

Nine Minor Treaty Actions

Minor treaty actions

- 4.1 Minor treaty actions are generally technical amendments to existing treaties which do not impact significantly on the national interest.
- 4.2 Minor treaty actions are presented to the Committee with a one-page explanatory statement and are listed on the Committee's website. The Committee has the discretion to formally inquire into these treaty actions or indicate its acceptance of them without a formal inquiry and report.
- 4.3 There are nine minor treaty actions reviewed in this chapter. The Committee determined not to hold a formal inquiry into eight of the treaty actions, and agreed that binding treaty action may be taken.
- 4.4 The Committee held a formal public inquiry into the amendment, adopted by the 8th Conference of the Pacific Community, to the *Agreement establishing the South Pacific Commission* before agreeing that binding treaty action may be taken.

Amendments, adopted 10 May 2013, to Annex III of the Rotterdam convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

- 4.5 This proposed amendment to the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Convention) will add the following chemicals to Annex III:
 - azinphos-methyl (an organophosphate insecticide) to the pesticide category;
 - pentabromodiphenyl ether (a bromide flame retardant) to the industrial category;

- commercial-octabromodiphenyl ether (a bromide flame retardant) to the industrial category;
 - perfluorooctane sulfonic acid (a flourosurfactant that was used in Scotchguard) to the industrial category;
 - perfluorooctane sulfonates (a flourosurfactant that was used in other stain resistors) to the industrial category;
 - perfluorooctane sulphonamides (a compound was used to repel grease and water in food packaging) to the industrial category; and
 - perfluorooctane sulfonyls (once an active ingredient in scotchguard) to the industrial category.
- 4.6 The Convention requires Parties advise as to whether they will permit the importation of chemicals in Annex III, and if so, under what conditions. It also requires Parties engaged in the exportation of chemicals in Annex III to observe other Parties' advice on the importation of chemicals in Annex III, including any applicable prohibitions or conditions.
- 4.7 The Explanatory Statement indicates that azinphos-methyl, perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulphonamides, and perfluorooctane sulfonyls are used in Australia in low volumes that are declining. None of these products are exported from Australia.
- 4.8 The Amendment to the Convention will require some changes to Australian law to bring these chemicals into the appropriate regulatory regime. In practice, the Explanatory Statement claims, this will require an exporter of these chemicals to pay an annual authorisation fee of between \$750 and \$1,700 and require importers to pay an annual fee of \$1,700.
- 4.9 The Explanatory Statement claims:
- These fees are unlikely to have a substantial financial impact in view of the low volume of import of these products, and no record of export.
- 4.10 The changes came into effect on 10 August 2013.

Amendment, adopted by the 8th Conference of the Pacific Community, to the agreement establishing the South Pacific Commission

- 4.11 The Explanatory Statement by the Department of Foreign Affairs and Trade explains that the proposed treaty matter is the tacit acceptance of an amendment, adopted by the 8th Conference of the Pacific Community on 19 November 2013, to the *Agreement establishing the South Pacific Commission* (the Canberra Agreement). No change to Australian legislation is required to give effect to the amendment.
- 4.12 The amendment will expand the territorial scope of the Pacific Community (SPC) to include Timor-Leste. (The South Pacific Commission was renamed the 'Pacific Community' in 1997). This will allow Timor-

Leste to join the Pacific Community by acceding to the Canberra Agreement at a later date. The amendment does not affect the rights and obligations of existing Parties to the Canberra Agreement. It is therefore expected to have a negligible legal, financial or practical impact on Australia.

- 4.13 The SPC, based in Noumea and Suva, is a Pacific regional organisation that provides technical assistance to the Pacific Island countries and territories in the areas of public health, geoscience, agriculture, forestry, water resources, disaster management, fisheries, education, statistics and demography, transport, energy, human rights, gender, youth and culture to help Pacific Island people achieve sustainable development. Founded in 1947 as an organisation of metropolitan powers, the SPC now comprises 22 Pacific Island countries and territories as well as Australia, France, New Zealand and the US. Pacific Island countries and territories were admitted as full members of the SPC in 1983 and have enjoyed the same rights as founding members ever since. Australia is the largest contributor to SPC, providing 34 per cent (approximately A\$39.6 million) of the SPC's budget in 2013.
- 4.14 In 2013, Timor-Leste advised its intention to apply for membership of the SPC. Timor-Leste attended the SPC governing body meeting (the Conference) as an observer in November 2013, and has also participated in SPC technical meetings on an ad-hoc basis. Article XXI(66) of the Canberra Agreement, allows a country to become a member of the SPC if invited to do so by all participating governments, by depositing an instrument of accession. Article II(2) provides that the territorial scope of the SPC shall include Pacific countries and territories located wholly or in part south of the equator and east of and including 'the Australian Territory of Papua and the Trust Territory of New Guinea; and Guam and the Trust Territory of the Pacific Islands.'¹ Timor-Leste lies west of this demarcation line and is thus outside the present geographic scope of the SPC.
- 4.15 Article II(3) of the Canberra Agreement allows the territorial scope of the SPC to be altered by agreement of all participating governments. In anticipation of a formal request for SPC membership from Timor-Leste, the 8th Conference of the Pacific Community (Suva, 18–19 November 2013) adopted a resolution extending the scope of the SPC to include Timor-Leste. Under the terms of the resolution, the amendment will enter into force one year from the date of its adoption by the Conference (that is, on

1 The former Australian Territory of Papua and the Trust Territory of New Guinea now form the Independent State of Papua New Guinea. The former US Trust Territory of the Pacific Islands is now the Federated States of Micronesia, Republic of the Marshall Islands and Commonwealth of the Northern Mariana Islands.

