
The Parliament of the Commonwealth of Australia

Report 47

Treaties tabled on 18 and 25 June 2002

Joint Standing Committee on Treaties

August 2002

© Commonwealth of Australia 2002

ISBN

Contents

Membership of the Committee.....	vi
Resolution of Appointment.....	vii
List of recommendations.....	viii
1 Introduction.....	1
Purpose of the report.....	1
Availability of documents.....	2
Conduct of the Committee's review	3
2 Two Air Services Agreements	5
Background.....	5
Proposed treaty actions	6
Agreement with Chile	6
Agreement with the Cook Islands.....	6
Evidence presented and issues arising	7
Agreement with Chile	7
Agreement with the Cook Islands.....	8
Conclusions and recommendations	8
3 Agreement between Australia and the United States of America for the enforcement of maintenance (support) obligations.....	11
Background.....	11
Proposed treaty action.....	12
Evidence presented and issues arising	13
Certainty of enforcement of support obligations in the United States by individual states.....	13

Right to challenge decisions.....	14
Costs.....	15
Conclusions and recommendations	15
4 Two declarations by Australia.....	17
Background.....	17
Treaty actions	18
The UNCLOS Declaration	18
The ICJ Declaration.....	19
Evidence presented and issues raised	20
UNCLOS declaration	21
ICJ declaration.....	22
Conclusions	24
5 Convention for the suppression of the financing of terrorism	27
Background.....	27
Proposed treaty actions	28
Evidence presented and issues arising	30
Definition of terms.....	30
Civil liberties and criminal intentions	30
Reporting suspicious transactions.....	31
Conclusions and recommendations	32
6 An amendment to the convention on the prohibition and restriction of certain conventional weapons	35
Background.....	35
Proposed treaty action.....	36
Evidence presented and issues arising	36
Conclusions and recommendations	37
7 Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas	39
Background.....	39
Proposed treaty action.....	40

Evidence presented and issues raised	43
Conclusions and recommendation	45
8 Agreement establishing the International Organisation of Vine and Wine...	47
Background.....	47
Proposed treaty actions	48
Evidence presented and issues arising	49
Decision making and dispute resolution mechanisms	49
Advantages of membership	49
Conclusions and recommendations	50
Appendix A – Submissions.....	53
Individuals and agencies who made written submissions on treaties tabled in June 2002	53
Appendix B – Witnesses at hearings	55
Friday, 12 July 2002 – Canberra.....	55



Membership of the Committee

Chair Ms Julie Bishop MP

Deputy Chair Mr Kim Wilkie MP

Members	The Hon Dick Adams MP	Senator Guy Barnett
	Mr Greg Hunt MP	Senator Andrew Bartlett
	Mr Kerry Bartlett MP	Senator Linda Kirk
	Mr Steven Ciobo MP	Senator Brett Mason
	Mr Martyn Evans MP	Senator Gavin Marshall
	Mr Peter King MP	Senator Ursula Stephens
	The Hon Bruce Scott MP	Senator Tsebin Tchen

Committee Secretariat

Secretary Paul McMahon (to 12 July 2002)
Gillian Gould (from 12 July 2002)

Inquiry Secretary Shelley McInnis

Researchers Glenn Worthington
Bob Morris

Administrative Officer Carly Rogers



Resolution of Appointment

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

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



List of recommendations

Two Air Services Agreements

Recommendation 1

The Committee supports the *Air Services Agreement with Chile* and recommends that binding treaty action be taken. (Paragraph 2.19)

Recommendation 2

The Committee supports the *Air Services Agreement with the Cook Islands* and recommends that binding treaty action be taken. (Paragraph 2.20)

Agreement between Australia and the United States of America for the enforcement of maintenance (support) obligations

Recommendation 3

The Committee supports the *Agreement between the Government of Australia and the Government of the United States of America for the enforcement of maintenance (support) obligations* and recommends that binding treaty action be taken. (Paragraph 3.22)

Convention for the suppression of the financing of terrorism

Recommendation 4

The Committee supports the *Convention on the Suppression of the Financing of Terrorism* and recommends that binding treaty action be taken. (Paragraph 5.23)

An amendment to the convention on the prohibitions or restrictions of certain conventional weapons

Recommendation 5

The Committee supports the 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* and recommends that binding treaty action be taken. (Paragraph 6.14)

Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas

Recommendation 6

The Committee supports the *Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas* and recommends that binding treaty action be taken. (Paragraph 7.29)

Agreement establishing the International Organisation of Vine and Wine

Recommendation 7

In line with Article 1 of the *Agreement establishing the International Organisation of Vine and Wine*, which replaces the Office with the new Organisation, the Committee supports the withdrawal of Australia from the International Vine and Wine Office. (Paragraph 8.18)

Recommendation 8

The Committee supports the *Agreement establishing the International Organisation of Vine and Wine* and recommends that binding treaty action be taken. (Paragraph 8.19)

Introduction

Purpose of the report

- 1.1 This report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of a series of proposed treaty actions tabled on 18 and 25 June 2002.¹
- 1.2 Specifically, the report deals with the:
- *Agreement between the Government of Australia and the Government of the Cook Islands relating to air services, done at Apia on 18 September 2001;*
 - *Agreement between the Government of Australia and the Government of the Republic of Chile relating to air services, done at Santiago on 7 September 2001;*
 - *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;*

1 For treaties tabled on 18 June 2002, see *Senate Journal*, 18 June 2002, No. 152, pp. 377-78 and *House of Representatives Votes and Proceedings*, 18 June 2002, No. 274, p. 255. For treaties tabled on 25 June 2002, see *Senate Journal*, 25 June 2002, No. 192, p. 453 and *House of Representatives Votes and Proceedings*, 25 June 2002, No. 315, p. 289.

- *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, done at New York on 9 December 1999;*
- *Amendment, adopted at Geneva on 21 December 2001, 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, done at Rome on 24 November 1993; and*
- *Agreement establishing the International Organisation of Vine and Wine, done at Paris on 3 April 2001.*

1.3 Two further treaties were tabled on 25 June 2002:

- *Timor Sea Treaty between the Government of Australia and the Government of East Timor, done at Dili on 20 May 2002; and*
- *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, done at Dili on 20 May 2002.*

The Committee will inquire into these proposed treaty actions at greater length because of the amount of public interest that they have generated.

Availability of documents

- 1.4 The advice in this report refers to National Interest Analyses (NIAs) prepared for these proposed treaty actions. Copies of NIAs are available from the Committee's website at <http://www.aph.gov.au/house/committee/jsct/index.htm> or may be obtained from the Committee Secretariat. These documents were prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty.
- 1.5 Copies of treaty actions and NIAs can also be obtained from the Australian Treaties Library maintained on the Internet by the Department

of Foreign Affairs and Trade (DFAT). The Australian Treaties Library is accessible through the Committee's website or directly at:
<http://www.austlii.edu.au/au/other/dfat>.

Conduct of the Committee's review

- 1.6 The Committee's review of the treaty actions canvassed in this report was advertised in the national press and on the Committee's website.² In addition, letters inviting comment were sent to all State Premiers and Chief Ministers and to individuals who have expressed an interest in being kept informed of proposed treaty actions like these. Thirteen written submissions were received in response to invitations to comment; authors of submissions are listed at Appendix A.
- 1.7 The Committee also took evidence at public hearings held on Friday, 12 July 2002. A list of witnesses giving evidence at the public hearings is at Appendix B. A transcript of evidence from the public hearing can be obtained from the Committee Secretariat or accessed through the Committee's internet site at www.aph.gov.au/house/committee/jsct/index.htm.

2 The Committee's review of the proposed treaty actions was advertised in *The Australian* on 3 July 2002. Advertisements soliciting submissions with regard to the Timor Sea treaties were also placed in the *West Australian* and the *Northern Territory News*. Members of the public were advised on how to obtain relevant information and invited to submit their views to the Committee.

Two Air Services Agreements

Background

- 2.1 This chapter contains the results of the Committee’s review of two air services agreements, namely:
- an *Air Services Agreement with Chile*; and
 - an *Air Service Agreement with the Cook Islands*;
- 2.2 The purpose of each treaty is to allow direct air services to operate between the parties and hence to facilitate tourism and trade through freight and passenger transportation. Each agreement is aimed at providing greater options for Australian travellers.¹
- 2.3 The agreements are treated together as they are both based on *The Australian Standard Draft Air Services Agreement* that has formed the basis of a large number of other air service agreements. This agreement was developed in consultation with aviation stakeholders.
- 2.4 Each agreement obliges the partners to allow designated airlines to operate scheduled air services carrying passengers and freight between

¹ Unless otherwise specified the material in this and the following section was drawn from the National Interest Analyses (NIAs) for the *Air Service Agreement with Chile* and the *Air Service Agreement with the Cook Islands*. The full text of the NIAs can be found at the Committee’s website on www.aph.gov.au/house/committee/jsct.

destinations in their respective countries. The agreements cover areas such as safety, security, customs regulations and the ability to establish offices, and sale of fares to the public in the territory of the other party. The agreements do not allow the transport of domestic passengers or freight by a designated airline of the other party.

