	Not required
Report 121	Treaty tabled on 16 August 2011	1 Nov 2011	Not required
Report 120	Treaties tabled on 5 July and 16 August 2011	12 Oct 2011	Not required
Report 119	Treaty tabled on 5 July 2011	15 Sept 2011	Not required
Report 118	Treaties tabled on 23 March and 11 May 2011	17 Aug 2011	Ministerial correspondence
Report 117	Treaties tabled on 9 and 10 February, and 1 March 2011	14 June 2011	Not required
Report 116	Treaties tabled on 24 and 25 November 2010, 9 February and 1 March 2011 and Treaties referred on 16 November 2010 (part 3)	11 May 2011	Response to Recommendation 14 22 Sept 2011 Not required for Recommendations 4, 5, 10, 11 and 14
Report 115	Treaties tabled on 28 October and 24 November 2010 and Treaties referred on 16 November 2010 (part 2)	21 March 2011	Not required
Report 114	Treaties referred on 16 November 2010 (part 1)	Presented to the Speaker on 3 Dec 2010	Not required
Report 113	Treaty tabled on 12 May 2010	Presented to the Speaker on 19 July 2010	Not required
Report 112	Treaties tabled on 9, 10, 15, 16 and 29 March 2010	21 June 2010	Not required
Report 111	Treaties tabled on 25 November 2009 (3), 4 and 24 February 2010	21 June 2010	24 March 2011 recommendation 1

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Report 110	Treaties tabled on 18, 25 (2) and 26 November 2009 and 2 (2) February 2010	15 March 2010	9 Feb 2012
Report 109	Treaty tabled on 2 February 2010	11 Feb 2010	Not required
Report 108	Treaty tabled on 25 November 2009	4 Feb 2010	Not required
Report 107	Treaties tabled on 20 August (2) and 15 September 2009	16 Nov 2009	12 May 2011
Report 106	Nuclear Non-proliferation and Disarmament	17 Sept 2009	25 Feb 2010 for Recommendations 1 – 17 Presiding Officers' Response 16 March 2010 for Recommendations 18 - 22
Report 105	Treaties tabled on 13 May, 25 June and 20 August 2009	14 Sept 2009	Not required
Report 104	Treaties tabled on 20 August 2009	9 Sept 2009	Not required
Report 103	Treaties tabled on 12 March and 13 May 2009	18 Aug 2009	13 May 2010
Report 102	Treaties tabled on 12 and 16 March 2009	24 June 2009	28 Sept 2009
Report 101	Treaties tabled on 3 February 2009	15 June 2009	Not required
Report 100	Treaties tabled on 25 June 2008 (2)	19 March 2009	9 Aug 2012
Report 99	Treaties tabled on 3 December 2008 and 3 February 2009	12 March 2009	10 Feb 2011
Report 98	Treaties tabled on 26 November 2008 and 4 December 2008	12 March 2009	Not required
Report 97	Treaties tabled on 16 September 2008	4 Dec 2008	Not required
Report 96	Treaties tabled on 16 September 2008	24 Nov 2008	Not required
Report 95	Treaties tabled on 4 June, 17 June, 25 June and 26 August 2008	16 Oct 2008	22 Oct 2009 recommendations 6, 7 and 11 4 Feb 2010 Recommendations 1, 2, 3, 4 and 5
Report 94	Treaties tabled on 14 May 2008	18 Sept 2008	18 March 2010
Report 93	Treaties tabled on 12 March and 14 May 2008	4 Sept 2008	19 March 2009
Report 92	Treaties tabled on 4 June 2008	19 June 2008	Not required
Report 91	Treaties tabled on 12 March 2008	26 June 2008	4 Feb 2010
Report 90	Treaties tabled on 12 March 2008	15 May 2008	Not required
Report 89	Treaties tabled on 7 August 2007	20 Sept 2007	Not required
Report 88	Treaty tabled on 7 August 2007	16 Aug 2007	Not required
Report 87	Treaties tabled on 13 June 2007	16 Aug 2007	Not required
Report 86	Treaties tabled on 27 March and 9 May 2007	16 Aug 2007	Not required
Report 85	Treaties tabled on 6, 7 and 27 February 2007	21 June 2007	Not required
Report 84	Treaty tabled on 6 December 2006	20 June 2007	13 Sept 2007
Report 83	Treaties tabled on 20 June (2), 17 October, 28 November (2) 2006 and CO2 Sequestration in Sub-Seabed Formations	26 March 2007	Not required
Report 82	Treaty tabled on 28 November 2006	7 Dec 2006	Not required
Report 81	Treaties tabled on 8 August 2006 (2)	6 Dec 2006	13 Sept 2007
Report 80	Treaties tabled on 28 March (4) and 5	19 Oct 2006	22 March 2007

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	September (2) 2006		
Report 79	Treaties tabled on 10 May (2), 5 and 6 September 2006	19 Oct 2006	Not required
Report 78	Treaty Scrutiny: A Ten Year Review	9 Oct 2006	Not required
Report 77	Treaties tabled on 20 June and 8 August 2006	9 Oct 2006	Not required
Report 76	Treaties tabled on 28 March (3) and 10 May 2006	16 Aug 2006	Not required
Report 75	Treaties tabled on 11 October 2005 (2), 28 February and 28 March 2006 (2)	14 Aug 2006	Not required
Report 74	Treaty tabled on 28 March 2006	29 May 2006	Not required
Report 73	Treaties tabled in February 2006	10 May 2006	Not required
Report 72	Treaties tabled on 29 November 2005 (2)	28 March 2006	Not required
Report 71	Treaty tabled on 29 November 2005	27 Feb 2006	Not required
Report 70	Treaty tabled on 9 November 2005	6 Dec 2005	Not required
Report 69	Treaties tabled on 13 September and 11 October 2005	5 Dec 2005	Not required
Report 68	Treaties tabled on 7 December 2004 (5) and 9 August 2005	7 Nov 2005	Not required
Report 67	Treaties tabled on 21 June 2005	12 Sept 2005	Not required
Report 66	Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005	17 Aug 2005	2 Aug 2007 30 Nov 2005
Report 65	Treaties tabled on 7 December 2004 (3) and 8 February 2005	20 June 2005	10 Aug 2006
Report 64	Treaties tabled on 7 December 2004 (2)	10 May 2005	Not required
Report 63	Treaties tabled on 7 December 2004 (Previously tabled in May and June 2004)	14 Feb 2005	Not required
Report 62	Treaties tabled on 30 March 2004	5 Aug 2004	Not required
Report 61	Australia - United States Free Trade Agreement	23 June 2004	Not required
Report 60	Treaties tabled on 2 March 2004	16 June 2004	2 Dec 2004
Report 59	Treaties tabled on 2nd and 3rd December 2003	31 March 2004	Not required
Report 58	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	23 March 2004	Not Required
Report 57	Convention for the Safety of Life at Sea, 1974 and the International Ship and Port Facility Security (ISPS) Code	4 Dec 2003	21 June 2005
Report 56	Treaties tabled 8 October 2003	1 Dec 2003	12 Aug 2004
Report 55	Treaties tabled 9 September 2003	16 Oct 2003	2 Dec 2004
Report 54	Treaties tabled June and August 2003	17 Sept 2003	Not required
Report 53	Treaties tabled May and June 2003	19 Aug 2003	2 Dec 2004
Report 52	Treaties tabled 4 March 2003	26 June 2003	17 June 2004
Report 51	Treaties tabled November and December 2002	25 March 2003	Not required
Report 50	Treaties tabled 15 October 2002	9 Dec 2002	19 June 2003
Report 49	Review of Timor Sea Treaty	11 Nov 2002	14 Aug 2003
Report 48	Treaties tabled August and September 2002	21 Oct 2002	19 June 2003
Report 47	Treaties tabled 18 and 25 June 2002	26 Aug 2002	Not required



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Report 46	Treaties tabled 12 March 2002	24 June 2002	No response to date
Report 45	The Statute of the International Criminal Court	14 May 2002	12 Feb 2004
Report 44	Four Nuclear Safeguards Treaties	14 May 2002	Not required
Report 43	Thirteen Treaties Tabled in August 2001	27 Sept 2001	Not required
Report 42	Who's Afraid of the WTO? Australia and the World Trade Organisation	24 Sept 2001	29 Aug 2002
Report 41	Six Treaties tabled on 23 May 2001	20 Aug 2001	Not required
Report 40	Extradition - a review of Australia's law and policy	6 Aug 2001	13 May 2004
Report 39	Privileges and Immunities of the International Tribunal on the Law of the Sea and the Treaties Tabled on 27 February and 6 March 2001	4 June 2001	19 Sept 2002
Report 38	The Kyoto Protocol - Discussion Paper	4 April 2001	Not required
Report 37	Six Treaties Tabled on 10 October 2000	4 Dec 2000	Not required
Report 36	An Extradition Agreement with Latvia and an Agreement with the United States of America on Space Vehicle Tracking and Communication	30 Oct 2000	Not required
Report 35	Agreement for Co-operation in the Peaceful Uses of Nuclear Energy	9 Oct 2000	Not required
Report 34	Two treaties tabled on 6 June 2000	28 Aug 2000	5 April 2001
Report 33	Social Security Agreement with Italy and New Zealand Committee Exchange	5 June 2000	Not required
Report 32	Six treaties tabled on 7 March 2000	29 May 2000	24 May 2001
Report 31	Three Treaties tabled on 7 March 2000	10 April 2000	8 March 2001
Report 30	Treaties tabled on 8 and 9 December 1999 and 15 February 2000	6 March 2000	5 Dec 2001
Report 29	Singapore's Use of Shoalwater Bay, Development Cooperation with PNG and Protection of New Varieties of Plants	3 April 2000	5 Oct 2001
Report 28	Fourteen Treaties Tabled on 12 October 1999	6 Dec 1999	Not required
Report 27	Termination of Social Security Agreement with the United Kingdom and International Plant Protection Convention	6 Dec 1999	29 June 2000
Report 26	An Agreement to extend the period of operation of the Joint Defence Facility at Pine Gap	18 Oct 1999	29 June 2000
Report 25	Eight Treaties Tabled on 11 August 1999	27 Sept 1999	5 Oct 2000
Report 24	A Seminar on the Role of Parliaments on Treaty Making	30 Aug 1999	Not required
Report 23	Amendments proposed to the International Whaling Convention	23 Aug 1999	17 Aug 2000
Report 22	Five Treaties Tabled on 11 May 1999	28 June 1999	Not required
Report 21	Five Treaties Tabled on 16 February 1999	7 June 1999	Not required
Report 20	Two Treaties Tabled on 26 May 1998, the Bougainville Peace Monitoring Group Protocol and Treaties Tabled on 11 November 1998	29 March 1999	8 Feb 2001
Report 19	The Fifth Protocol to the General Agreement on Trade in Services and Five Treaties	23 March 1999	Not required