- 19 November 2014), providing no participating government lodges an objection with the depositary (Australia) before that date.
- 4.16 The amendment does not, of itself, admit Timor-Leste as a member of the SPC. Timor-Leste will be eligible to apply for membership of the SPC once the amendment enters into force. If invited to do so by all participating governments, Timor-Leste will then be able to accede to the Canberra Agreement in accordance with Article XXI(66).
- 4.17 Australian acceptance of this amendment is in line with the consensus decision of the SPC, consistent with Australia's support for Timor-Leste's participation in a range of regional forums. Timor-Leste faces a number of development challenges in common with SPC member countries and territories, and would benefit from access to the SPC's wide range of technical services.

Amendments, adopted by the 11th Conference of the Parties, to Annex IX of the Basel Convention on the control of Transboundary Movements of Hazardous Wastes and their Disposal

- 4.18 The *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* (the Basel Convention) entered into force in 1992 and is intended to protect people and the environment from the disposal of hazardous waste by transporting it from locations with high environmental protection standards to locations with lower environmental protection standards.
- 4.19 To meet its intended purpose, the movement of hazardous waste across national boundaries is governed by a regulation process set out in the Convention. The Basel Convention contains a series of annexes that categorise various types of waste for the purpose of applying the regulations set out in the Convention.
- 4.20 The proposed Amendment is an addition to Annex IX of the Convention, which contains a list of non-hazardous wastes exempted from the Convention's regulations unless that waste contains elements or characteristics that might cause it to be covered by other Annexes under the Convention. For example, Annex IX lists paper waste as a product that is not subject to the regulatory process set out in the Convention provided it is not mixed with other, hazardous, waste.
- 4.21 The proposed amendment adds two new categories of waste to Annex IX, that of composite packaging for liquids and that of self-adhesive label laminate waste. In this instance, composite packaging for liquids means paper packaging that contains either plastic or aluminium in sufficiently small quantities not to fall within the definitions of waste contained in the other annexes of the Convention.

4.22 According to the Explanatory Statement:

The amendments will not alter Australia's obligations under the Basel Convention. Rather, the amendments clarify that plastic packaging and label laminate wastes are not subject to the Basel Convention requirements for hazardous waste. This will provide additional clarity and predictability for industry and may result in a cost saving for the Commonwealth in terms of assessing whether or not those substances are subject to the Basel Convention.

4.23 The Proposed Treaty Action will require the amendment to the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, which contains a copy of the Basel Convention, but, according to the Explanatory Statement will not require any additional regulation or expense by Government or businesses involved in the transport of waste management.

Three Related Minor Treaty Actions

4.24 Amendments were made to Annexes I and II of *The International Convention for the Prevention of Pollution from Ships (MARPOL)* and Chapter XI-1 of *International Convention for the Safety of Life at Sea, 1974 (SOLAS)* to make the Recognised Organizations (RO) Code mandatory. For details see:

- Amendments, adopted at London on 17 May 2013, to the Annex of the Protocol of 1978 relating to the *International Convention for the Prevention of Pollution from Ships, 1973* (London, 17 May 2013).

4.25 The amendments will also alter the requirements for emergency training and practice drills and carriage requirements for navigational equipment.

4.26 For consistency, the minor amendments have been reflected in the treaties listed below.

- Amendments, adopted at London on 21 June 2013, to the *International Convention for the Safety of Life at Sea, 1974, as amended* (London, 21 June 2013);
- Amendments, adopted at London on 21 June 2013, to Annex B to the *Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended* (London, 21 June 2013).

4.27 The amendments will be deemed to have been accepted on 1 July 2014.

Amendments, adopted at London on 17 May 2013, to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (London 17 May 2013)

- 4.28 The amendments were deemed to have been accepted on 1 April 2014 and amend Annex I of MARPOL so that Form A or Form B of the International Oil Pollution Prevention (IOPP) Certificate will indicate whether the ship has an incinerator for oil residues.

Amendments, adopted at London on 17 May 2013, to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (London 17 May 2013)

- 4.29 The amendments were deemed to have been accepted on 1 April 2014 and amend the Conditions Assessment Scheme, required under Annex I of MARPOL to update requirements to assess the condition of oil tankers.

Amendments, adopted at London on 21 June 2013, to the *International Convention for Safe Containers, 1972* (London, 21 June 2013).

The amendments were deemed to have been accepted on 1 January 2014 and amend the *International Convention for Safe Containers 1972* (CSC) to incorporate previous amendments to the CSC made in 1993, in order for the amendments to be brought into force using the tacit acceptance procedure contained in Article X of the CSC.

Mr Wyatt Roy MP

Chair