- 2.5 Without these agreements in place a range of intergovernmental arrangements necessary to conduct a service would not be available and the service provider would find it difficult to operate in the long-term.
- 2.6 The agreements will involve no direct costs to Australia and implementation will be done through existing legislation under the *Air Services Act 1920* and the *Civil Aviation Act 1988*. The NIAs indicate that all major stakeholders have been consulted during the negotiations and all stakeholders supported the agreements.

Proposed treaty actions

Agreement with Chile

- 2.7 The agreement with Chile provides a framework for the operation of scheduled air services between Australia and Chile by the designated airlines of both countries.
- 2.8 Subject to obtaining the necessary operational and safety approvals, Qantas and LanChile are the designated airlines, which have recently announced the commencement of air services between Sydney and Santiago from 1 July 2002.
- 2.9 The Annex to the agreement designates intermediate points as New Zealand and French Polynesia and for each party three landing points in the destination country and beyond plus two additional points of choice. Points not specified under the agreement can be nominated by the respective Governments and may be changed at any time.

Agreement with the Cook Islands

- 2.10 The agreement obliges Australia and the Cook Islands to allow the designated airlines of each country to operate scheduled air services carrying passengers and cargo between the two countries on the specified routes. Neither specific airlines nor specific landing points are designated under the agreement.

Evidence presented and issues arising

- 2.11 The Committee noted that there are approximately 57 air services agreements in place and that unlike current free trade agreements these air agreements limit the exchange of rights to the bilateral partners.² The Department of Transport noted that Australia was working through multilateral groups to try to free up that system, but that takes consensus with a number of nations and obviously will take some time.³ The Committee was also informed that in a recent agreement with Singapore on free trade the air services agreement would be negotiated separately. This would also be the case in free trade negotiations with Japan.

Agreement with Chile

- 2.12 The Committee noted that an arrangement was already in place in the form of a Memorandum of Understanding (MOU) that allowed the Chilean airline LanChile and Qantas to operate services, while the proposed treaty was being finalised. This arrangement is of less than treaty status and represents an understanding between the aeronautical authorities of Australia and Chile:

... that provides a lower level framework for the airlines to operate under. It sets out capacity limits and provides the way that they can operate their services—for example, through code sharing and other ways.⁴

The MOU enables minor changes in commercial aspects of the treaty and by using the powers of the treaty it allows small commercial changes to be made to meet commercial operating needs.⁵ The proposed treaty will become the head agreement and gives the MOU legal force.

- 2.13 Qantas and LanChile previously operated services that met in French Polynesia and exchanged passengers under a code sharing arrangement. The proposed agreement still allows intermediate stop-off points, however, due to changes in technology it is likely that direct long-haul flights between Santiago and Sydney will be the norm. This does not preclude the airlines from making commercial decisions to pick up passengers from Auckland if they choose.

2 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 3.

3 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 5.

4 Ben Willoughby, *Transcript of Evidence*, 12 July 2002, p. 6.

5 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 6.

- 2.14 The proposed agreement will continue the code-sharing agreement allowing Qantas to sell seats on LanChile planes and allow the airlines to set down passengers in three Australian locations selected from Sydney, Melbourne, Brisbane or Perth. It is a commercial decision of the airline whether it chooses regional destinations apart from those designated. The Committee noted evidence that all bilateral partners are to be contacted offering unlimited regional access to airports across Australia.

Agreement with the Cook Islands

- 2.15 As the Cook Islands has no designated airline the purpose of this agreement is to provide small Pacific Island nations, like the Cook Islands, improved access to Australia and international destinations. By providing a hub through an Australian city passengers will be able to get connections to international services and transcontinental services thus assisting in the further development of tourist trade in this area.⁶
- 2.16 As with the agreement with Chile an MOU is currently in place that allows the same minor changes between the aeronautical organisations to take place until the proposed treaty comes into place.

Conclusions and recommendations

- 2.17 The Treaties Committee has in the past supported binding treaty action on a number of air services agreements. While the level of traffic between Australia and the countries covered by the proposed agreements is likely to be relatively small for some time yet, the Committee considers that it is reasonable to put in place arrangements to allow the level of traffic to develop as commercial opportunities emerge.
- 2.18 Accordingly, the Committee supports both of the proposed air services agreements.

Recommendation 1

- 2.19 **The Committee supports the *Air Services Agreement with Chile* and recommends that binding treaty action be taken.**
-

6 Matthew Schroder, *Transcript of Evidence*, 12 July 2002, p. 3.

Recommendation 2

- 2.20 **The Committee supports the *Air Services Agreement with the Cook Islands* and recommends that binding treaty action be taken.**

Agreement between Australia and the United States of America for the enforcement of maintenance (support) obligations

Background¹

- 3.1 The *Agreement between Australia and the United States for the enforcement of maintenance (support) obligations* (the Agreement) provides for reciprocal arrangements between Australia and the United States to establish and enforce child support and spousal maintenance liabilities. It will benefit Australian children and their parents by facilitating these categories of payments.
- 3.2 The treaty action is part of a response to the 1994 review of certain aspects of child support by the Joint Select Committee on the Family Law Act in Australia. One of the Select Committee's recommendations was that the scope of child support, including overseas child support arrangements, be extended and modernised. To this end:

Australia entered new child support arrangements with New Zealand in 2000 and also ratified the Hague convention on

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analysis (NIA) for the *Agreement between the Government of Australia and the Government of the United States of America for the enforcement of maintenance (support) obligations*. The full text of the NIA can be found at the Committee's website on www.aph.gov.au/house/committee/jsct.

enforcement of maintenance obligations, which covers child support enforcement arrangements with most European countries.²

- 3.3 Currently, Australia has arrangements for the enforcement of child support and spousal maintenance with almost every individual state in the United States.³ However, arrangements with individual states are of non-treaty status and devised on the basis that all maintenance liabilities occur in the form of orders made, or agreements registered, by a court.
- 3.4 The proposed Agreement improves the current situation in three ways. First, it provides treaty obligations for the reciprocal enforcement of administrative assessments of child support, as well as enforcement of court orders and registered agreements (agreements made between parents and lodged with a court or administrative authority), with the whole of the United States. Second, it recognises that, in Australia, maintenance ordered by a court is gradually being replaced by administrative assessments of child support that are issued by the Child Support Agency (CSA) (which is an agency of the Commonwealth Government's Department of Family and Community Services). Third, it will help overcome shortfalls in resources experienced by some states in the United States that have inhibited the enforcement of Australian support orders. It does so by making federal funds available to state authorities in the United States. The Agreement achieves this because:

US federal legislation provides that, where the US government has a treaty arrangement with another country, US federal funds are to be made available to US state authorities to assist them to progress cases received from foreign countries.⁴

Proposed treaty action

- 3.5 Under the Agreement each country is obligated to set up a Central Authority that will coordinate all agencies and be charged with the transmission of applications, supporting documents and the recovery of monies payable under maintenance and child support liabilities. Any monies collected will be transmitted to the Central Authority of the other

2 John McGinness, *Transcript of Evidence*, 12 July 2002, p. 9.

3 John McGinness, *Transcript of Evidence*, 12 July 2002, p. 10.

4 John McGinness, *Transcript of Evidence*, 12 July 2002, p. 10.

country for payment to the claimant. The service is to be free of charge to the claimant.

- 3.6 In Australia the Central Authority will be the CSA, which is already established.
- 3.7 In the past Australian courts and claimants have been concerned about wide variations in the effectiveness of laws and procedures for obtaining maintenance across government agencies in the United States. The Agreement will assist Australian parents by providing for the appointment in the United States of a federal Central Authority, which will have responsibility for coordinating action by the individual state government agencies that enforce support obligations.
- 3.8 No additional legislation is required to implement the Agreement. Provisions implementing the terms of the Agreement are already in force under the *Child Support (Assessment) Act 1989* (section 16B), the *Child Support (Registration and Collection) Act 1988* (section 12A) and the *Family Law Act 1975* (sections 110-110B and 124A).

Evidence presented and issues arising

Certainty of enforcement of support obligations in the United States by individual states

- 3.9 The United States has a federal system of government in which the determination and enforcement of support obligations are the responsibility of individual states. The Committee inquired as to the degree of certainty with which the federal government of the United States could enforce Australian administrative decisions and court orders at the state level. It expressed concerns at the variance in the types and levels of support to which Australian claimants are entitled because of differences in legislation and enforcement mechanisms at the state level in the United States.
- 3.10 An instance of the type of federal reservation that concerned the Committee occurs in Article 2(1) of the Agreement which states that:
- a maintenance obligation towards a spouse or former spouse where there are no minor children will be enforced in the United States under this Agreement only in those States and other jurisdictions of the United States that elect to do so.

This clause specifies a reservation in relation to spousal maintenance. The Committee explored this and the possibility that similar variances may also accompany the enforcement of child support orders.