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	Tabled on 30 June 1998		
Report 18	Multilateral Agreement on Investment: Final Report	22 March 1999	7 Dec 1999
Report 17	United Nations Convention on the Rights of the Child	28 Aug 1998	6 March 2003
Report 16	OECD Convention on Combating Bribery and Draft Implementing Legislation	2 July 1998	11 March 1999
Report 15	Fifteenth Report	2 July 1998	29 June 2000
Report 14	Multilateral Agreement on Investment: Interim Report	1 June 1998	Not required
Report 13	Thirteenth Report	1 April 1998	Not required
Report 12	Australia-Indonesia Maritime Delimitation Treaty	1 Dec 1997	Not required
Report 11	Eleventh Report	24 Nov 1997	9 Aug 2001
Report 10	Tenth Report	20 Oct 1997	Not required
Report 9	Amendments to the Bonn Convention	1 Sept 1997	27 May 1998
Report 8	Eighth Report	23 June 1997	9 Aug 2001
Report 7	Australia's Withdrawal from Unido and Treaties Tabled on 11 February 1997	24 March 1997	14 May 1998
Report 6	The Oakey Agreement: Australia and Singapore	24 March 1997	24 June 1997
Report 5	Restrictions on the Use of Blinding Laser Weapons and Landmines	24 Feb 1997	25 Aug 1997
Report 4	Treaties Tabled on 15 and 29 October 1996	2 Dec 1996	24 June 1997
Report 3	Two International Agreements on Tuna	18 Nov 1996	26 May 1998
Report 2	Treaties Tabled on 10 & 11 September 1996	14 Oct 1996	Not required
Report 1	First Report	9 Sept 1996	14 May 1997

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## Appendix E—Reports as at February 2016

### 38<sup>th</sup> Parliament (May 1996–August 1998)

#### Report 1: First Report

##### Treaties tabled on 21 May 1996

- Treaty with South Africa on Extradition
- Treaty with Hungary on Extradition
- Agreement with Romania on Trade and Economic Cooperation
- Agreement with New Zealand Establishing a System for the Development of Joint Food Standards
- Treaty with Hungary on Mutual Assistance in Criminal Matters
- Treaty with Indonesia on Mutual Assistance in Criminal Matters
- Treaty with Brazil on Extradition
- Treaty with Ecuador on Mutual Assistance in Criminal Matters
- Agreement Establishing the International Institute for Democracy and Electoral Assistance [International IDEA]
- Convention for the Pacific Settlement of International Disputes [Hague I]
- Second Protocol to the General Agreement on Trade in Services
- Third Protocol to the General Agreement on Trade in Services
- Agreement establishing the Association of Tin Producing Countries (ATPC)
- Exchange of Notes constituting an Agreement with Hong Kong, to further extend the Agreement concerning the Investigation of Drug Trafficking and the Confiscation of the Proceeds of Drug Trafficking of 22 April 1991
- Exchange of Notes constituting an Agreement with Papua New Guinea, pursuant to Articles 3 to 5 of the Treaty on Development Cooperation of 24 May 1989
- Exchange of Notes constituting an Agreement with New Zealand, to extend the Agreement concerning Royal New Zealand Air Force Skyhawk Aircraft involvement in Australian Defence Force Air Defence Support Flying of 13 July 1990
- Exchange of Notes constituting an Agreement with the United States of America concerning Certain Mutual Defence Commitments
- Exchange of Notes constituting an Agreement with the Korean Peninsula Energy Development Organization (KEDO) regarding an Australian Financial Contribution to KEDO
- Agreement with Indonesia on Maintaining Security
- International Agreement on Jute and Jute Products

##### Treaties tabled on 18 June 1996

- Exchange of Notes, constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Associated Use of Storage Facilities in Australia
- Amendments, to the Agreement establishing the South Pacific Applied Geoscience Commission
- Agreement to the Surrender of Accused and Convicted Persons between the Government of Australia and the Government of Hong Kong

- Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region
- Subsidiary Agreement between the Government of Australia and the Government of Japan Concerning Japanese Tuna Long-Line Fishing. 15 June 1996

**Report 2: Treaties tabled on 10 & 11 September 1996**

- Amendments to the Schedule, International Convention for the Regulation of Whaling, 1946
- Protocol of 1988 relating to the International Convention on Load Lines of 5 April 1966
- Protocol of 1988 relating to the International Convention for the Safety of Life at Sea of 1 November 1974
- International Convention on Salvage of 28 April 1989
- Agreement between the Government of Australia and the Government of Canada concerning the Protection of Defence Related Information Exchange Between Them
- Air Services Agreement with Malta

**Report 3: Two International Agreements on Tuna**

- Subsidiary Agreement between the Government of Australia and the Government of Japan Concerning Japanese Tuna Long-line Fishing 1996
- Agreement for the Establishment of the Indian Ocean Tuna Commission

**Report 4: Treaties tabled on 15 and 29 October 1996**

Treaties tabled on 15 October 1996

- Convention on Nuclear Safety
- Films Co-production Agreement between the Government of Australia and the Government of Italy
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime
- Exchange of Notes, 3 October 1996 and 4 October 1996 constituting an Agreement between the Government of Australia and the Government of the Federal Republic of Germany to further amend the Agreement relating to Air Transport of 22 May 1957
- Montreal Protocol No 4 to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air as amended by the Protocol
- Agreement between Australia and the Government of the Republic of Peru on the Promotion and Protection of Investments, and Protocol
- Agreement between the Government of Australia and the Government of the Republic of Chile on the Reciprocal Promotion and Protection of Investments, and Protocol
- Convention Establishing the Multilateral Investment Guarantee Agency
- Agreement between the Government of Australia and the People's Republic of China concerning the Maintenance of the Consulate-General of Australia in the Hong Kong Special Administrative Region of the People's Republic of China
- Agreement Recognizing the International Legal Personality of the International Rice Research Institute (IRRI)
- Exchange of Notes Constituting an Agreement between the Government of Australia and the Multinational Force and Observers (MFO) to further amend and extend the Agreement concerning Australian Participation in the MFO of 16 March 1982, as amended on 4 January 1993
- Agreement between the Government of Australia and the Government of New Zealand concerning Enhanced Involvement of the Royal New Zealand Air Force Skyhawk Aircraft in Australian Defence Force Air Defence Support Flying

Treaties tabled on 29 October 1996

- Agreement between the Government of Australia and the Government of the Republic of Singapore for the Reciprocal Protection of Material Transmitted between the Australian Department of Defence and the Singapore Ministry of Defence
- Agreement between the Government of Australia and the Government of Macau concerning Air Services
- Amendments, to the International Convention on Load Lines of 5 April 1966
- Amendment, of the Agreement relating to the International Telecommunications Satellite Organisation INTELSAT of 20 August 1971, to Implement Multiple Signatory Arrangements
- Amendment of the Operating Agreement relating to the International Telecommunications Satellite Organisation INTELSAT on 20 August 1971, to Implement Multiple Signatory Arrangements

**Report 5: Restrictions on the Use of Blinding Laser Weapons and Landmines**

- Protocol IV, on Blinding Laser Weapons, to the Inhumane Weapons Convention (IWC)
- The additional or amended Protocol II, prohibiting and restricting the use of mines, booby traps and other devices, to the Inhumane Weapons Convention (IWC)

**Report 6: The Oakey Agreement: Australia and Singapore**

- Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Helicopter Squadron at the Army Aviation Centre at Oakey

**Report 7: Australia's Withdrawal from UNIDO and Treaties Tabled on 11 February 1997**

- Australia's Withdrawal from the United Nations Industrial Development Organization
- Treaties tabled on 11 February 1997
  - Exchange of Notes, constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, of 13 April 1992
  - Trade and Investment Agreement between the Government of Australia and the Government of the United Mexican States
  - Agreement between the Government of Australia and the Government of Hong Kong concerning Mutual Legal Assistance on Criminal Matters
  - International Convention on Civil Liability for Oil Pollution Damage
  - International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage

**Report 8: Eighth Report**Treaties tabled on 18 March 1997

- Agreement between the Government of Australia and the Government of the Republic of Chile on Gainful Employment of Dependants of Diplomatic and Consular Personnel
- Subsidiary Agreement between the Government of Australia and the Government of Japan Concerning Japanese Tuna Long-line Fishing 1997

Treaties tabled on 13 May 1997

- Agreement between the Government of Australia and the Government of the Czech Republic on Trade and Economic Cooperation
- Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning the Investigation, Restraint and Confiscation of the Proceeds of Crime
- Agreement between the Government of Australia and the Government of the Arab Republic of Egypt relating to Air Services
- Agreement between the Government of Australia and the Government of the Republic of Lebanon relating to Air Services
- Agreement between Australia and New Zealand concerning the establishment of the Governing Board, Technical Advisory Council and Accreditation Review Board of the Joint Accreditation System of Australia and New Zealand
- Trademark Law Treaty
- The United Nations Convention to Combat Desertification

**Report 9: Amendments to the Bonn Convention**

- The Convention on the Conservation of Migratory Species of Wild Animals

**Report 10: Tenth Report**Treaties tabled on 17 June 1997

- Agreement on Economic, Trade and Technical Cooperation between the Government of Australia and the Government of Lebanon
- Amendment to Article 20, paragraph 1, of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), of 18 December 1979

Treaties tabled on 26 August 1997

- Fourth Protocol, to the General Agreement on Trade in Services (GATS), of 15 April 1994
- Exchange of Notes, constituting an Agreement between the Government of Australia and the Government of the Republic of Korea concerning the Retransfer of Australian Obligated Nuclear Material under the Agreement concerning Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material, of 2 May 1979

- Second Agreement, to extend the Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology, of 2 February 1987
- Amendments, to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of 3 March 1973
- Project Arrangement between the Government of Australia and the Government of the United States of America on Detection and Tracking of Targets in Clutter
- Project Arrangement between the Government of Australia and the Government of the United States of America on Data Fusion for Over-the-Horizon Radar
- Treaty between the Government of Australia and the Government of the United States of America on Mutual Assistance in Criminal Matters, and Exchange of Notes constituting an Agreement on the Interpretation and Application of the Treaty on Mutual Assistance in Criminal Matters
- Treaty on Extradition between Australia and the Oriental Republic of Uruguay
- Treaty on Extradition between Australia and the Republic of Turkey, and Exchange of Notes, constituting an Agreement to amend the Treaty on Extradition and as to the interpretation of the Treaty as amended

#### **Report 11: Eleventh Report**

- Agreement between the Government of Australia and the Government of the Republic of Kazakhstan on Economic and Commercial Cooperation

##### Treaties tabled on 30 September 1997

- Protocol, additional to the Agreement of 10 July 1974 between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968
- Agreement between the Government of Australia and the Government of Malaysia on Trade and Economic Cooperation
- Asian-Pacific Postal Union: Amendments, to the Constitution of 4 December 1985; Additional Protocols, to the Constitution of 4 December 1985; and General Regulations