- 3.11 The Agreement establishes Australian liability as having the same effect as a liability established by authorities in the United States.⁵ It also encourages a more standardised situation across American states, for instance, by introducing standard documents that meet the legislative requirements of both Australia and the United States. This standardisation of documents between Australia and the United States means that states in the United States are made familiar with overseas cases and will process international cases in the same way as they would domestic cases.⁶

Right to challenge decisions

- 3.12 The Committee sought to establish what procedures the Agreement provided for in the event that the recipient of a support assessment decision challenged the order. It also inquired whether residing in the country that made a decision on levels of support might advantage the claimant because the assessment would be based solely on the evidence of the claimant.
- 3.13 The CSA maintained that the same appeal procedures would be available to both parents. The mechanisms for all appeals against Australian decisions are the same regardless of whether the enforcement order is made upon a person who is overseas or in Australia.⁷ If individual states of the United States in which the overseas person resides allows them a right to challenge a registered foreign maintenance liability claim, the terms of the Agreement are such that Australia would recognise the determination of the United States court.⁸
- 3.14 In response to the suggestion that residing in the country from which a claim originated could advantage the claimant, the CSA pointed out that the procedures used to determine the level of support payment did not rely upon information from the claimant. The CSA would use information from the Australian Tax Office. In the case of a longer term resident of the United States who had a claim lodged against them, the CSA would

5 John McGinness, *Transcript of Evidence*, 12 July 2002, p. 12.

6 John McGinness, *Transcript of Evidence*, 12 July 2002, pp. 16-17.

7 Sheila Bird, *Transcript of Evidence*, 12 July 2002, p. 14.

8 John McGinness, *Transcript of Evidence*, 12 July 2002, p. 16.

attempt to contact the overseas person to get information directly from them.⁹

Costs

- 3.15 The NIA states that the Central Authorities of Australia and the United States will provide services to claimants without the imposition of fees upon them. The Committee sought clarification about the level of claims in the respective jurisdictions.
- 3.16 The CSA informed the Committee that that there are between 800 and 1,000 Australian claimants in the United States and about an equal number of United States claimants in Australia.¹⁰ The Department reiterated that the Central Authorities would not charge claimants for the provision of services, but observed that this did not preclude some authorities in the United States at State level seeking to be reimbursed for monies already paid to claimants.¹¹

Conclusions and recommendations

- 3.17 The Committee acknowledges the federal limitations imposed on the administrative abilities of the United States federal government when negotiating international agreements. The Committee is of the view that Australians ought to be better informed of their rights to support payments from residents of the United States. To this end it has requested and received an undertaking from the Attorney-General's Department and CSA that they provide information on the laws of individual states and territories of the United States that may work against a person in Australia trying to have orders or assessments enforced.
- 3.18 The CSA has informed the Committee that the Central Authority in the United States does not possess the requested information. Enforcement arrangements within an individual state in the United States may vary across counties.

9 Sheila Bird, *Transcript of Evidence*, 12 July 2002, p. 15.

10 Sheila Bird, *Transcript of Evidence*, 12 July 2002, p. 13.

11 John McGinness and Sheila Bird, *Transcript of Evidence*, 12 July 2002, p. 17.

3.19 However, the CSA pointed out that all states in the United States:

have passed the Uniform Interstate Act and that legislation requires each state to enforce orders for spousal support ... The office of Child Support Enforcement [the Central Authority in the United States] is reasonably confident that the orders will be able to be enforced, however, how that will be done will be determined when a particular case arises.¹²

3.20 The Committee recognises that the Agreement updates existing arrangements between Australia and authorities in the United States by making provision for the enforcement of administrative decisions as well as court orders. The Committee considers that the Agreement will make the enforcement of assessments and orders for the payment of child and spousal support more certain for Australian claimants.

3.21 Therefore the Committee makes the following recommendation:

Recommendation 3

3.22 **The Committee supports the *Agreement between the Government of Australia and the Government of the United States of America for the enforcement of maintenance (support) obligations* and recommends that binding treaty action be taken.**

12 Child Support Agency, *Submission No. 13.1*, p. 1.

Two declarations by Australia

Background¹

- 4.1 This chapter contains the results of the Committee's review of two declarations by Australia to multilateral agreements namely:
- *Australian Declarations under Articles 287(1) and 298(1) of the United Nations Convention on the Law of the Sea 1982 (UNCLOS declarations);* and
 - *an Australian Declaration under Paragraph 2 of Article 36 of the Statute of the International Court of Justice 1945 (ICJ declaration).*
- 4.2 These treaty actions have already been put into place prior to Committee consideration to avoid any other country pre-empting the declarations and commencing proceedings against Australia prior to the lodgement of the declaration. Both the treaty actions took place on 22 March 2002 with immediate effect.
- 4.3 On 25 March 2002 the Minister for Foreign Affairs wrote to the Chair of the Joint Standing Committee on Treaties advising the Committee that the treaty action had taken place.

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analysis (NIA) for the declarations relating to UNCLOS and the declaration relating to the ICJ. The full text of the NIAs can be found at the Committee's website on www.aph.gov.au/house/committee/jsct.

Treaty actions

The UNCLOS Declaration

- 4.4 The 1982 United Nations Convention on the Law of the Sea (UNCLOS) provides a universal legal framework for the rational management of marine resources and their conservation for future generations. The Convention is the central instrument for promoting stability and peaceful uses of the seas and oceans. It is not a static instrument, but rather a dynamic and evolving body of law.
- 4.5 Australia ratified UNCLOS on 5 October 1994 and in 1999 ratified an associated Convention on the conservation of straddling fish stocks. UNCLOS provides for the compulsory settlement of disputes between parties over the interpretation and application of the Convention. By means of a written declaration, a State is free to choose one or more of the means for the settlement of disputes concerning the interpretation or application of the Convention.
- 4.6 Under Article 287(1) states can nominate their preferred dispute resolution mechanism from the following choices:
- a) the International Tribunal for the Law of the Sea (ITLOS) established in accordance with Annex VI of UNCLOS;
 - b) the International Court of Justice (ICJ);
 - c) an arbitral tribunal constituted in accordance with Annex VII of UNCLOS; or
 - d) a special arbitral tribunal constituted in accordance with Annex VIII of UNCLOS for specific categories of disputes.
- 4.7 By making this declaration under Article 287(1) Australia has selected its preferred means of dispute resolution under UNCLOS as ITLOS and the ICJ. The Australian Government chose this option because there are advantages in taking disputes to existing, internationally recognised forums.
- 4.8 The NIA states that the government considered that the procedures for arbitral panels are both time consuming and difficult and the parties to disputes have to pay the full cost of both the tribunal and the arbitration. The Committee notes that Australia already contributes to the cost of the ICJ and ITLOS and no additional costs are incurred by taking a dispute to the Court or the Tribunal.

- 4.9 Australia has chosen, however, not to accept any of the dispute resolution mechanisms with respect to disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations as well as those involving historic bays or titles.² The NIA suggests that the Government has taken this action because it is of the view that maritime boundary disputes are best resolved through negotiation and not litigation.

The ICJ Declaration

- 4.10 The ICJ, also known as the World Court, was founded in 1946 as the principal judicial body of the United Nations. It decides disputes between nations which have agreed to accept its jurisdiction and gives advisory opinions. The Court is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and Security Council sitting independently of each other. It may not include more than one judge of any nationality. Elections are held every three years for one-third of the seats, and retiring judges may be re-elected. The Members of the Court do not represent their governments but are independent magistrates.
- 4.11 On 1 November 1945 Australia ratified the Statute of the International Court of Justice and in March 1975 Australia entered a declaration that accepted the compulsory jurisdiction of the ICJ.³ Under that very broad declaration countries could bring an action against Australia notwithstanding the fact that those countries may not have demonstrated a commitment to the process of compulsory jurisdiction of the ICJ. Since becoming party to the ICJ statute Australia has come before the Court both as a defendant⁴ and as a claimant.⁵
- 4.12 Australia is one of 63 countries out of the 189 members of the UN that have accepted the compulsory jurisdiction of the ICJ. Of those countries, the majority have made reservations of various types regarding its jurisdiction.

2 Article 15 relates to the delimitation of the territorial sea between States with opposite or adjacent coasts. Article 74 relates to the delimitation of the exclusive economic zone between States with opposite or adjacent coasts, while Article 83 covers delimitation of the continental shelf between States with opposite or adjacent coasts.

3 This declaration replaced earlier declarations by Australia made in the 1940s and 1950s.

4 Portugal brought a case before the ICJ relating to the Timor Gap Maritime Delimitation Treaty negotiated between Indonesia and Australia in the early 1990s. In 1989 Nauru also brought a case before the ICJ against Australia over phosphate mining.

5 Australia took action against France over the nuclear tests in French Polynesia during the mid-1970s.

4.13 The jurisdiction before the ICJ is based on three basic forms of consent:

1. where countries may enter into a 'compromise' (agreement) to refer a specific dispute to the Court; or
2. where a treaty to which both of the countries involved are parties may contain a provision referring disputes to the court; or
3. where a State may lodge a declaration under Article 36(2) of the ICJ Statute that they recognise as compulsory and without special agreement the jurisdiction of the ICJ.⁶

4.14 This new declaration limits Australia's acceptance of the compulsory jurisdiction of the ICJ. This means that an action cannot be commenced against Australia in the following circumstances:

- where the parties have agreed to other peaceful means of dispute resolution;
- where disputes involve maritime boundary delimitation or disputes concerning the exploitation of an area in dispute or adjacent to an area in dispute; and
- where a country has accepted the compulsory jurisdiction of the court only for a particular purpose or has accepted the compulsory jurisdiction of the Court for a period of less than one year.

Evidence presented and issues raised

4.15 Whether Australia uses international judicial or arbitral bodies or chooses to negotiate a settlement of a dispute with the state or states in question became an important focus of evidence relating to both agreements under scrutiny. As the Attorney-General's Department representatives indicated, consent is fundamental to international adjudication and arbitration. While the Committee has noted that consent to dispute settlement mechanisms can be given in a variety of ways, it is important to acknowledge that in the absence of a state's consent it cannot be taken before an international court or tribunal.⁷

4.16 In the case of both these declarations Australia is consenting to the use of dispute resolution mechanisms with the proviso that in the case of

6 States can place conditions or exceptions on such a declaration under Article 36.2 – the optional clause. This declaration carries out this step for Australia.

7 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 45.

maritime delimitation disputes Australia considers direct negotiation a much preferable option to *ad hoc* arbitral panels for the resolution of such disputes.

4.17 Evidence also confirmed that one of the reasons Australia adopted the ICJ and the ITLOS was because it had knowledge of both by appearing before them. Perhaps more importantly for Australia, they were both standing tribunals to which Australia had already contributed to their costs.⁸

4.18 The problems of arbitral panels have been mentioned earlier and the Attorney-General's Department noted in evidence that some arbitral tribunals had come up with unusual if not unsatisfactory decisions. Mr Bill Campbell highlighted a case in which:

a boundary ... was set by arbitration between Canada and France in relation to some French possessions very close to the coastline of Canada. These islands ended up with an exclusive economic zone which was 200 nautical miles long and 10½ nautical miles wide.⁹

UNCLOS declaration

4.19 Australia is familiar with the ITLOS process through a dispute with Japan on tuna fishing quotas. In the context of the declaration on the ICJ before the Committee this familiarity is significant because:

we wanted to see how the International Tribunal for the Law of the Sea operated, not just in relation to our own case but generally ... We just wanted to see how that operated before Australia decided whether or not to accept its jurisdiction.¹⁰

4.20 Therefore, it was partly on the basis of this experience that Australia had decided to make the declaration and also because Australia has some of the largest maritime areas and boundaries in the world:

It is the view of the government that the maritime boundaries ... are best resolved by negotiation and not through resort to third party dispute settlement. All the current maritime boundaries that we have settled with other countries have been agreed by negotiation. Negotiation allows the parties to work together to reach outcomes acceptable to both sides for the long term.¹¹

8 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 52.

9 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 52.

10 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 51.

11 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 47.

- 4.21 Under the UNCLOS declaration if Australia is involved in a dispute with a country that has not accepted either of Australia's two preferred dispute resolution mechanisms (ie. ITLOS or the ICJ), then a default mechanism of an arbitration panel can be applied. This declaration is designed to ensure that Australia will not have to go to an arbitral panel, as it did over its dispute with Japan on tuna catches in particular, with respect to maritime boundary disputes. In future these will be negotiated between Australia and the other party directly.

ICJ declaration

- 4.22 Earlier in the chapter the Committee reviewed the purpose of the ICJ declaration indicating that the new declaration refocusses Australia's understanding of its ICJ commitments (made in earlier declarations on the ICJ Statute) by highlighting several qualifications to bring about consistency with the UNCLOS declaration, in respect to maritime delimitation disputes. The qualifications also bring about some commonality with declarations that have been adopted by a number of other countries in relation to their ICJ jurisdiction.¹²
- 4.23 Mr Campbell noted that earlier declarations were made before the UNCLOS agreement came into existence, and when the maritime boundaries were generally limited to the territorial sea only. This declaration acknowledges the developments under UNCLOS such as the advent of the Exclusive Economic Zone and the Australian Fishing Zone.
- 4.24 As indicated earlier Australia has been brought before the ICJ on the legality of the Timor Gap Treaty. Portugal argued that the treaty could not be legal because the occupation of East Timor by Indonesia was not legal.¹³ In this case the Court did not decide in Portugal's favour but rather that:
- the action could not sensibly be decided in the absence of Indonesia's presence before the court. Ultimately, that was the basis on which the court said it would not exercise jurisdiction over the matter, and that was where the matter was left.¹⁴
- 4.25 Some concerns have been expressed by interested parties concerning the impact of these declarations on East Timor's current negotiations with Australia on petroleum resources. The Justice and International Mission Unit of the Uniting Church stated that they were:

12 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 46.

13 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 49.

14 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 49.

deeply concerned that Australia's Declarations were motivated to stop the International Court of Justice from considering the maritime boundary between Australia and East Timor with implications for the exploitation of the oil and gas fields within the Timor Sea.

They go on to express a concern that:

the Australian Declaration under Article 298(1) of the *UN Convention on the Law of the Sea 1982* is for the purposes of preventing East Timor from seeking dispute resolution regarding the maritime boundary through the *UN Convention on the Law of the Sea 1982* compulsory dispute resolution mechanisms.¹⁵

4.26 Rob Wesley-Smith suggested in his submission that:

the Australian government, and Downer in particular, have and do seek to prevent East Timor gaining Maritime Boundaries other than JPDA ones, and certainly not in accordance with UNCLOS, as shown by its withdrawal on 19th March from the jurisdiction of the ICJ in relation to Maritime Boundaries for East Timor, PNG and Indonesia.¹⁶

4.27 In evidence provided by the Attorney-General's Department it was emphasised that Australia has yet to negotiate a maritime delimitation treaty with East Timor. Irrespective of this, in response to a specific question by the Committee on this issue, Mr Campbell commented that:

East Timor has said that it is keen on negotiation as a means of resolving these disputes. Secondly, this [UNCLOS Declaration] applies to all our maritime boundaries; we are not just talking about our maritime boundaries with East Timor; we do have unresolved boundaries. Thirdly, it is the view of the government that maritime boundaries are best resolved by negotiation and not by resort to international arbitration or courts. To repeat another point: all our current boundaries with other countries have been negotiated.

Finally, the question of the acceptability of the boundary to both countries is very important, given that maritime boundaries remain in place for a very long period. You are much more likely to get acceptance of that boundary, and less tension over time, if it

15 The Justice and International Mission Unit of the Uniting Church, *Submission No. 4.1*, p. 1.

16 Rob Wesley-Smith, *Submission No. 7*, p. 1.

is done by agreement as opposed to an international court or tribunal.¹⁷

- 4.28 The issue of maritime boundaries was raised in relation to the outstanding need to resolve with a number of countries agreed boundaries. The evidence indicated that Australia has:

unresolved continental shelf boundaries beyond 200 nautical miles with France ... both in relation to New Caledonia and its possession of Kerguelen, which is near Heard and McDonald Islands in the Southern Ocean. We also, of course, have an unresolved boundary with East Timor, but we have provisional arrangements in place. At the present time we are involved in maritime boundary negotiations with New Zealand, where we have maritime boundaries on four fronts, including between our Antarctic possessions. We also have unresolved boundaries with France and Norway in relation to where they abut the Australian Antarctic Territory.¹⁸

Conclusions

- 4.29 While the Committee acknowledges the concern of some Australians relating to the negotiation of maritime boundaries with East Timor, the general principle of direct negotiations of maritime boundaries between the parties involved is, in the Committee's view, preferable to litigation or arbitration. The Committee accepts the evidence that East Timor has indicated its keenness to negotiate as a means of resolving these issues and notes that the negotiation of boundaries apart from the Joint Petroleum Development Authority area are still to be done. The Committee considers the Government position that an agreed outcome is more likely to have long-term relevance for the parties involved, as opposed to an imposed decision that results in a win-lose situation for one of the negotiating parties, is fair to all interested parties. The Committee also notes the potential problems of arbitrated decisions highlighted earlier in this chapter.
- 4.30 The Committee understands the need to protect Australia's interests in relation to both these treaty actions and therefore the need of the Minister for Foreign Affairs to take immediate action to bind Australia in the

17 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 50.

18 Bill Campbell, *Transcript of Evidence*, 12 July 2002, p. 50.

declarations. However, in concurring with the Government's action in relation to these declarations the Committee is also cognisant of its responsibility to scrutinise all treaty actions by Australia.

- 4.31 The Committee is confident from the evidence provided that the actions taken by the Government to bind Australia to these declarations are in Australia's best interests and will enhance future negotiations on maritime boundaries. The Committee concurs with the Government's treaty action on both declarations.
- 4.32 While a majority of Committee members agree with the conclusions stated in 4.29, 4.30 and 4.31, Mr Wilkie, Mr Evans, Mr Adams, Senator Kirk, Senator Marshall, Senator Stephens and Senator Bartlett do not. Specifically these members believe that the ICJ declaration made by the Minister for Foreign Affairs damages Australia's international reputation and may not be in Australia's long-term national interests. The declaration may be interpreted as an effort to intimidate and limit the options of neighbouring countries in relation to any future maritime border disputes. It should also be noted that Australia has never had an adverse finding from the ICJ.