##### Treaties tabled on 21 October 1997

- Agreement on Medical Treatment for Temporary Visitors between Australia and Ireland
- Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organisation in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty
- Agreement between the Government of Australia and the Government of the Federal Republic of Germany on the Establishment of a Mobile Ground Station in Australia for the PRARE Project
- Exchange of Notes between the Government of Australia and the Government of Japan constituting an Agreement concerning Co-operation on the Project for the Geostationary Meteorological Satellite-5 System
- Agreement on the Network of Aquaculture Centres in Asia and the Pacific, as amended by the Fourth Session of the Governing Council in Hong Kong, 8-11 December 1992
- Agreement between Australia and the Kingdom of the Netherlands on Gainful Employment of Dependants of Diplomatic and Consular Personnel
- Films Co-production Agreement between the Government of Australia and the Government of Israel

#### **Report 12: Australia-Indonesia Maritime Delimitation Treaty**

- Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries

#### **Report 13: Thirteenth Report**

##### Treaties tabled on 25 November 1997

- Protocol, to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 29 December 1972
- Amendments to the Schedule to the International Convention for the Regulation of Whaling of 2 December 1946

##### Treaties tabled on 3 March 1998

- Agreement on Judicial Assistance in Civil and Commercial Matters and Cooperation in Arbitration between Australia and the Kingdom of Thailand

- Amendments (concerning phasing out sea disposal of industrial waste), under Resolution LC.49(16), to Annexes I and II to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, of 29 December 1972
- [Second] Protocol to amend the Agreement between Australia and the Government of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and [First] Protocol, of 12 September 1984
- Treaty on Extradition between Australia and the Republic of Paraguay
- Exchange of Letters constituting an Agreement to amend the Agreement on Health Services between Australia and the Government of the Republic of Malta of 6 July 1988
- Agreement between Australia, Papua New Guinea, Fiji, New Zealand and Vanuatu concerning the Neutral Truce Monitoring Group for Bougainville

**Report 14: Multilateral Agreement on Investment: Interim Report**

- Multilateral Agreement on Investment

**Report 15: Fifteenth Report**

Treaties tabled on 1 April 1998

- Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption
- Proposed denunciation of the Convention for Establishing Facilities for Finding Employment for Seafarers (International Labour Organisation (ILO) Convention No. 9, Placing of Seamen, 1920)

Treaties tabled on 12 May 1998

- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, of 16 September 1987
- Amendment and adoption of Annexes to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989
- Exchange of Notes constituting an Agreement to further amend the Agreement between the Government of Australia and the Government of New Zealand on Social Security, of 19 July 1994
- Agreement between Australia and the Islamic Republic of Pakistan on the Promotion and Protection of Investments
- Films Co-production Agreement between the Government of Australia and the Government of Ireland
- Headquarters Agreement between the Government of Australia and the Commission for the Conservation of Southern Bluefin Tuna

Treaty tabled on 13 May 1998

- Comprehensive Nuclear Test-Ban Treaty

**Report 16: OECD Convention on Combating Bribery and Draft Implementing Legislation**

- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- Exposure draft of the Criminal Code Amendment (Bribery of Foreign Public Officials) Bill 1998

**Report 17: United Nations Convention on the Rights of the Child**

**39<sup>th</sup> Parliament (November 1998–October 2001)**

**Report 18: Multilateral Agreement on Investment: Final Report**

**Report 19: The Fifth Protocol to the General Agreement on Trade in Services and Five Treaties tabled on 30 June 1998**

Treaty tabled on 12 May 1998

- Fifth Protocol to the General Agreement on Trade in Services, of 15 April 1994

Treaties tabled on 30 June 1998

- International Telecommunications Union Final Acts of the World Radiocommunication Conference – Partial Revision of the Radio Regulations
- Implementing Arrangement between the Government of Australia and the European Atomic Energy Community concerning Plutonium Transfers
- Treaty between Australia and the Republic of Poland on Extradition
- Amendments to the Schedule to the International Convention for the Regulation of Whaling
- Agreement on Medical Treatment for Temporary Visitors between the Government of Australia and the Government of New Zealand

**Report 20: Two Treaties tabled on 26 May 1998, the Bougainville Peace Monitoring Group Protocol and Treaties tabled on 11 November 1998**

Treaties tabled on 26 May 1998

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction
- Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings, between the European Community and Australia

Treaty tabled on 30 June 1998

- Protocol concerning the Peace Monitoring Group for Bougainville

Treaties tabled on 11 November 1998

- Development Cooperation Agreement with Indonesia
- Status of Forces Agreement with Malaysia
- Trade and Economic Cooperation Agreement with the Ukraine
- Agreement with France relating to the Movement of Nationals between the Two Countries
- Amendment to the Health Services Agreement with the United Kingdom

**Report 21: Five Treaties tabled on 16 February 1999**

- Treaty on Extradition between Australia and the Republic of South Africa
- Treaty between Australia and Sweden on Mutual Assistance in Criminal Matters
- Agreement between the Government of Australia and the Government of New Zealand concerning the Status of their Forces
- Agreement between the Government of Australia and the Government of the United States of America concerning Acquisition and Cross-servicing
- Agreement between the Government of the United States of America and the Government of Australia concerning Defense Communications Services

**Report 22: Five Treaties tabled on 11 May 1999**

- Agreement on the Promotion and Protection of Investments between the Government of Australia and the Government of the Republic of India
- Agreement on the Promotion and Protection of Investments between the Government of Australia and the Government of the Republic of Lithuania
- Agreement on Trade and Economic Relations between the Government of Australia and the Government of Fiji
- Amendments to Articles 24 and 25 of the Constitution of the World Health Organization
- Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between Australia and the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway

**Report 23: Amendments proposed to the International Whaling Convention**

- Amendments, to the Schedule to the International Convention for the Regulation of Whaling, 1946 (ICRW)

**Report 24: A Seminar on the Role of Parliaments in Treaty Making**

**Report 25: Eight Treaties tabled on 11 August 1999**

- Agreement to amend the Scientific and Technical Cooperation Agreement with the European Community
- Fourth Amendment of the Articles of Agreement of the International Monetary Fund
- Agreement with the USA on Mutual Antitrust Enforcement Assistance
- Food Aid Convention, 1999
- Agreement with the Government of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Protocol
- Protocol to amend the Agreement with the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Exchange of Letters Constituting an Agreement to extend the Application of Certain provisions of Article 23 of the Agreement with the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and parts which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, as amended



**Report 26: An Agreement to extend the period of operation of the Joint Defence Facility at Pine Gap**

- Exchange of Notes constituting an Agreement between Australia and the United States of America to further extend the Agreement relating to the Establishment of a Joint Defence Facility at Pine Gap

**Report 27: Termination of Social Security Agreement with the United Kingdom and International Plant Protection Convention**Treaties tabled on 11 August 1999

- Agreement on Social Security between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland
- New [Second] Revised Text of the International Plant Protection Convention

**Report 28: Fourteen Treaties tabled on 12 October 1999**

- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
- Treaty on Judicial Assistance in Civil and Commercial Matters with the Republic of Korea
- Agreement with the Multinational Force and Observers in the Sinai
- Agreement with the Government of the Slovak Republic on Double Taxation
- Agreement with the Government of the Argentine Republic on Double Taxation
- Treaty with the Government of Monaco on Mutual Assistance in Criminal Matters
- Agreement with the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy
- Agreement with the Government of New Zealand concerning the Transfer of Uranium
- Amendments to the Constitution and the Convention of the International Telecommunication Union
- Partial Revision of the Radio Regulations incorporated in the International Telecommunications Union Final Acts of the World Radiocommunications Conference, 1997
- Amendments to the Convention on the International Maritime Satellite Organization
- Agreement with the Government of the Federal Republic of Germany on Cultural Cooperation
- Agreement on Consular Relations with the People's Republic of China
- Agreement with the Government of the People's Republic of China on the continuation of the Australian Consular Function in the Macau Special Administrative Region

**Report 29: Singapore's Use of Shoalwater Bay, Development Cooperation with PNG and Protection of New Varieties of Plants**Treaties tabled on 12 October 1999

- Agreement with the Republic of Singapore on the use of the Shoalwater Bay Training Area and the Associated use of Storage Facilities
- Treaty on Development Cooperation with the Government of Papua New Guinea
- International Convention for the Protection of New Varieties of Plants

**Report 30: Treaties tabled on 8 and 9 December 1999 and 15 February 2000**

- Ratification of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa
- Agreement between Australia and the Republic of Korea on Scientific and Technological Cooperation
- Accession to the Agreement for the Establishment of the International Development Law Institute
- Denunciation of the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface
- Agreement between Australia and the United Nations Transitional Administration in East Timor (UNTAET) on the continued operation of the Timor Gap Treaty
- Amendments to the Convention on the Conservation of Migratory Species of Wild Animals

**Report 31: Three Treaties tabled on 7 March 2000**

- Convention on the Safety of United Nations and Associated Personnel
- United Nations Convention on the Elimination of all Forms of Discrimination Against Women
- International Convention on the Simplification and Harmonization of Customs Procedures

**Report 32: Six Treaties tabled on 7 March 2000**

- Agreement with New Zealand on Child and Spousal Maintenance
- Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations

- Agreement for Cooperation with the United States of America concerning Technology for the Separation of Isotopes of Uranium by Laser Excitation
- Agreement with the Slovak Republic on Trade and Economic Relations
- Agreement with Denmark on Social Security
- Double Taxation Agreement with Romania

**Report 33: Social Security Agreement with Italy and New Zealand Committee Exchange**

- Agreement on Social Security with Italy
- Exchange of Notes constituting an Agreement between Australia and Italy, amending and clarifying the Agreement on Social Security

**Report 34: Two Treaties tabled on 6 June 2000**

- Agreement between Australia and Spain on Remunerated Employment for Dependents of Personnel at Diplomatic and Consular Missions
- Amendments to the Convention on International Trade in Endangered Species

**Report 35: Agreement for Co-operation in the Peaceful Uses of Nuclear Energy**

- Amendments to the Implementing Arrangements for Co-operation in the Peaceful Uses of Nuclear Energy Agreement with Japan

**Report 36: An Extradition Agreement with Latvia and an Agreement with the United States of America on Space Vehicle Tracking and Communication**

Treaties tabled on 15 August 2000

- Agreement on Extradition between Australia and the Republic of Latvia
- Amendments to the Space Vehicle Tracking and Communications Facilities Agreement with the United States of America

**Report 37: Six Treaties tabled on 10 October 2000**

- Double Taxation Agreement with Russia
- Amendments to the Schedule of the International Whaling Convention
- Agreement with Egypt regarding Cooperation in the Protection of Children
- Various Acts of the Universal Postal Union
- Protocol concerning International Registration of Marks

**Report 38: The Kyoto Protocol – Discussion Paper**

- Kyoto Protocol to the United Nations Framework Convention on Climate Change

**Report 39: Privileges and Immunities of the International Tribunal on the Law of the Sea and the Treaties tabled on 27 February and 6 March 2001**

- Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea

Treaties tabled on 27 February 2001

- Air Services Agreement with Denmark
- Air Services Agreement with Norway
- Air Services Agreement with Sweden
- Air Services Agreement with Samoa
- Air Services Agreement with Pakistan
- Second Additional Protocol to the Constitution of the Asia-Pacific Postal Union
- Additional Protocol to the General Regulations of the Asia-Pacific Postal Union
- Mutual Recognition Agreement on Conformity Assessment with Singapore
- Amendment to the Constitution of the International Labour Organization
- Agreement with Denmark for the Reciprocal Protection of Classified Information of Defence Interest
- Agreement with South Africa for the Reciprocal Protection of Classified Information of Defence Interest
- Agreement establishing the Pacific Islands Forum Secretariat
- Amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the United States of America

**Report 40: Extradition – a review of Australia’s law and policy**

**Report 41: Six Treaties tabled on 23 May 2001**

- Agreement with Germany on Films Co-production
- Agreement with New Zealand on Social Security
- Agreement on the Conservation of Albatrosses and Petrels

- Protocol to amend the Convention on Limitation of Liability for Maritime Claims
- Withdrawal of the instruments of ratification for four International Labour Organization (ILO) Conventions (No. 57, 76, 93 and 109) dealing with hours of work on board ship and manning
- Denunciation of two ILO Conventions (No. 15 and 21) dealing with the minimum employment age for trimmers and stokers and the protection of emigrants on board emigrant ships

**Report 42: Who's Afraid of the WTO? Australia and the World Trade Organisation**

**Report 43: Thirteen Treaties tabled in August 2001**

- Agreement on Social Security with Canada
- Agreement on Social Security with Spain
- Agreement on Social Security with the Netherlands
- Protocols to an Agreement on Social Security with Austria
- Agreement on Social Security with Germany
- Agreement on Social Security with Portugal
- Amendment to an Agreement with United States on Cooperation in Defence Logistic Support
- Amendments to the Conservation of Nature in the South Pacific
- Agreement with Thailand on Transfer of Prisoners
- Agreement with the Council of Europe on Transfer of Sentenced Persons
- Russian Space Agreement
- Amendment to INTELSAT Convention and Operating Agreement
- World Radiocommunications Conference-2000 Ratification of Final Acts

**40<sup>th</sup> Parliament (February 2002–August 2004)**

**Report 44: Four Nuclear Safeguards Treaties tabled in August 2001**

- Agreement between Australia and the Argentine Republic concerning cooperation in the peaceful uses of nuclear energy
- Exchange of Notes with the USA relating to an Agreement on transfers of nuclear material to Taiwan
- Agreement between the Government of Australia and the Government of the Czech Republic on cooperation in peaceful uses of nuclear energy and the transfer of nuclear material
- Agreement between the Government of Australia and the Government of the Republic of Hungary on cooperation in peaceful uses of nuclear energy and the transfer of nuclear material

**Report 45: The Statute of the International Criminal Court**

**Report 46: Treaties tabled 12 March 2002**

- Pacific Agreement on Closer Economic Relations (PACER)
- Agreement between the Government of Australia and the Government of the Kyrgyz Republic concerning the status of Australian forces in the Kyrgyz Republic
- Exchange of Letters constituting an agreement between the Government of Australia and the Government of New Zealand amending the agreement between the Government of Australia and the Government of New Zealand establishing a system for development of joint food standards of 1995
- Protocol amending the convention between the Government of Australia and the Government of the United States of America for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
- Agreement between the Commonwealth of Australia and the Kingdom of the Netherlands on mutual administrative assistance for the proper application of customs law and for the prevention, investigation and combating of customs offences
- Agreement between the Government of Australia and the Government of the Republic of France on employment of dependents of agents of official missions of one of the two states in the other state
- Exchange of Notes amending the agreement on social security between the Government of Australia and the Government of New Zealand
- Agreement between the Government of Australia and the Government of the United States of America on social security
- Agreement between Australia and Uruguay on the promotion and protection of investments

- Agreement between the Government of Australia and the Government of the Arab Republic of Egypt on the promotion and protection of investments
- Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children
- Convention on the recognition of qualifications concerning higher education in the European region
- International convention for the suppression of terrorist bombings

**Report 47: Treaties tabled on 18 and 25 June 2002**

- Agreement between the Government of Australia and the Government of the Cook Islands relating to air services
- Agreement between the Government of Australia and the Government of the Republic of Chile relating to air services
- Agreement between the Government of Australia and the Government of the United States of America for the Enforcement of Maintenance (Support) Obligations
- Australian declaration under paragraph 2 of Article 36 of the Statute of the International Court of Justice 1945, lodged at New York on 22 March 2002
- Australian declarations under Articles 287(1) and 298(1) of the United Nations Convention on the Law of the Sea 1982, lodged at New York on 22 March 2002
- International convention for the suppression of the financing of terrorism
- Amendment to the Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects of 10 October 1980
- Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas
- Agreement establishing the International Organisation of Vine and Wine

**Report 48: Treaties tabled in August and September 2002**

- Amendments to the Schedule to the International Convention for the Regulation of Whaling
- Amendments to the Limitation Amounts in the 1992 Protocol of the International Convention on Civil Liability for Oil Pollution Damage
- Amendments to the Limits of Compensation in the 1992 Protocol of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage
- Convention between Australia and Canada for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of Australia and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income as amended by the First Protocol
- Agreement between Australia and the USA concerning Security Measures for the Reciprocal Protection of Classified Information
- Treaty between Australia and the Hellenic Republic on Mutual Assistance in Criminal Matters
- Agreement between the Government of Australia and the Government of New Zealand relating to Air Services

**Report 49: The Timor Sea Treaty**

Treaties tabled 25 June 2002

- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea Between Australia and East Timor
- Timor Sea Treaty between the Government of Australia and the Government of East Timor

**Report 50: Treaties tabled 15 October 2002**

- Exchange of Letters constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income as amended by an Exchange of Notes
- Exchange of Letters between Australia and the Republic of Ireland constituting an Agreement to amend the 1997 Agreement on Medical Treatment for Temporary Visitors,
- Third Agreement to extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology

**Report 51: Treaties tabled on 12 November and 3 December 2002**Treaties tabled on 12 November 2002

- Amendments to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals

Treaties tabled on 3 December 2002

- Amendment to the Schedule to the International Convention for the Regulation of Whaling
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

**Report 52: Treaties tabled in March 2003**

- Singapore–Australia Free Trade Agreement and associated Exchange of Notes
- Amendments to Appendices I And II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, of 3 March 1973
- Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships (revised) of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended
- International Convention on the Control of Harmful Anti-fouling Systems on Ships

**Report 53: Treaties tabled in May and June 2003**Treaties tabled on 14 May 2003

- Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the unitisation of the Sunrise and Troubadour Fields
- Agreement between the Government of Australia and the Government of the Democratic Socialist Republic of Sri Lanka for the Promotion and Protection of Investments
- Agreement on Social Security between Australia and the Kingdom of Belgium
- Agreement on Social Security between the Government of Australia and the Government of the Republic of Chile
- Agreement on Social Security between the Government of Australia and the Government of the Public of Slovenia
- International Labour Organization Conventions: No. 83: Labour Standards (Non-Metropolitan Territories) Convention, 1947; No. 85: Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947; No. 86: Contracts of Employment (Indigenous Workers) Convention, 1947

Treaties tabled on 17 June 2003

- Agreement on Medical Treatment for Temporary Visitors between the Government of Australia and the Government of the Kingdom of Norway
- Exchange of Notes amending the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America for the Financing of Certain Educational and Cultural Exchange Programmes of 28 August 1964
- Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean

**Report 54: Treaties tabled in June and August 2003**Treaties tabled on 17 June 2003

- Agreement between Australia and the Republic of Croatia on Social Security

Treaties tabled on 24 June 2003

- Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances 2000

Treaties tabled on 12 August 2003

- Agreement between Australia and the Kingdom of Belgium on the Gainful Employment of Certain Dependents of Diplomatic and Consular Personnel
- Agreement between the Government of Australia and the Government of the Kingdom of Belgium on 'Working Holiday' Arrangements
- Protocol concerning the Bougainville Transition Team made pursuant to the Agreement between Australia, Papua New Guinea, Fiji, New Zealand and Vanuatu concerning the Neutral Truce Monitoring Group for Bougainville, as amended by the Protocol

**Report 55: Treaties tabled on 9 September 2003**

- Agreement between the Government of Australia and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and Protocol
- Convention between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of

Fiscal Evasion with Respect to Taxes on Income and on Capital Gains and an Associated Exchange of Notes

- Agreement between the European Community and Australia amending the Agreement between Australia and the European community on Trade in Wine, and Protocol, of 1994
- Agreement between Solomon Islands, Australia, New Zealand, Fiji, Papua New Guinea, Samoa and Tonga concerning the operations and status of the Police and Armed Forces and Other Personnel deployed to Solomon Islands to assist in the restoration of law and order and security
- International Labour Organization Convention No. 155: Occupational Safety and Health, 1981
- Stockholm Convention on Persistent Organic Pollutants (POPs)
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Amendments to the Schedule to the International Convention for Regulation of Whaling

**Report 56: Treaties tabled on 8 October 2003**

- Agreement between the Government of Australia and the Government of the Republic of Kazakstan on Economic and Commercial Cooperation
- International Labour Organization Convention no. 182: Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

**Report 57: Convention for the Safety of Life at Sea, 1974 and the International Ship and Port Facility Security (ISPS) Code**

Treaty tabled May 2003

**Report 58: Optional Protocol to the Convention against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment**

Treaty tabled November 2003

**Report 59: Treaties tabled on December 2003**

Treaties tabled on 2 December 2003

- Exchange of letters constituting an Agreement between the Government of Australia and the Government of the Italian Republic on the Civil Registry Documentation to be Submitted by Australian Citizens Wishing to Marry in Italy
- Agreement Establishing an International Foot and Mouth Disease Vaccine Bank

Treaties tabled on 3 December 2003

- Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships of 2 November 1973, as Modified by the Protocol of 17 February 1978
- United Nations Convention Against Transnational Organized Crime
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Protocol against the Smuggling of Migrants by Land, Sea and Air (People Smuggling Protocol), supplementing the United Nations Convention against Transnational Organized Crime

**Report 60: Treaties tabled on 2 March 2004**

- Consular Agreement between Australia and the Socialist Republic of Vietnam
- World Tourism Organization (WTO) Statutes
- Instruments Amending the Constitution and the Convention of the International Telecommunication Union as amended by the Plenipotentiary Conference (Kyoto, 1994) and by the Plenipotentiary Conference (Minneapolis, 1998)
- Agreement Establishing the International Fund for Agricultural Development

**Report 61: The Australia-United States Free Trade Agreement**

Treaty tabled 8 March 2004

**Report 62: Treaties tabled on 30 March 2004**

- Agreement between the Government of Australia and the Government of New Zealand for the Establishment of a Joint Scheme for the regulation of Therapeutic Products
- WHO Framework Convention on Tobacco Control

**41<sup>st</sup> Parliament (November 2004–November 2007)****Report 63: Treaties tabled on 7 December 2004**Treaties tabled on 12 May 2004

- Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands
- Australia-Thailand Free Trade Agreement