Convention for the suppression of the financing of terrorism

Background¹

- 5.1 The purpose of the *International Convention for the Suppression of the Financing of Terrorism* (the Convention) is to suppress acts of terrorism by depriving terrorists and their organisations of the financial means to commit such acts. The Convention was adopted by the United Nations General Assembly on 9 December 1999 and entered into force on 10 April 2002. As of 12 July 2002, 40 countries had deposited instruments ratifying, accepting, approving or acceding to the Convention.
- 5.2 The investigations into the coordinated attacks against the World Trade Centre in New York and the Pentagon in Washington DC on 11 September 2001 demonstrated the extensive financial networks maintained by terrorist organisations and highlighted the inability of states to unilaterally close down these networks. Since the events of 11 September, 36 of the 40 parties to the Convention have deposited their instruments of ratification.
- 5.3 Since the 1970s, Australia has had in place legislation that criminalises the financing of hostile acts against foreign states by Australians, or persons using Australia as a base. However, this legislation was unique to

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analysis (NIA) for the *International Convention for the Suppression of the Financing of Terrorism*. The full text of the NIA can be found at the Committee's website on www.aph.gov.au/house/committee/jsct.

Australia in many ways and inhibited international assistance in the investigation and prosecution of these offences. The uniqueness of Australian law in this area impedes international cooperation because:

if we seek to extradite somebody back to Australia from a foreign country, that country generally will not do it if the offence we want to try that person for is not an offence in the country they are currently in.²

- 5.4 The banking secrecy regulations of other states also obstruct international cooperation against terrorism. The Convention removes some of these obstacles.

Proposed treaty actions

- 5.5 The Convention obligates Australia to criminalise and take other measures to prevent the provision or collection of funds for the purpose of committing terrorist acts, and to cooperate with other parties to the Convention in the prevention, detection, investigation and prosecution of activities that finance terrorism. Article 2 of the Convention specifies an offence as:

- (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Annex;³ or
- (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such an act ... is to intimidate a population, or compel a government or an international organisation to do or to abstain from doing any act.

- 5.6 The Convention requires that Australia:

- establish jurisdiction over Convention offences when committed in its territory or on board a vessel flying the Australian flag, or an Australian registered aircraft at the time the offence was committed or by an Australian national;

2 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 65.

3 The NIA states that Australia has ratified eight of the nine treaties included in the Annex to the Convention. The Committee recommended that Australia take binding treaty action on the outstanding treaty (the *International Convention for the Suppression of Terrorist Bombings*) in Report 46 tabled in June 2002. Australia deposited its instruments of accession to this Convention on 9 August 2002.

- extradite or investigate and, if appropriate, prosecute any alleged offender within its territory;
 - identify, detect and freeze or seize any funds used or allocated for the purpose of committing Convention offences; and
 - not refuse requests for extradition or legal assistance on the sole ground that they concern a fiscal or political offence.
- 5.7 The Convention does not apply where an offence has no transnational element or Australia has grounds for believing that a request for extradition or legal assistance has been made for the purpose of persecuting a person.
- 5.8 The Convention is implemented by the *Suppression of the Financing of Terrorism Act 2002* (the Act). The Act:
- inserts a new ‘Financing terrorism’ offence into the *Criminal Code Act 1995* directed at persons who provide or collect funds to be used to facilitate a terrorist act;
 - amends the *Charter of the United Nations Act 1945* to increase penalties for using or dealing with the assets of specified persons and entities involved in terrorist activities and making assets available to those persons or entities; and
 - amends the *Financial Transaction Reports Act 1988* to require financial institutions, securities dealers, trustees and other cash dealers to report suspected terrorist related activities and streamlines the procedures for the disclosure financial transaction reports by Australian security agencies to their foreign counterparts.
- 5.9 The Act was passed with amendments on 27 June 2002. The main amendments proposed by the Senate and accepted by the House tighten the definition of terrorism and provide for regulations to be made setting out procedures to be followed in relation to the freezing of assets and notification of the freezing of assets. The Act received assent on 5 July 2002.

Evidence presented and issues arising

Definition of terms

- 5.10 The Committee had voiced concerns previously over the lack of a definition of terrorism in international conventions on terrorism when it considered the government's proposal to accede to the *Convention for the Suppression of Terrorist Bombings*.⁴ The Committee revisited this issue in its consideration of the government's proposed ratification of the *Convention for the Suppression of the Financing of Terrorism*.
- 5.11 Government witnesses pointed out that the Convention refers to terrorist acts rather than offering a definition of terrorism. So, in terms of the Convention, terrorist persons and organisations are defined as the perpetrators of terrorist acts. The character of a terrorist act is set out in Article 2 of the Convention and in the Annex which:
- includes a range of treaties: the convention for the Suppression of Unlawful Seizure of Aircraft, civil aviation treaties and treaties on the taking of hostages and the protection of nuclear material et cetera.⁵
- 5.12 In fact, the Convention does not require that parties criminalise terrorist persons and organisations. It assumes that a state is already capable of prosecuting those responsible for terrorist acts. Rather, parties to the Convention are obligated to exercise jurisdiction over persons or organisations that are responsible for the financing of persons and organisations that perpetrate terrorist acts.⁶

Civil liberties and criminal intentions

- 5.13 The Committee raised the possibility that the Convention could infringe upon the activities of Australians who support organisations such as the African National Congress, the Palestinian Liberation Organisation, the Irish Republican Army or, in the past, the National Council of Timorese Resistance. These organisations have supported and participated in armed resistance and were, as a consequence, proscribed as terrorist organisations by the governments against whom they offered resistance. However, some Australians viewed these organisations as representing

4 See *Report 46: Treaties Tabled 12 March 2002*, June 2002, ch. 12.

5 Sarah Chidgey, *Transcript of Evidence*, 12 July 2002, p. 56.

6 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 57.

principles of human rights and social justice against repressive regimes and so supported them financially as well as in other ways.

- 5.14 The Department of Foreign Affairs and Trade gave evidence to the effect that tolerance in the community has decreased dramatically for organisations that use violence against civilians and property to pursue political goals. However:

That does not mean that the political pursuit of human rights, good governance, the end of oppression and so on are not just as vigorous in the international arena ... it means that using violence against civilians as a tool for such a campaign will not be tolerated in any circumstances.⁷

- 5.15 A further insurance of the civil liberties of Australians to support regimes proscribed as terrorist in other countries that may not be proscribed in Australia is the requirement that a person or organisation must be shown to have intended that their contributions would be used to finance terrorist acts:

Article 2 contains those knowledge based elements of the offence for the very reason of preventing somebody being found to be liable for a terrorist financing event when ... [for instance] they thought they were giving money for charitable purposes rather than terrorist purposes.⁸

Indeed, a claim that a person was seeking to make personal gain rather than financing terrorism, if substantiated, would provide a defence against allegations that a person or organisation committed a Convention offence.⁹

Reporting suspicious transactions

- 5.16 The Committee inquired into the requirement to report suspicious transactions and how that would impact upon the activities and responsibilities of cash dealers. It was particularly interested in how the requirement that the financing of terrorist activity be intentional might determine what constitutes a suspicious transaction.
- 5.17 In response to these concerns, the Committee heard evidence that the onus of establishing intention was a matter for the courts and not the financial

7 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 61.

8 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 58.

9 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 63.

institution processing the transaction.¹⁰ The obligation of cash dealers to report suspicious transactions builds on an existing obligation that they report all transactions that might constitute a Commonwealth offence.¹¹

- 5.18 When asked what made a transaction ‘suspicious’ the Department of Foreign Affairs and Trade referred to two measures. The first measure occurs in the form of international standards and best practice that have been developed, most particularly by a group of financial intelligence units called the Egmont Group. Once modes of illicit transactions are detected, information about them is distributed among cash dealers, who then take action as required. The second measure for determining suspicious transactions is the mandatory reporting of certain categories of transaction to the Australian Transaction Reports and Analysis Centre. These categories include transfers of amounts in excess of A\$10,000 and the electronic or telegraphic transfer of funds into or out of Australia.
- 5.19 The Committee also heard that other benefits may flow from the widespread acceptance of the Convention by the international community. These benefits include increased transparency of previously closed banking systems. A further possible benefit of international acceptance of the Convention was suggested by Eileen Kelly, who drew a connection between transnational crime and terrorism and proposed that the greater transparency of financial transactions may also bring to light the activities of drug and people smugglers.¹²

Conclusions and recommendations

- 5.20 The Committee recognises that parties to the Convention are under obligation to investigate, and if necessary prosecute or extradite, those alleged to be involved in the financing of persons and organisations that perpetrate terrorist acts. The financing and commission of terrorist acts are already proscribed by Australian legislation. In outlining the impact of the Convention upon cash dealers the Attorney-General’s Department stated that it:

10 Peter Scott, *Transcript of Evidence*, 12 July 2002, p. 63.

11 Sarah Chidgey, *Transcript of Evidence*, 12 July 2002, p. 60.

12 Ms Eileen Kelly, *Submission No. 6*, p. 1.

does not extend existing obligations. It makes it clearer to [cash dealers] that they have a specific obligation in relation to terrorist offences.¹³

What is true of Australia's ratification of the Convention for cash dealers is also true for the wider Australian community.

- 5.21 The Committee is satisfied that the requirement that an intention to finance a person or organisation engaged in perpetrating terrorist acts be proved before an individual or organisation can be found guilty under the terms of the Convention is a sufficient safeguard for the civil freedoms of Australians. This safeguard constituted one of the main amendments to the *Suppression of the Financing of Terrorism Act 2002*.
- 5.22 Accordingly, the Committee makes the following recommendation:

Recommendation 4

- 5.23 **The Committee supports the *Convention on the Suppression of the Financing of Terrorism* and recommends that binding treaty action be taken.**

13 Sarah Chidgey, *Transcript of Evidence*, 12 July 2002, p. 60.

An amendment to the convention on the prohibition and restriction of certain conventional weapons

Background¹

- 6.1 The *Convention on the Prohibition of Certain Conventional Weapons which may be deemed Excessively Injurious or to have Indiscriminate Effects* (the Convention) consists of an umbrella convention and four protocols placing prohibitions and / or restrictions on the use of specific categories of conventional weapons. Weapons belonging to these categories are considered to cause indiscriminate and superfluous injury to combatants and civilians. Australia ratified the Convention in September 1983.
- 6.2 The protocols that apply to Australia and which are affected by the proposed amendment restrict the use of weapons that create non-detectable fragments (Protocol I), incendiary weapons (Protocol III) and blinding laser weapons (Protocol IV) in international armed conflicts. Australia has already ratified an amended Protocol II which obligates parties to restrict their use of landmines, booby traps and like devices in non-international as well as international conflicts.
- 6.3 The amendment alters Article 1 of the Convention so that it and its existing protocols will apply to non-international as well as international
-

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analysis (NIA) for the *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons*. The full text of the NIA can be found at the Committee's website on www.apf.gov.au/house/committee/jsct.

armed conflicts. The term 'non-international conflicts' does not include instances of internal disturbance and tension, such as riots, isolated and sporadic acts of violence, or other acts of a similar nature within a country. Thus the Convention provisions would not apply to Australian police undertaking normal law enforcement duties.

- 6.4 As of 20 June 2002 the amendment had not entered into force and none of the 89 countries that have ratified the Convention had ratified the amendment.

Proposed treaty action

- 6.5 Implementing the amendment will not require any additional measures in Australian law or practice. The Australian Defence Force (ADF) already implements the provisions of the Convention in relation to all its activities (within and outside of Australia).
- 6.6 None of the weapons presently covered by the Convention and protocols are employed by Commonwealth, State or Territory police forces.

Evidence presented and issues arising

- 6.7 The Committee inquired as to why no other states had ratified the amendment to the Convention and heard evidence that as the amendment had only been agreed upon in December 2001, countries would only now be going through the machinery required to deposit instruments of ratification.² Further, the amendment received very broad support from those states attending the Second Review Conference in December 2001 at Geneva at which the amendment was adopted.³
- 6.8 In a supplementary submission from the Department of Foreign Affairs and Trade received after the hearing, it was confirmed that Canada and the United Kingdom had now ratified the Amendment.⁴
- 6.9 The NIA referred to a meeting of interested non-government organisations held in mid 2001 that ensured their views were taken into account. These consultations revealed strong support for this amendment.

2 Peter Shannon, *Transcript of Evidence*, 12 July 2002, p. 73.

3 Shennia Spllane, *Transcript of Evidence*, 12 July 2002, p. 73.

4 Todd Mercer, *Submission No. 9.1*, p. 1.

The Australian delegation at the Review Conference was joined by Professor Timothy McCormack, Professor in International Humanitarian Law at the University of Melbourne and Vice President of the Australian Red Cross. The strong support for the amendment in the non-government sector was underlined in a submission made by the Uniting Church in Australia.⁵

6.10 The Committee understands that the ADF neither holds nor has any plans to acquire the types of weapons that are specified by the protocols of the Convention. However, it inquired whether or not the ADF purchased weapons or munitions from companies or countries that produce these types of weapons.

6.11 None of the government witnesses could provide a categorical affirmation that the ADF does not acquire weapons or munitions from companies or countries that produce the types of weapons banned under the protocols. In response to its query the Committee received information via DFAT from the Department of Defence that:

The Australian Defence Organisation does not enquire as part of its usual procurement policy into the other products manufactured by its weapons or ordinance suppliers.⁶

Conclusions and recommendations

6.12 The Committee is satisfied that Australian law and practice both lie within the terms of the Convention and its protocols. It welcomes Australia's continued commitment and preparedness to play an active role in developing institutions that will protect civilians and combatants from unnecessary suffering.

5 Rev David Pargeter, Uniting Church in Australia, *Submission No. 4*, p. 1.

6 Todd Mercer, Department of Foreign Affairs and Trade, *Submission No. 9*, p. 1.

6.13 Therefore the committee makes the following recommendation:

Recommendation 5

6.14 **The Committee supports the 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* and recommends that binding treaty action be taken.**

Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas

Background¹

- 7.1 Australia has played an active role internationally and regionally to enhance conservation and management processes related to the management of fisheries both in the Australian Fishing Zone (AFZ) and on the high seas.² The Australian Exclusive Economic Zone (EEZ) is approximately twice the size of the Australian continent and over-exploitation of fish stocks on the high seas affects directly the Australian Government's ability to protect the marine resources in this area and also to sustainably manage Australia's domestic fish stocks.

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analyses and the Regulation Impact Statement for the *Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas*. The full text of the NIA can be found at the Committee's website on www.apf.gov.au/house/committee/jsct.

2 Australia is also party to a number of international and regional fishing agreements including the Convention on the Conservation of Southern Bluefin Tuna, the Indian Ocean Tuna Commission, the Convention for the Conservation of Antarctic Marine Living Resources and South Pacific Forum Fisheries Convention.

- 7.2 To this end Australia has become party to a number of international conventions including perhaps the most comprehensive covenant the United Nations Convention on the Law of the Sea (UNCLOS). This Convention sets up international regulation and cooperation necessary to manage and conserve the living resources of the high seas.
- 7.3 Australia became a party to UNCLOS in 1994 which meant that, as a coastal nation, Australia could claim an EEZ up to 200 nautical miles (nm) from the baseline of its territorial sea. Under UNCLOS Australia now has sovereign rights to explore and utilise the natural resources within the Australian EEZ, as well as an obligation to conserve and manage the marine resources within the EEZ.
- 7.4 For some time now there has been considerable international concern regarding illegal, unreported and unregulated (IUU) fishing both on the high seas and by foreign vessels within the Australian EEZ. Current regulation and cooperation efforts require improvement because information on fishing vessels and their activities is unreliable and their impact on fish stocks, particularly stocks of endangered species, is difficult to measure.
- 7.5 The operation of fishing vessels flying 'flags of convenience' granted by countries that allow fishing vessels to operate under their flag without controlling their fishing activities provides an ongoing and growing problem for Australian fisheries authorities, as well as for other coastal nations around the world.

Proposed treaty action

- 7.6 The proposed *Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas* (the compliance agreement) will allow Australia to apply internationally agreed standards for the responsible management by flag-states, of vessels that fish on the high seas. It will also provide a basis for greater cooperation between Australia and other States to improve high seas fishing practices.
- 7.7 The Government anticipates that the compliance agreement will have a deterrent effect on IUU activities that have a negative impact on Australia's harvest of fish stocks within and beyond the AFZ.
- 7.8 The costs of accepting the compliance agreement are minimal as the Australian high seas fishing industry is already required to meet most of

the obligations contained in the agreement. The costs should be seen in relation to the value to Australia of its fisheries that had an estimated value in the vicinity of \$204.4 million in 2000-2001.

Table 1. Estimated value of Australian fisheries that may benefit from improved regulation of high seas fishing under the Compliance Agreement, based upon catches in 2000-2001. Includes species Australia fishes for on the high seas and species fished for in the AFZ that are highly migratory or straddling stocks or are dependent upon high seas for recruitment.³

FISHERY	GROSS VALUE	CATCH (TONNES)
Southern Bluefin Tuna	\$56,515,000	5,263
East Coast Tuna and Billfish (yellowfin, bigeye, albacore, billfish, swordfish)	\$64,534,000	10,028
West Coast Tuna and Billfish (yellowfin, bigeye, billfish, swordfish)	\$29,061,000	2,859
Heard and Macdonald Islands (Patagonian toothfish, icefish)	\$30,000,000*	3,704
South Tasman Rise (orange roughy, other demersals e.g. oreo dory, spiky dory)	\$2,325,000	762
South East trawl (orange roughy, mirror dory, john dory, blue eye trevalla)	\$16,796,000	4,709
South East non-trawl (blue eye trevalla)	\$4,130,000	584
Great Australian Bight (orange roughy, boarfish)	\$1,099,000	335
TOTAL	\$204,460,000	28,244

7.9 The proposed compliance agreement requires flag-states to implement authorisation and recording systems for high seas fishing vessels.⁴ It is designed to reduce problems associated with the re-flagging of fishing vessels in order to avoid internationally agreed conservation and management measures on the high seas. The compliance agreement also

³ Source: Regulation Impact Statement, p. 9.

⁴ The agreement exempts vessels less than 24 metres to be from the agreement provided that such an exemption would not undermine the object and purpose of the Agreement and that effective preventative measures were taken against any exempt vessels undermining the Agreement.

aims to facilitate the dissemination of information on the activities of fishing vessels on the high seas.

7.10 The key objectives of the compliance agreement include:

- ensuring the long-term conservation and ecologically sustainable use of fish stocks on the high seas so as to protect Australian fishing interests on the high seas and within the AFZ;
- increasing control over vessels fishing on the high seas;
- increasing cooperation between states to effectively regulate fishing on the high seas;
- reducing the potential for conflict by encouraging all states to adhere to internationally agreed conservation and management measures;
- ensuring that the global standard of fisheries management is raised to that implemented domestically;
- ensuring ecologically sustainable management principles are applied to Australian vessels fishing on the high seas; and
- ensuring our obligations under UNCLOS are met in relation to cooperating to conserve and manage high seas fish stocks.