Treaties tabled on 22 June 2004

- Agreement between the Government of Australia and the Government of the United Arab Emirates relating to Air Services
- Agreement between Australia and Nauru concerning additional police and other assistance to Nauru
- Agreement on Mutual Acceptance of Oenological Practices
- Constitution of the Asia Pacific Telecommunity as amended (Colombo, 1991) as amended in New Delhi in 2002
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- WIPO Copyright Treaty
- WIPO Performances and Phonograms Treaty

**Report 64: Treaties tabled on 7 December 2004 (2)**

- Agreement between the Government of Australia and the Government of the Republic of Poland relating to Air Services
- Amendment to the Agreement establishing the European Bank for Reconstruction and Development in order to admit Mongolia as a country of operations

**Report 65: Treaties tabled on 7 December 2004 (3) and 8 February 2005**Treaties tabled 7 December 2005

- Agreement on Cooperation between the Government of Australia and the Government of the Kingdom of Thailand
- Termination of the Agreement between the Government of Australia and the Government of the Slovak Republic on Trade and Economic Cooperation
- Joint Agreement on Enhanced Cooperation between Australia and Papua New Guinea
- Convention for the Unification of Certain Rules for International Carriage by Air
- Amendments to the Schedule to the International Convention for the Regulation of Whaling

Treaties tabled 8 February 2005

- Agreement on Social Security between the Government of Australia and the Government of Malta
- Beijing Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer
- Amendments to Appendices I and II of the Convention of International Trade in Endangered Species of Wild Fauna and Flora

**Report 66: Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005**Treaties tabled 7 December 2005

- United Nations Convention against Corruption
- Treaty between Australia and New Zealand Establishing Certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries

Treaties tabled 15 March 2005

- Singapore-Australia Free Trade Agreement Amendments

Treaties tabled 11 May 2005

- Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources
- Agreement concerning the Use of Shoalwater Bay Training Area and Associated Facilities in Australia
- Mutual Recognition Agreement on Conformity Assessment in Relation to Medicines Good Manufacturing Practice Inspection and Certification
- Amendments to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

- Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-03)
- Establishment of the Antarctic Treaty Secretariat

**Report 67: Treaties tabled on 21 June 2005**

- Agreement on Social Security between the Government of Australia and the Government of Ireland
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to Amend and Extend the Agreement concerning the Conduct of Scientific Balloon Flights for Civil Research Purposes

**Report 68: Treaties tabled on 7 December 2004 (5) and 9 August 2005**

Treaty tabled 7 December 2004

- International Treaty on Plant Genetic Resources for Food and Agriculture

Treaties tabled 9 August 2005

- Treaty of Amity and Cooperation in Southeast Asia as amended by the Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia With Exchange of Letters recording interpretation of key provisions
- Supplementary Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope

**Report 69: Treaties tabled on 13 September and 11 October 2005**

Treaty tabled 13 September 2005

- Amendments to the Schedule to the International Convention for the Regulation of Whaling

Treaty tabled 11 October 2005

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

**Report 70: Treaty tabled on 9 November 2005**

- United Nations Educational, Scientific and Cultural Organization International Convention Against Doping in Sport

**Report 71: Treaty tabled on 29 November 2005**

- Agreement between the Government of Australia and the Government of the Hong Kong Special Administrative Region of the People's Republic of China concerning transfer of sentenced persons

**Report 72: Treaties tabled on 29 November 2005 (2)**

- Amendments to the Statute of the Hague Conference on Private International Law of 31 October 1951
- Universal Postal Union: Seventh Additional Protocol to the Constitution of 10 July 1964, as amended; Convention, and Final Protocol; General Regulations
- Annex G: Settlement of Disputes to the Stockholm Convention on Persistent Organic Pollutants
- Agreement between the Government of Australia and the Government of the Republic of Turkey on the Reciprocal Promotion and Protection of Investments

**Report 73: Treaties tabled in February 2006**

- Amendments to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals
- Bilateral Aviation Safety Agreement and Implementation Procedures for Airworthiness with the United States of America
- Protocol of Amendments to the Convention on the International Hydrographic Organization
- Protocol amending the Agreement between the Government of Australia and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of Australia and the Government of Bermuda on the Exchange of Information with respect to Taxes

**Report 74: Treaty tabled on 28 March 2006**

- Agreement for Establishment of the Global Crop Diversity Trust



**Report 75: Treaties tabled on 11 October (2), 28 February and 28 March 2006 (2)**Treaty tabled 11 October 2005

- Convention on the Marking of Plastic Explosives for the Purpose of Detection

Treaty tabled 28 February 2006

- Exchange of Notes constituting a Treaty to amend the Singapore–Australia Free Trade Agreement (SAFTA)

Treaties tabled 28 March 2006

- Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage
- International Convention on Civil Liability for Bunker Oil Pollution Damage
- Agreement establishing the Pacific Islands Forum
- Amendments to Annexes VIII and IX of the Basel Convention on the Control of Transboundary Movements on Hazardous Wastes and their Disposal
- Agreement between the Government of Australia and the Government of New Zealand in relation to Mutual Recognition of Securities Offerings

**Report 76: Treaties tabled on 28 March (3) and 10 May 2006**Treaty tabled 28 March 2006

- Agreement between the Government of Australia and the Government of the Republic of Indonesia for Cooperation in Scientific Research and Technological Development

Treaties tabled 10 May 2006

- Agreement between the Government of the Republic of Namibia and the Governments of Australia, Canada, India, New Zealand, South Africa and the United Kingdom of Great Britain and Northern Ireland concerning the Treatment of War Graves of Members of the Armed Forces of the Commonwealth in the Territory of the Republic of Namibia
- Agreement between the Government of Australia and the Government of the Kingdom of Norway on Social Security
- Agreement between the Government of Australia and the Government of the United States of America on Cooperation in Science and Technology for Homeland/Domestic Security Matters
- The International Institute for Democracy and Electoral Assistance (IDEA) Statutes
- Amendments to the Constitution of the International Organization for Migration

**Report 77: Treaties tabled on 20 June and 8 August 2006**Treaties tabled 20 June 2006

- Agreement relating to Scientific and Technical Cooperation between the Government of Australia and the Government of the United States of America
- Amendments to the Convention on the Physical Protection of Nuclear Material

Treaties tabled 8 August 2006

- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Japan to replace the Delineated and Recorded Japanese Nuclear Fuel Cycle Program
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Singapore to Amend Annex 2C and Annex 2D of the Singapore–Australia Free Trade Agreement (SAFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System to come into effect on 1 January 2007
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to Amend Annex 4-A and Annex 5-A of the Australia–United States Free Trade Agreement (AUSFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System to come into effect on 1 January 2007
- The International Health Regulations (2005)

**Report 78: Treaty Scrutiny: A Ten Year Review****Report 79: Treaties tabled on 10 May (2), 5 and 6 September 2006**Treaties tabled 10 May 2006

- Treaty between the Government of Australia and the Government of Malaysia on Extradition and an Exchange of Notes between the Government of Australia and the Government of Malaysia on the Treaty on Extradition
- Treaty between the Government of Australia and the Government of Malaysia on Mutual Assistance in Criminal Matters and an Exchange of Notes between the Government of Australia and the Government of Malaysia on the Treaty on Mutual Assistance in Criminal Matters

Treaties tabled 5 and 6 September 2006

- Convention between the Government of Australia and the Government of the French Republic for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion and Protocol
- Convention between the Government of Australia and the Government of the Kingdom of Norway for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion
- Amendments to the Annex to the Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment
- Amendments to the Annex to the Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment
- Agreement between the Government of Australia and the Government of the People's Republic of China relating to Air Services
- Agreement between the Government of Australia and the Government of India relating to Air Services
- Protocol on Explosive Remnants of War (Protocol V) to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be excessively injurious or to have indiscriminate effects
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to amend Annex 2-B (Tariff Schedule of Australia), Annex 4-A and Annex 5-A of the Australia-United States Free Trade Agreement (AUSFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System

**Report 80: Treaties tabled on 28 March (4) and 5 September (2) 2006**Treaties tabled 28 March 2006

- Exchange of Letters constituting an Agreement between the Government of Australia and the Government of New Zealand to Amend Article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA)

Treaties tabled 5 September 2006

- Treaty between the Government of Australia and the People's Republic of China on Mutual Legal Assistance in Criminal Matters

**Report 81: Treaties tabled on 8 August 2006 (2)**

- Agreement between the Government of Australia and the Government of the People's Republic of China on the Transfer of Nuclear Material
- Agreement between the Government of Australia and the Government of the People's Republic of China for Cooperation in the Peaceful Uses of Nuclear Energy

**Report 82: Treaty tabled on 28 November 2006**

- Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons

**Report 83: Treaties tabled on 20 June (2), 17 October, 28 November (2) 2006 and CO2 Sequestration in Sub-Seabed Formations**Treaties tabled 20 June 2006

- Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and Protocol

Treaty tabled 17 October 2006

- Amendments to the Schedule to the International Convention for the Regulation of Whaling

Treaty tabled 28 November 2006

- Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning the Transfer of Sentenced Persons

CO2 Sequestration in Sub-Seabed Formations

- Amendment to Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

**Report 84: Treaty tabled on 6 December 2006**

- Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation

**Report 85: Treaties tabled on 6, 7 and 27 February 2007**Treaty tabled 6 February 2007

- Treaty between the Government of Australia and the Government of the Democratic Republic of Timor-Leste on Certain Maritime Arrangements in the Timor Sea

Treaties tabled 7 February 2007

- Agreement between Australia and the Swiss Confederation on Social Security
- Agreement between the Government of Australia and the Government of Finland for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol

Treaties tabled 27 February 2007

- Agreement between the Government of Australia and the Government of the Republic of Korea on the Protection of Migratory Birds and Exchange of Notes
- Measure 4 (2006) Specially Protected Species: Fur Seals

**Report 86: Treaties tabled on 27 March and 9 May 2007**Treaty tabled 27 March 2007

- Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles

Treaty tabled 27 March 2007

- Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Republic of South Africa
- Instrument amending the Constitution of the International Telecommunication Union and Instrument amending the Convention of the International Telecommunication Union
- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)
- Agreement between Australia and the Federal Republic of Germany on Social Security to govern persons temporarily employed in the territory of the other State (Supplementary Agreement), Concluding Protocol and Implementation Arrangement
- Agreement on Social Security between the Government of Australia and the Government of the Republic of Korea
- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Singapore to amend Annex 2C and Annex 2D of the Singapore-Australia Free Trade Agreement (SAFTA) to ensure compliance with changes to the International Convention on the Harmonized Commodity Description and Coding System (HS2007)
- Protocol Amending the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Framework Agreement between the Government of Australia and the Government of the Republic of Turkey on Cooperation in Military Fields

**Report 87: Treaties tabled on 13 June 2007**

- Treaty between Australia and the Kingdom of Thailand on Mutual Assistance in Criminal Matters
- Agreement on Health Care Insurance between Australia and the Kingdom of Belgium
- Agreement between the Government of Australia and the Government of Antigua and Barbuda on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands in Respect of the Netherlands Antilles for the Exchange of Information with Respect to Taxes
- Agreement on Operational and Strategic Cooperation between Australia and the European Police Office (Europol)
- Protocol between the Government of Australia and the Government of the Hong Kong Special Administrative Region of the People's Republic of China Amending the Agreement for the Surrender of Accused and Convicted Persons of 15 November 1993
- Extension of the Agreement of 4 December 1997 between the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty
- International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004