7.11 The Regulation Impact Statement cites the illegal take of Patagonian Toothfish in Australia's sub-Antarctic zone amounting to some 16,809 tonnes over the last 5 years, as an example where re-flagging has affected Australian fisheries. It goes on to point out that:

Evidence suggests that the illegal fleet in the sub-Antarctic is becoming better organised and more sophisticated. Boats dedicated to illegal fishing operate using mother ships and re-provisioning vessels, often with counter-surveillance capacity to limit detection. Their owners hide behind complex corporate structures and use flags of convenience.

7.12 In order to overcome this problem and generally improve the regulation of vessels operating on the high seas, the compliance agreement strengthens flag-state responsibilities to maintain an authorisation and recording system for their vessels that fish on the high seas. It also sets out to ensure that these vessels do not undermine the effectiveness of international conservation and management measures.

7.13 The compliance agreement will have a number of impacts on fisheries management in Australia including:

- measures to ensure that Australian-flagged vessels fishing on the high seas do not engage in any activity that undermines the effectiveness of international conservation and management measures;
- the responsibility to refuse authorisation to any vessel previously registered in the territory of another party that has undermined the effectiveness of international conservation and management measures;
- the authorisation of Australian-flagged vessels to fish on the high seas if they are properly marked for identification purposes and have provided to Australian authorities all information necessary to enable fulfilment of obligations under the agreement;
- enforcement of measures against Australian-flagged vessels that fish on the high seas that act in contravention of the agreement, and where appropriate, making such contraventions an offence under national legislation; and
- a requirement that Australia report to the flag-state and, as appropriate, to the United Nations Food and Agriculture Organisation (FAO), where there are reasonable grounds to believe a foreign-flagged vessel has engaged in activities that undermine the effectiveness of international conservation and management measures.

7.14 Many of the obligations under the agreement can be implemented administratively by Australian Fisheries Management Authority (AFMA) or under the *Fisheries Management Act*. However, new legislation may be required to implement some of the obligations under the compliance agreement.

Evidence presented and issues raised

7.15 The Committee noted that the compliance agreement is part of a framework of multilateral, regional and bilateral agreements on fisheries management including UNCLOS and the United Nations Fish Stocks Agreement. In combination these agreements will bring pressure to bear on irresponsible fishers on the high seas and help to mitigate the damaging effects of illegal fishing activities on fish stocks of coastal states like Australia.

7.16 While AFMA stated that this is an indirect measure the Committee agreed that it is better to have such an agreement in place than no agreement in place at all. Provision of internationally agreed steps that will make it

more difficult for companies registering their vessels under flags of convenience and being able to undertake illegal fishing activities will therefore be made more difficult.

7.17 The need for the compliance agreement was highlighted by evidence indicating that a total of six foreign fishing vessels have been apprehended in relation to illegal fishing in Australian waters around Heard and McDonald Islands.⁵ The Committee was informed that these ships were sailing under various flags of convenience namely: Panama, Togo, Sotome (Japan), Togo and Vanuatu with officers from Spain and Russia and crews from China and Indonesia. The value of the catch from the two most recently apprehended vessels, the *Lena* and *Volga*, was approximately \$2 million.

7.18 The Committee was concerned to learn that there appeared to be coordinated criminal activity:

to flag boats in various ports, set up dummy companies to operate these vessels and fish in the Australian zone, in the French zone and in other waters where they believe they can make a harvest.

AFMA went on to state that:

They do this in flagrant disregard of international cooperative arrangements, such as exist to protect sub-Antarctic waters, and also in disregard of coastal state laws. This is an ongoing problem for Australia. It is not just a fisheries resource abuse issue; it is a disregard of Australian sovereign fishing rights for those parties who are licensed to fish in those areas.⁶

7.19 The compliance agreement will set up:

a sort of world order of good behaviour and practice, under which diplomatic pressure and persuasion may be brought to bear to encourage more countries to join and, hence, then limit the opportunities for this activity to occur.⁷

7.20 The Western Australian Government raised its concern about the flag status of charter and joint-venture vessels and its contention that the status

5 Geoff Rohan, *Transcript of Evidence*, 12 July 2002, p. 82.

6 Geoff Rohan, *Transcript of Evidence*, 12 July 2002, p. 83.

7 Geoff Rohan, *Transcript of Evidence*, 12 July 2002, p. 81.

of a fishing vessel should be determined by the party State before entering into such arrangements with any 'foreign-flagged' vessels.⁸

- 7.21 In response AFMA noted that the WA submission points out a valid area of consideration for a flagging or licensing state; where these may be the same or different states. It suggests that:

The FAO Compliance agreement contains principles which have application to this issue but does not necessarily spell out the action to be taken. Such matters are probably dealt with in more detail in the UN Fish Stocks Agreement which Australia has ratified and put into effect in domestic legislation in December 2001.

- 7.22 The AFMA response goes on to suggest that the agreement does not spell out how to deal with respective responsibilities for flag and licensing states, where these are different entities, however:

The principles embodied in the proposed Agreement are consistent with those contained in other Agreements and international guidelines such that we have adequate basis to consider such matters ... there is [also] provision for regional fisheries management authorities to write conservation measures into their management provisions such that the responsibilities relating to charter/joint venture vessels can be dealt with specifically.

- 7.23 Finally, Australia must licence the use of these joint venture boats in Australian waters and can withdraw that licence under Australian law if unauthorised fishing activities are being undertaken, as well as invoking the provisions of the compliance agreement (once it enters into force) in relation to the responsibility of the flag state relating to the unacceptable fishing activities.⁹

Conclusions and recommendation

- 7.24 Since its inception the Committee has scrutinised a number of international fisheries agreements to which Australia has become a party or has been a leader in setting down best practice management procedures

8 Western Australian Government, *Submission No. 8*, p. 2.

9 Australian Fisheries Management Authority, *Submission No. 12*, p. 1.

for Australian and international fisheries. Through acceptance of this compliance agreement the Committee considers that Australia will continue its leading role in the management and effective regulation of its own fisheries while enhancing the high seas management of fisheries on an international level.

- 7.25 While the Committee was not able to ascertain those countries in this region that are likely to accede to the agreement, because Australia is an emerging participant in high seas fisheries and the Australian fishing fleet already meets the reporting requirements, the Committee nonetheless, considers that participation in such an agreement is a reasonable next step in Australia's role in international fisheries management.
- 7.26 The Committee agrees with the proposition that the compliance agreement will act as an additional deterrent to IUU fishing by improving regulation of fishing vessels on the high seas, thus increasing international cooperation and exchange of information, and reducing the ability to re-flag vessels with flags of convenience.
- 7.27 The Committee is satisfied that the concerns raised by the Western Australian Government need ongoing consideration by AFMA and the Department of Agriculture, Fisheries and Forestry (AFFA) - Australia in relation to the licensing of joint-venture boats - but considered it is not an issue that should hinder action on the implementation of this agreement.
- 7.28 The Committee also concurs with AFFA's suggestion that the compliance agreement will have a beneficial influence on high seas fish stocks and highly migratory or straddling stocks fished for in the AFZ by improving compliance with international conservation and management measures on the high seas.¹⁰

Recommendation 6

- 7.29 **The Committee supports the *Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas* and recommends that binding treaty action be taken.**

10 Paul Ross, *Transcript of Evidence*, 12 July 2002, p. 81.

Agreement establishing the International Organisation of Vine and Wine

Background¹

- 8.1 The International Vine and Wine Office (the Office) was established in Paris on 29 November 1924. It is an inter-governmental organisation that, among other things, makes recommendations to its members on aspects of winemaking and viticultural practices. The Office recommends international standards for the wine industry including law, regulation, processing aids, maximum residue levels and labelling. It is not mandatory for members to adopt the resolutions of the Office. However, Office resolutions can have a significant influence on the world wine trade.
- 8.2 Australia has been a member of the Office since 1978. Australia's participation in the Office has increased over recent years in line with the greater export orientation of the Australian wine industry.
- 8.3 Australia and a number of other non-European wine producing countries have had growing concerns that the Office did not adequately represent the views of all members. The dominance of major European wine producing countries in the voting structure enabled resolutions to be passed that furthered the interests of some countries at the expense of

1 Unless otherwise specified the material in this and the following section was drawn from the National Interest Analysis (NIA) for the *Agreement establishing the International Organisation of Vine and Wine*. The full text of the NIA can be found at the Committee's website on www.aph.gov.au/house/committee/jsct.

others and that resolutions were not always totally scientifically and technically based.

- 8.4 In 1996 Australia initiated an extensive review to update the operating and financial structures of the organisation. The results of the review are largely reflected in the proposed International Organisation of Vine and Wine (the Organisation). While the new Organisation provides the same functions as the current Office, the revisions are so extensive that the Department of Agriculture, Fisheries and Forestry – Australia (AFFA) is seeking to withdraw from the old treaty and to replace it with the new one.²
- 8.5 The Agreement was signed by Australia on 31 July 2001 and will enter into force on the first day of the year following the deposit of the 31st instrument of acceptance, approval, ratification or accession. There are around 45 members of the current Office. As of 12 July 2002 ten or eleven of these had lodged instruments with the French government acceding to the treaty. The Agreement is expected to enter into force on 1 January 2004.³

Proposed treaty actions

- 8.6 Some key features of the proposed Organisation include:
- consensus is to be the main basis of decision making with individual countries gaining the right to veto resolutions (other than budgets and elections);
 - the inclusion of English as an additional official language;
 - an improved charter, with better definitions of the Organisation's role as an international standards setting organisation; and
 - more stable, transparent and accountable funding arrangements.
- 8.7 Minor regulatory action is required to provide for the Organisation's legal capacity under Australian domestic law. No other legislative changes at state or federal level are required.
- 8.8 Australia's annual contribution to the Organisation will increase from the current 1.5 to 1.7 percent of its annual budget. The 2002 contribution was

2 Michael Alder, *Transcript of Evidence*, 12 July 2002, p. 89.

3 Michael Alder, *Transcript of Evidence*, 12 July 2002, p. 90.

\$38,000. This is expected to rise to \$70,000 (depending on currency exchange rates) once the Agreement is in force.

Evidence presented and issues arising

Decision making and dispute resolution mechanisms

8.9 The new Organisation will make recommendations by the consensus of its members. These decisions are subject to veto by the individual parties. The Committee inquired into the form of dispute resolution available to parties in the event of significant disagreement within the new Organisation.

8.10 AFFA clarified the meaning of the consensus driven decision making procedure. In terms of the Agreement establishing the Organisation consensus is understood as:

The absence of sustained opposition rather than everyone fully agreeing to everything – then it is up to the president to bring the parties together.⁴

If mediation is unsuccessful, the issue can be deferred for one year. In the event that dissenting parties cannot resolve their dispute a party can block a vote by submitting a formal letter from the government involved.

Advantages of membership

8.11 The NIA noted that the United States of America is not a party to the current agreement that establishes the Office of Vine and Wine. The Committee sought further information as to why this was the case, what effect non-membership had had upon the wine industry in the United States and whether Australia would be affected similarly by deciding not to join the new Organisation.

8.12 AFFA explained that the United States withdrew formally from the Office in December 2001 because of its longstanding perception that the Office supported European interests. Michael Alder was not aware of any adverse impact that non-membership had had upon the wine industry in the United States, but pointed out that Australia was in a significantly different position to the United States with regard to its wine industry:

4 Michael Alder, *Transcript of Evidence*, 12 July 2002, p. 93.

Firstly, the United States is ... a ... larger economic and political force in international trade negotiations than Australia. Secondly, the European Union is a net exporter to North America and the US whereas Australia is a huge net exporter the other way. Thirdly Australia is the country that actually initiated the review and we did achieve most of the things we wanted ...⁵

In excess of 50 percent of Australia's trade in wine is with the European Union. Membership of the Office allows Australia to influence the European wine laws and recommendations from the Office early in the process.⁶

- 8.13 The Western Australian Government wrote to the Committee supporting Australia's ratification of the Agreement because, in its opinion, the Agreement gives countries like Australia more influence on issues affecting the international wine trade.⁷ The Western Australian Government urged Australian representation on the Organisation be used to maintain high industry standards for food safety and quality in keeping with the Australia New Zealand Food Authority's Food Standards Code.
- 8.14 The Winemakers Federation of Australia was very supportive of the review of the current International Wine and Vine Office initiated by Australia and supported ratification of the proposed Agreement establishing the new Organisation.⁸ While acknowledging the substantial improvement in Australia's ability to protect its interests under the new arrangements, the Winemakers Federation maintains that there is still room for improving the terms of the Agreement to better reflect Australia's interests.

Conclusions and recommendations

- 8.15 The Committee recognises the desirability of updating the current International Wine and Vine Office to acknowledge the increased involvement in the industry and trade of non-European wine producing countries such as Australia. It encourages Australian representatives on the new Organisation to press for continuing upgrading of the

5 Michael Alder, *Transcript of Evidence*, 12 July 2002, p. 94.

6 Michael Alder, *Transcript of Evidence*, 12 July 2002, p. 90.

7 Department of the Premier and Cabinet, Government of Western Australia, *Submission No. 8*, p. 1.

8 T. Battaglene, Winemakers Federation of Australia, *Submission No. 1*, p. 1.

Organisation by reflecting concerns expressed by the Australian Winemakers Federation.

- 8.16 It acknowledges the efficacy of maintaining membership of an organisation that facilitates the international wine trade – an industry that is becoming increasingly important to Australia.
- 8.17 Therefore, the Committee makes the following recommendation:

Recommendation 7

- 8.18 **In line with Article 1 of the *Agreement establishing the International Organisation of Vine and Wine*, which replaces the Office with the new Organisation, the Committee supports the withdrawal of Australia from the International Vine and Wine Office.**

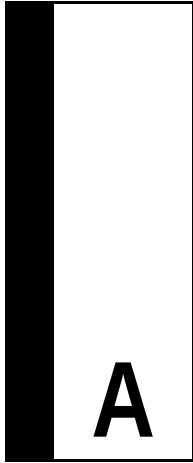
Recommendation 8

- 8.19 **The Committee supports the *Agreement establishing the International Organisation of Vine and Wine* and recommends that binding treaty action be taken.**

Julie Bishop MP

Committee Chair

August 2002



Appendix A – Submissions

Individuals and agencies who made written submissions on treaties tabled in June 2002

- 1 Winemakers Federation of Australia
- 2 Australian Patriot Movement
- 2.1 Australian Patriot Movement
- 2.2 Australian Patriot Movement
- 2.3 Australian Patriot Movement
- 2.4 Australian Patriot Movement
- 2.5 Australian Patriot Movement
- 2.6 Australian Patriot Movement
- 2.7 Australian Patriot Movement
- 2.8 Australian Patriot Movement
- 2.9 Australian Patriot Movement
- 3 Mr John Severino
- 4 Uniting Church in Australia
- 4.1 Uniting Church in Australia

- 5 Job Link Joondalup Region Inc
- 6 Ms Eileen Kelly
- 7 Australians for a Free East Timor
- 8 Department of Premier & Cabinet Government of Western Australia
- 9 Department of Foreign Affairs and Trade
- 10 Mrs I J Leslie
- 11 Australian Fisheries Management Authority
- 12 Department of Agriculture Fisheries and Forestry – Australia
- 13 Child Support Agency
- 13.1 Child Support Agency



Appendix B – Witnesses at hearings

Friday, 12 July 2002 – Canberra

Agriculture, Fisheries and Forestry—Australia

Mr Paul Ross, Manager, International Fisheries

Australian Fisheries Management Authority

Mr Geoff Rohan, General Manager, Operations

Attorney-General's Department

Mr Joshua Brien, Legal Officer, Office of International Law

Mr Gregory Cameron, Acting Principal Legal Officer, Private International Law

Mr William Campbell, First Assistant Secretary, Office of International Law

Ms Sarah Chidgey, Senior Legal Officer, Criminal Law Branch

Ms Rebecca Irwin, Acting Senior Adviser, Office of International Law

Mr Geoffrey McDonald, Assistant Secretary, Criminal Law Branch

Mr John McGinness, Acting Assistant Secretary, Information Law Branch

Ms Sara Pesenti, Acting Senior Legal Office, Civil Justice Division

Department of Agriculture, Fisheries and Forestry

Mr Michael Alder, Manager, Wine Policy Section

Department of Defence

Captain Edwin Dietrich, Director Joint Operations, Royal Australian Navy,
Strategic Command Division

Department of Family and Community Services

Ms Sheila Bird, Assistant General Manager, Client and Community Branch,
Child Support Agency

Department of Foreign Affairs and Trade

Ms Lucinda Bell, Executive Officer (Chile), Canada, Latin America and
Caribbean Section, Americas Branch

Dr Gregory French, Director, Sea Law, Environmental Law and Antarctic
Policy Section

Mr Todd Mercer, Executive Officer, Arms Control and Disarmament Branch

Mr Rick Nimmo, Director, Pacific Bilateral Section

Dr Geoffrey Raby, First Assistant Secretary, International Organisations and
Legal Division

Ms Cathy Raper, Director, Canada, Latin America and Caribbean Section,
Americas Branch

Mr Peter Scott, Acting Director, International Law and Transnational Crime
Section

Mr Peter Shannon, Assistant Secretary, Arms Control and Disarmament
Branch

Ms Shennia Spillane, Executive Officer, International Law and Transnational
Crime Section

Mr Dominic Trindade, Legal Adviser, Legal Branch

Mr Russell Wild, Executive Officer, International Economic Law Legal Branch

Department of Industry, Tourism and Resources

Mr Ian Walker, Manager, Timor Sea Team, Resources Division

Department of Transport and Regional Services

Mr Matthew Schroder, Director, Africa, Middle East, Americas, Pacific and Indian Oceans Section, Industry Policy Branch, Aviation and Airports Policy Division

Mr Ben Willoughby, Assistant Director, Africa, Middle East, Americas, Pacific and Indian Oceans Section, Industry Policy Branch, Aviation and Airports Policy Division

Department of the Treasury

Mr Scott Bartley, Manager, Core Rules Unit, Business Income and Industry Policy Division