**Report 88: Treaty tabled on 7 August 2007**

- Agreement between Australia and the Hellenic Republic on Social Security

**Report 89: Treaties tabled on 7 August 2007**

- Agreement between Australia and Japan on Social Security
- Agreement between the Government of Australia and the Government of the Republic of the Philippines concerning the Status of Visiting Forces of Each State in the Territory of the Other State
- Agreement between Australia and the Hellenic Republic on Social Security

**42<sup>nd</sup> Parliament (November 2007–July 2010)****Report 90: Treaties tabled on 12 March 2008**

- Singapore Treaty on the Law of Trademarks, Regulations and a Supplementary Resolution by the Diplomatic Conference
- Patent Law Treaty
- Agreement between the Government of Australia and the Government of the Kingdom of Tonga relating to Air Services
- Withdrawal of Australia's exemption for the use of mirex under Article 4 of the Stockholm Convention on Persistent Organic Pollutants
- Constitutional amendments to the Convention Establishing the World Intellectual Property Organization and other WIPO administered treaties adopted by the WIPO General Assemblies in September 1999 and October 2003

**Report 91: Treaties tabled on 12 March 2008**

- Treaty on Extradition between Australia and the State of the United Arab Emirates
- Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters
- Convention between Australia and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income, and Protocol
- Film Co-production Agreement between the Government of Australia and the Government of the People's Republic of China
- Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films
- Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology

**Report 92: Treaties tabled on 4 June 2008**

- United Nations Convention on the Rights of Persons with Disabilities

**Report 93: Treaties tabled on 12 March and 14 May 2008**Treaty tabled 12 March 2008

- Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora of 3 March 1973

Treaties tabled 14 May 2008

- International Tropical Timber Agreement
- Protocol amending the Agreement between the Government of Australia and the Government of the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income of 1 July 1999
- Amendment to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code)

**Report 94: Treaties tabled on 14 May 2008**

- Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Use of Nuclear Energy for Peaceful Purposes
- Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation

**Report 95: Treaties tabled on 4 June, 17 June, 25 June and 26 August 2008**Treaty tabled 4 June 2008

- Convention on the Rights of Persons with Disabilities

Treaties tabled 17 June 2008

- Australia–Chile Free Trade Agreement
- Agreement between the Government of Australia and the Government of the United Arab Emirates Concerning Defence Cooperation
- Amendment to Annex 1 of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005

Treaty tabled 25 June 2008

- Headquarters Agreement between the Government of Australia and the Secretariat to the Agreement on the Conservation of Albatrosses and Petrels

Treaties tabled 26 August 2008

- Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women of 18 December 1979
- Agreement between Australia and the European Union on the Processing and Transfer of European Union-Sourced Passenger Name Record (PNR) Data by Air Carriers to the Australian Customs Service
- Agreement between the Government of Australia and the Government of the French Republic Regarding Defence Cooperation and Status of Forces
- Agreement between the Government of Australia and the European Community on Certain Aspects of Air Services
- Amendment to the Agreement on Social Security between the Government of Australia and the Government of the Republic of Chile of 25 March 2003
- Amendment to the Agreement for the Establishment of the International Development Law Organization of 5 February 1988, as Amended on 30 June 2002 and 30 November 2002
- Amendment to Annex 4.1 (Rules of Origin) of the Australia–Thailand Free Trade Agreement (TAFTA) of 5 July 2004

**Report 96: Treaties tabled on 16 September 2008**

- Final Acts (WRC-07), World Radiocommunication Conference
- Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty

**Report 97: Treaties tabled on 16 September 2008**

- Agreement between Australia and the Republic of Finland on Social Security

**Report 98: Treaties tabled on 26 November 2008 and 4 December 2008**Treaty tabled on 26 November 2008

- Agreement between the Government of Australia and the North Atlantic Treaty Organisation on the Security of Information

Treaties tabled on 4 December 2008

- Amendment to Annex I of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005
- Amendment to Annex II of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005

**Report 99: Treaties tabled on 3 December 2008 and 3 February 2009**Treaty tabled on 3 December 2008

- Optional Protocol to the Convention on the Rights of Persons with Disabilities

Treaties tabled on 3 February 2009

- Agreement between the Government of Australia and the Government of the British Virgin Islands for the Exchange of Information Relating to Taxes
- Agreement between the Government of Australia and the Government of the British Virgin Islands for the Allocation of Taxing Rights with Respect to Certain Income of Individuals

**Report 100: Treaties tabled on 25 June 2008 (2)**

- Kyoto Protocol to the United Nations Framework Convention on Climate Change

**Report 101: Treaties tabled on 3 February 2009**

- Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- Agreement between Australia and the European Community on Trade in Wine

**Report 102: Treaties tabled on 12 and 16 March 2009**Treaties tabled on 12 March 2009

- Agreement between the Government of Australia and the Government of the Isle of Man on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Isle of Man for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments

Treaty tabled on 16 March 2009

- Agreement Establishing the Association of Southeast Asian Nations–Australia–New Zealand Free Trade Area

**Report 103: Treaties tabled on 12 March and 13 May 2009**Treaties tabled on 12 March 2009

- Convention on Cluster Munitions

Treaties tabled on 13 May 2009

- Agreement between Australia and the Socialist Republic of Vietnam concerning the Transfer of Sentenced Persons
- Agreement on Employment of the Spouses and Dependants of Diplomatic and Consular Personnel between Australia and the Portuguese Republic

**Report 104: Treaties tabled on 20 August 2009**

- Proposed Amendment of the Articles of Agreement of the International Monetary Fund to Enhance Voice and Participation in the International Monetary Fund – adopted by the IMF Board of Governors on 28 April 2008
- Proposed Amendment of the Articles of Agreement of the International Monetary Fund to Expand the Investment Authority of the International Monetary Fund – adopted by the IMF Board of Governors on 5 May 2008
- Proposed Amendment of the Articles of Agreement of the International Bank for Reconstruction and Development to Enhance Voice and Participation in the International Bank for Reconstruction and Development – adopted by the IBRD Board of Governors on 30 January 2009

**Report 105: Treaties tabled on 13 May, 25 June and 20 August 2009**Treaties tabled on 13 May 2009

- Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel

Treaty tabled on 25 June 2009

- Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Minor treaty actions

- Amendment to Annex 1 of the Agreement on the Conservation of Albatrosses and Petrels of 19 June 2001
- Agreement to Amend the Agreement between Australia and the United States of America concerning Acquisition and Cross-Servicing of 9 December 1998

**Report 106: Nuclear Non-Proliferation and Disarmament****Report 107: Treaties tabled on 20 August (2) and 15 September 2009**Treaties tabled on 20 August 2009

- Convention between Australia and New Zealand for the Avoidance of Double Taxation with Respect to Taxes on Income and Fringe Benefits and the Prevention of Fiscal Evasion
- Agreement between the Government of Australia and the Government of Jersey for the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of Jersey for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments
- Second Protocol Amending the Agreement between Australia and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
- Proposed Amendment of the Articles of Agreement of the International Monetary Fund to Enhance Voice and Participation in the International Monetary Fund
- Proposed Amendment of the Articles of Agreement of the International Monetary Fund to Expand the Investment Authority of the International Monetary Fund

- Proposed amendment of the Articles of Agreement of the International Bank for Reconstruction and Development to Enhance Voice and Participation in the International Bank for Reconstruction and Development
- Agreement to amend the Agreement between the Government of Australia and the Government of the United States of America concerning Certain Mutual Defense Commitments
- Agreement between the Government of Australia and the Government of the Republic of Singapore Concerning the Use of Shoalwater Bay Training Area and the Use of Associated Facilities in Australia

Minor treaty action

- Amendment to Annex III of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

**Report 108: Treaty tabled on 25 November 2009**

- Agreement between Australia and the Republic of Poland on Social Security

**Report 109: Treaty tabled on 2 February 2010**

- Exchange of Notes constituting an Agreement between the Government of the United States of America and the Government of Australia to amend the Agreement concerning Space Vehicle Tracking and Communications Facilities of 29 May 1980, as amended

**Report 110: Treaties tabled on 18, 25 (2) and 26 November 2009 and 2 (2) February 2010**

Minor treaty action

- Amendment to the Convention Establishing a Customs Cooperation Council adopted at Brussels in 1952

Treaties tabled on 25 November 2009

- Agreement between Australia and the Republic of Lebanon regarding Cooperation on Protecting the Welfare of Children
- Second Protocol amending the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income as amended by the Protocol of 16 October 1989
- Agreement between Australia and the Republic of Poland on Social Security

Minor treaty action

- Amendments to the Annex of the Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto

Treaty tabled on 26 November 2009

- Treaty between Australia and the Republic of India on Mutual Legal Assistance in Criminal Matters

Treaties tabled on 2 February 2010

- Extradition Treaty between Australia and the Republic of India
- Amendment and extension of the Agreement between the Government of Australia and the Government of the United States of America concerning Space Vehicle Tracking and Communications Facilities effected by exchange of notes at Canberra May 29, 1980, as amended
- Measure 16 (2009) Amendment of Annex II to the Protocol on Environmental Protection to the Antarctic Treaty (1998)

**Report 111: Treaties tabled on 25 November 2009 (3), 4 and 24 February 2010**

Treaty tabled on 25 November 2009

- Convention on the Conservation of Migratory Species of Wild Animals

Treaty tabled on 4 February 2010

- Statute of the International Renewable Energy Agency

Treaties tabled on 24 February 2010

- Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands
- Agreement Concerning the Provision of Health Care between the Government of Australia and the Government of the Republic of Slovenia

Minor treaty action

- Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands to amend the Agreement concerning the Provision of Medical Treatment of 5 April 1991

**Report 112: Treaties tabled on 9, 10, 15, 16 and 29 March 2010**Treaties tabled on 9 and 10 March 2010

- Agreement between Australia and the Czech Republic on Social Security
- Exchange of Letters Amending the Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System

Treaties tabled on 15 and 16 March 2010

- Agreement between the Government of Australia and the Government of the former Yugoslav Republic of Macedonia on Social Security

Minor treaty actions

- Amendment to Annex I of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005
- Amendment to Annex II of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005

Treaties tabled on 29 March 2010

- Agreement between the Government of Australia and the Government of the Cook Islands on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Cook Islands on the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments
- Agreement between the Government of Australia and the Government of Gibraltar on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the States of Guernsey for the Exchange of Information Relating to Tax Matters
- Agreement between the Government of Australia and the States of Guernsey for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments

**Report 113: Treaty tabled on 12 May 2010**

- Agreement between the Government of Australia and the Government of the United States of America Concerning Acquisition and Cross-Servicing

**43<sup>rd</sup> Parliament (September 2010–August 2013)****Report 114: Treaties referred on 16 November 2010 (Part 1)**

- Agreement between the Government of Australia and the Government of the United States of America concerning Acquisition and Cross-Servicing
- Agreement between the Government of Australia and the Government of the Republic of Korea on the Protection of Classified Military Information
- Agreement between the Government of Australia and the Government of the United States of America concerning Peaceful Uses of Nuclear Energy
- Convention between Australia and the Republic of Chile for the Avoidance of Double Taxation with Respect to Taxes on Income and Fringe Benefits and the Prevention of Fiscal Evasion
- Third Protocol amending the Agreement between the Government of Australia and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
- Agreement between the Government of Australia and the Government of the Commonwealth of the Bahamas on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Republic of Vanuatu on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Principality of Monaco for the Exchange of Information Relating to Tax Matters
- Agreement between the Government of Australia and the Government of the Cayman Islands on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Kingdom of the Netherlands, in respect of Aruba, for the Allocation of Taxing Rights with respect to Certain Income of Individuals and to establish a Mutual Agreement Procedure in respect of Transfer Pricing Adjustment
- Agreement between the Government of Australia and the Government of Samoa for the Allocation of Taxing Rights with respect to Certain Income of Individuals and to establish a Mutual Agreement Procedure in respect of Transfer Pricing Adjustment



- Agreement between the Government of Australia and the Government of Anguilla on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of Belize for the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Commonwealth of Dominica on the Exchange of Information with Respect to Taxes and Tax Matters
- Agreement between the Government of Australia and the Government of Grenada for the Exchange of Information Relating to Tax Matters
- Agreement between the Government of Australia and the Government of the Republic of San Marino for the Exchange of Information Relating to Taxes
- Agreement between the Government of Australia and the Government of the Turks and Caicos Islands the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Kingdom of the Netherlands, in respect of Aruba, on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of Saint Christopher (Saint Kitts) and Nevis for the Exchange of Information Relating to Tax Matters
- Agreement between the Government of Australia and the Government of Saint Vincent and the Grenadines on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of Samoa on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of Saint Lucia on the Exchange of Information with Respect to Taxes

**Report 115: Treaties tabled on 28 October and 24 November 2010 and Treaties referred on 16 November 2010 (Part 2)**

Treaty tabled on 28 October 2010

- Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan

Treaties referred on 16 November 2010

- An Exchange of Notes amending the Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam relating to Air Services
- Agreement between Australia and the Kingdom of Spain relating to Air Services
- Agreement between the Government of Australia and the Swiss Federal Council relating to Air Services
- Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services
- Agreement between Australia and the European Union on the Security of Classified Information
- Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as Amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; Postal Payment Services Agreement
- World Wine Trade Group Agreement on Requirements for Wine Labelling
- Second Protocol to the Agreement between Australia and the Republic of Austria on Social Security
- Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion
- The Agreement Establishing the Advisory Centre on WTO Law
- Amendments to the Convention on the International Mobile Satellite Organization adopted at the Twentieth Session of the Assembly
- Convention on Limitation of Liability for Maritime Claims

Treaties tabled on 24 November 2010

- Agreement between the Government of Australia and the Government of the United Mexican States relating to Air Services
- Air Services Agreement between the Government of Australia and the Government of the Republic of Turkey
- Air Services Agreement between the Government of Australia and the Government of the Federative Republic of Brazil

**Report 116: Treaties tabled on 24 and 25 November 2010, 9 February and 1 March 2011 and Treaties referred on 16 November 2010 (Part 3)**

Treaties referred on 16 November 2010

- 2010 Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora
- Amendments to the Implementation Procedures for Airworthiness Covering Design Approval, Production Activities, Export Airworthiness Approval, Post Design Approval Activities, and Technical Assistance Between Authorities under the Agreement on the Promotion of Aviation Safety Between the Government of Australia and the Government of the United States of America
- United Nations Convention on the Use of Electronic Communications in International Contracts
- Exchange of Letters Constituting an Agreement to Amend Annex 4-A (Textile or Apparel Specific Rules of Origin) of the Australia-United States Free Trade Agreement
- Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Article 3 of the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) and Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Annex G of the ANZCERTA

Treaties tabled on 24 November 2010

- International Labour Organization Protocol of 2002 to Convention No. 155: concerning Occupational Safety and Health and the Working Environment, 1981
- International Labour Organization Convention No. 162: Convention Concerning Safety in the Use of Asbestos
- International Labour Organization Convention No. 175: Part-Time Work
- International Labour Organisation Convention No. 186: Maritime Convention

Treaty tabled on 25 November 2010

- Resolution MEPC.196 (59) Amendments to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships

Treaties tabled on 9 February 2011

- Agreement between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement
- Amendments to the Convention Establishing the Multilateral Investment Guarantee Agency to Modernise the Mandate of the Multilateral Investment Guarantee Agency and Amendment to the International Finance Corporation Articles of Agreement

Treaty tabled on 1 March 2011

- Australia's Accession to the Council of Europe Convention on Cybercrime

**Report 117: Treaties tabled on 9 and 10 February, and 1 March 2011**

Treaties tabled on 9 February 2011

- Agreement between Australia and the Slovak Republic on Social Security
- Agreement between the Government of Australia and the Government of the Republic of South Africa concerning the Co-Production of Films
- Third Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia

Treaty tabled on 10 February 2011

- Treaty between Australia and the People's Republic of China concerning the Transfer of Sentenced Persons

Treaty tabled on 1 March 2011

- Amendments to the Singapore-Australia Free Trade Agreement

**Report 118: Treaties tabled on 23 March and 11 May 2011**

Treaty tabled on 23 March 2011

- Resolution MEPC.189(60) Amendments to the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973

Treaty tabled on 11 May 2011

- Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement

**Report 119: Treaty tabled on 5 July 2011**

- Instrument Amending the Constitution of the International Telecommunication Union (Geneva, 1992) and Instrument Amending the Convention of the International Telecommunication Union (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994), by the Plenipotentiary Conference (Minneapolis, 1998), by the Plenipotentiary Conference (Marrakesh,

2002) and by the Plenipotentiary Conference (Antalya, 2006), amendments adopted by the Plenipotentiary Conference

**Report 120: Treaties tabled on 5 July and 16 August 2011**

Treaties tabled on 5 July 2011

- Measure 1 (2005) Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty: Liability arising from environmental emergencies
- Measure 4 (2004) Insurance and contingency planning for tourism and non-governmental activities in the Antarctic Treaty area
- Measure 15 (2009) Landing of persons from passenger vessels in the Antarctic Treaty area

Treaties tabled on 16 August 2011

- The Government of Australia and the Government of the Republic of the Marshall Islands on the Exchange of Information with Respect to Taxes
- The Government of Australia and the Government of the Republic of Mauritius on the Exchange of Information with Respect to Taxes
- The Government of Australia and the Government of Montserrat (as authorised by the Government of the United Kingdom of Great Britain and Northern Ireland) on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Republic of the Marshall Islands for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments
- Agreement between the Government of Australia and the Government of the Republic of Mauritius for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments
- Agreement between Australia and the Republic of Hungary on Social Security

**Report 121: Treaty tabled on 16 August 2011**

- Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia

**Report 122: Treaties tabled on 23 August, 13 and 20 September and 13 October 2011**

Treaties tabled on 23 August 2011

- Agreement for the Establishment of the International Anti-Corruption Academy as an International Organization
- Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) for Co-Operation in the Peaceful Uses of Nuclear Energy
- International Convention for the Suppression of Acts of Nuclear Terrorism

Treaties tabled on 13 September 2011

- Southern Indian Ocean Fisheries Agreement
- Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean

Treaties tabled on 20 September 2011

- Air Services Agreement between the Government of Australia and the Government of the Czech Republic
- Exchange of Notes constituting an Amendment to the Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam relating to Air Services
- Exchange of Notes constituting an Agreement to amend the Agreement between the Government of the United States of America and the Government of Australia concerning Space Vehicle Tracking and Communication Facilities of 29 May 1980, as amended

Minor treaty action

- Resolution MEPC.202(62): Amendments to the Annex of the Protocol of 1997 to amend the International Convention For The Prevention Of Pollution From Ships, 1973, as modified by the Protocol of 1978 relating thereto

**Report 123: Treaties tabled on 13 October, 2, 22 and 24 November 2011**

Treaty tabled on 13 October 2011

- Resolution MEPC.200(62): Amendments to the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (Special Area Provisions and the Designation of the Baltic Sea as a Special Area under MARPOL Annex IV)

Treaties tabled on 2 November 2011

- Agreement between the Government of Australia and the European Space Agency for a Cooperative Space Vehicle Tracking Program
- Revised MARPOL Annex V: Regulations for the Prevention of Pollution by Garbage from Ships (Resolution MEPC.201(62))
- Agreement between the Government of Australia and the Government of the Principality of Liechtenstein on the Exchange of Information on Taxes
- Agreement between the Government of Australia and the Government of Costa Rica on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Macao Special Administrative Region of the People's Republic of China for the Exchange of Information Relating to Taxes
- Agreement between the Government of Australia and the Government of Liberia on the Exchange of Information with Respect to Taxes

Treaty tabled on 22 November 2011

- Agreement between Australia and the Republic of Latvia on Social Security

Treaty tabled on 24 November 2011

- Exchange of Notes constituting an Agreement to extend the Agreement between the Government of Australia and the Government of the United States of America concerning the Conduct of Scientific Balloon Flights for Civil Research Purposes of 16 February 2006

**Report 124: Treaties tabled on 22 November 2011 and 7 February 2012**Treaties tabled on 22 November 2011

- Amendments to MARPOL Annex VI on Regulations for the Prevention of Air Pollution from Ships by Inclusion of New Regulations on Energy Efficiency for Ships Resolution MEPC.203(62)
- Agreement between the European Union and Australia on the Processing and Transfer of Passenger Name Record (PNR) Data by Air Carriers to the Australian Customs and Border Protection Service

Treaties tabled on 7 February 2012

- Protocol amending the Agreement between the Government of Australia and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

Minor treaty action

- Amendment to Annex III of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

**Report 125: Treaties tabled on 7 and 28 February 2012**Treaties tabled on 7 February 2012

- Resolution MEPC.193(61): Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form
- Amendments to Appendices I and II to the Convention on the Conservation of Migratory Species of Wild Animals

Treaties tabled on 28 February 2012

- Agreement between Australia and the European Union Amending the Agreement on Mutual Recognition in relation to Conformity Assessment (MRA), Certificates and Markings between the European Community and Australia
- Convention providing a Uniform Law on the Form of an International Will
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Amendments to the Agreement Establishing the European Bank for Reconstruction and Development

Minor treaty action

- Amendment to Annex 1 of the Agreement on the Conservation of Albatrosses and Petrels (ACAP) of 19 June 2001 that enters into force automatically on 26 July 2012

**Report 126: Treaty tabled on 21 November 2011**

- Anti-Counterfeiting Trade Agreement

**Report 127: Treaties tabled on 20 March and 8 May 2012**Treaty tabled on 20 March 2012

- Fifth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology

Treaties tabled on 8 May 2012

- Exchange of Notes constituting an Agreement between Australia and the United States of America to Amend and Extend the Agreement on Cooperation in Defense Logistics Support
- Convention on Mutual Administrative Assistance in Tax (Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1 June 2011)

**Report 128: Inquiry into the Treaties Ratification Bill 2012****Report 129: Treaties tabled on 19 and 26 June 2012**Treaties tabled on 19 June 2012

- Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron at the Australian Army Aviation Centre Oakey
- Agreement between the Government of Australia and the Government of the Kingdom of Bahrain on the Exchange of Information with Respect to Taxes
- Agreement between the Government of Australia and the Government of the Principality of Andorra on the Exchange of Information with Respect to Taxes

Treaty tabled on 26 June 2012

- Agreement Establishing the International Fund for Agricultural Development

**Report 130: Treaty tabled on 14 August 2012**

- Malaysia–Australia Free Trade Agreement

**Report 131: Treaties tabled on 21 August, 11 and 18 September 2012**Treaty tabled on 21 August 2012

- Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia

Treaties tabled on 11 September 2012

- Treaty between Australia and the Socialist Republic of Vietnam on Extradition
- Partial Revision of the 2008 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-12)

Treaties tabled on 18 September 2012

- Agreement between the Government of Australia and the Kingdom of Spain for the Mutual Protection of Classified Information of Defence Interest

**Report 132: Treaties tabled on 18 September and 30 October 2012**Treaties tabled on 18 September 2012

- Agreement Establishing the African Development Fund
- Agreement Establishing the African Development Bank

Treaties tabled on 30 October 2012

- Loan Agreement between Australia and the International Monetary Fund
- Agreement between the Government of Australia and the Government of Japan on the Security of Information

Minor treaty actions

- 2012 Amendments to Annex I of the International Convention Against Doping in Sport of 19 October 2005
- Amendments to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended (Resolution MSC.329(90))
- Amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (Resolution MSC.325(90))
- Amendment to Article XIV.A of the Statute of the International Atomic Energy Agency (IAEA) (Resolution GC(43(/RES/8))

**Report 133: Treaties tabled on 1 November 2012**

- Exchange of Notes constituting an Agreement to further amend the Schedule to the Agreement between the Commonwealth of Australia and Japan for Air Services
- Agreement between the Government of Australia and the Government of the Republic of Kenya relating to Air Services
- Agreement between the Government of Australia and the Government of the Republic of Palau relating to Air Services
- Agreement between the Government of Australia and the Democratic Socialist Republic of Sri Lanka relating to Air Services

- Air Transport Agreement between the Government of Australia and the Government of the United States of America
- Exchange of notes amending the Air Transport Agreement between the Government of Australia and the Government of the United States of America
- Convention on International Interests in Mobile Equipment
- Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment
- Amendment of Australia's Schedule annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994
- Amendment to Annex 3 of the 2007 Agreement on Operational and Strategic Cooperation between Australia and the European Police Office

**Report 134: Treaties tabled on 12 March and 14 May 2013**

Treaties tabled on 12 March 2013

- Agreement between the Government of Australia and the Government of Solomon Islands relating to Air Services
- Agreement between the Government of Australia and the Government of the Republic of the Philippines relating to Air Services
- Agreement between the Government of Australia and the Government of the Kingdom of Belgium relating to Air Services

Treaties tabled on 14 May 2013

- Agreement between the Government of Australia and the Government of the Republic of Indonesia relating to Air Services

**Report 135: Treaties tabled on 12 March and 14 May 2013**

Treaties tabled on 12 March 2013

- Agreement on the Establishment of the Global Green Growth Institute

Treaties tabled on 14 May 2013

- Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education
- Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

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, as amended IMO Resolution MSC.343(91)
- Amendments 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)
- Amendments to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended IMO Resolution MSC.345(91)

**Report 136: Treaties tabled on 14 May 2013**

- Food Assistance Convention

**44<sup>th</sup> Parliament (November 2013– Current)**

**Report 137: Treaty referred on 15 January 2014**

- Agreement between the Government of Australia and the Government of the United Arab Emirates on Cooperation in the Peaceful Uses of Nuclear Energy

Minor treaty action

- 2013 Amendment to Annex I of the International Convention Against Doping in Sport of 19 October 2005

**Report 138: Treaties tabled on 11 and 12 December 2013, 20 January 2014 and referred on 15 January 2014**

Treaties tabled on 11 and 12 December 2013

- Convention between Australia and the Swiss Confederation for the Avoidance of Double Taxation with respect to Taxes on Income, with Protocol
- Arms Trade Treaty

Treaties presented on 20 January 2014

- Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam

- Exchange of Notes constituting an Agreement between the Government of the United States of America and the Government of Australia to amend the Agreement concerning Space Vehicle Tracking and Communication Facilities of 29 May 1980, as amended

Treaties referred on 15 January 2014

- Agreement between the Government of Australia and the Government of the Oriental Republic of Uruguay on the Exchange of Information with Respect to Taxes

**Report 139: Treaties tabled on 11 December 2013, referred on 15 January and tabled on 11 February 2014**

Treaties tabled on 11 December 2013

- Air Services Agreement between the Government of Australia and the Government of the Republic of Serbia
- Agreement between the Government of Australia and the Government of the Republic of Vanuatu relating to Air Services

Treaties referred on 15 January 2014

- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

Treaties tabled on 11 February 2014

- Protocol to the 2007 World Wine Trade Group Agreement on requirements for Wine Labelling concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions
- Agreement between the Government of Australia and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam on the Exchange of Information with respect to Taxes
- Agreement between the Government of Australia and the Government of the Republic of Guatemala for the Exchange of Information Relating to Tax Matters
- Agreement between the Government of Australia and the Government of the Republic of Croatia relating to Air Services

**Report 140: Treaty tabled on 13 May 2014 - Interim Report**

- Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and Implement FATCA

**Report 141: Treaties tabled on 19 March and 13 May 2014**

Treaty tabled on 19 March 2014

- Treaty between the Government of Australia and the Government of the Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation

Treaty tabled on 13 May 2014

- Agreement between the Government of Australia and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA

**Report 142: Treaty tabled on 13 May 2014**

- Free Trade Agreement between the Government of Australia and the Government of the Republic of Korea

**Report 143: Treaties tabled on 17 June and 15 July 2014**

Treaties tabled on 17 June 2014

- Amendment to the Annex to the Protocol on Trade in Services to the Australia-New Zealand Closer Economic Relations Trade Agreement
- Treaty on Economic Cooperation between the Government of Australia and the Government of the Independent State of Papua New Guinea

Treaties tabled on 15 July 2014

- Amendments to the Annex to the Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment
- Amendments to the Annex to the Agreement between the Government of Australia and the Government Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment
- Amendments to the Annex to the Agreement between the Government of Australia and the Government of the Republic of Korea for the Protection of Migratory Birds

**Report 144: Treaty tabled on 14 July 2014**

- Agreement between Australia and Japan for an Economic Partnership

**Report 145: Treaties tabled on 26 August and 2 September 2014**

- The Force Posture Agreement between the Government of Australia and the Government of the United States of America
- Agreement between the Government of Australia and the Government of Japan concerning the Transfer of Defence Equipment and Technology
- Agreement between the Government of Australia and the Government of the United States of America for the Sharing of Visa and Immigration Information

**Report 146: Treaties tabled on 30 September 2014**

- Treaty between Australia and the Kingdom of the Netherlands on the presence of Australian personnel in the Netherlands for the purpose of responding to the downing of Malaysia Airlines Flight MH17

Minor treaty actions

- 2014 Amendment to Annex I of the International Convention Against Doping in Sport of 19 October 2005
- 2014 Amendment to Annex II of the International Convention Against Doping in Sport of 19 October 2005

**Report 147: Treaties tabled on 18 June, 24 November, 2 December 2014 and 25 February 2015**

- World Trade Organization Agreement on Trade Facilitation Text as adopted at Bali on 7 December 2013
- First Protocol to Amend the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area
- Treaty on Mutual Legal Assistance in Criminal Matters between Australia and the Socialist Republic of Viet Nam
- World Trade Organization Agreement on Trade Facilitation: Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization

**Report 148: Treaties tabled on 10 February 2015**

- Agreement between Australia and the Republic of India on Social Security
- Amendments to the Annex of the Protocol of 1997 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto

**Report 149: Treaty tabled on 10 February 2015**

- Amendments to Appendices I and II to the Convention on the Conservation of Migratory Species of Wild Animals

**Report 150: Treaties tabled on 3 March, 5 March and 12 May 2015**

- Australia's withdrawal from the World Tourism Organisation under Article 35 of the World Tourism Organization (WTO) Statutes.
- Resolution A.1070 (28) IMO Instrument Implementation Code (III Code) and amendments to relevant IMO Conventions
- Protocol Establishing the Prolongation of the Treaty between the Kingdom of the Netherlands and Australia on the Presence of Australian Personnel in the Netherlands for the Purpose of Responding to the Downing of Malaysia Airlines Flight MH17

**Report 151: Treaty tabled on 28 October 2015**

- Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy

**Report 152: Treaty tabled on 16 June 2015**

- Amendments to the Annexes of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 and Amendments to the Annex of the Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
- 2015 Amendment to Annex G of the Australia–New Zealand Closer Economic Relations Agreement (ANZCERTA) to effect the HS2012 transposition
- Amendments to Annex 1 of the Agreement on the Conservation of Albatrosses and Petrels (ACAP) of 19 June 2001

**Report 153: Treaties tabled on 16 June and 23 June 2015**

- Agreement between Australia and the European Union Establishing a Framework for the Participation of Australia in European Union Crisis Management Operations



- Marrakesh Treaty to Facilitate Access to Published Works for People who are Blind, Visually Impaired or otherwise Print Disabled
- Ratification of the Decisions of the 2012 Doha Congress: Universal Postal Union: General Regulations of the Universal Postal Union, Universal Postal Convention and Final Protocol to the Universal Postal Convention and Postal Payment Services Agreement

**Report 154: Treaty tabled on 17 June 2015**

- Free Trade Agreement between the Government of Australia and the Government of the People's Republic of China

**Report 155: Treaties tabled on 11 August and 12 August 2015**

- Australia's denunciation of the Convention relating to International Exhibitions, and Protocol of Signature
- Australia's ratification of the Asian Infrastructure Investment Bank Articles of Agreement

**Report 156: Treaties tabled on 8 September 2015**

- Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services
- Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters
- Amendments to the International Convention for the Safety of Life at Sea, 1974, as amended Resolution MSC 380

**Report 157: Treaties tabled on 13 October 2015**

- Agreement between the Government of Australia and the Government of the Republic of India concerning Transfer of Sentenced Persons
- Amendments of 2014 to the Maritime Labour Convention, 2006 Approved by the Conference at its One Hundred and Third Session

**Report 158: Treaty tabled on 10 November 2015**

- Agreement between Australia and the Republic of Estonia on Social Security
- Minor treaty action
- 2016 Amendments to Annex I of the Convention against Doping in Sport