

Report 68

Treaties tabled on 7 December 2004 (5) and 9 August 2005

International Treaty on Plant Genetic Resources for Food and Agriculture

Treaty of Amity and Cooperation in Southeast Asia as amended by the Protocol amending the Treaty of Amity and Cooperation in Southeast Asia and the Second Protocol amending the Treaty of Amity and Cooperation in Southeast Asia

Supplementary Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope, at Siding Spring, New South Wales, Australia

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ISBN 0 642 78714 X (printed version)

ISBN 0 642 78715 8 (HTML version)



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Terms of reference

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

- 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 abbreviations

AAO	Anglo-Australian Observatory
AAT	Anglo-Australian Optical Telescope
AATB	Anglo-Australian Telescope Board
ACT	Australian Capital Territory
AFFA	Department of Agriculture, Fisheries and Forestry Australia
ANU	Australian National University
ANZUS	Security Treaty between Australia, New Zealand and the United States of America
ASEAN	Association of Southeast Asian Nations
ASF	Australian Seed Federation
Cth	Commonwealth
DEST	Department of Education Science and Training
DFAT	Department of Foreign Affairs and Trade
FAO	Food and Agriculture Organization
GCA	Grains Council of Australia
GRDC	Grains Research and Development Corporation

IARCs	International Agricultural Research Centres
MTA	Material Transfer Agreement
NIA	National Interest Analysis
NSW	New South Wales
PGRFA	Plant Genetic Resources for Food and Agriculture
RSAA	Research School of Astronomy and Astrophysics
SSO	Siding Spring Observatory
TAC	Treaty of Amity and Cooperation
UK	United Kingdom of Great Britain and Northern Ireland
UKST	United Kingdom Schmidt Telescope
UN	United Nations



List of recommendations

2 International Treaty on Plant Genetic Resources for Food and Agriculture

Recommendation 1

The Committee supports the *International Treaty on Plant Genetic Resources for Food and Agriculture* and recommends that binding treaty action be taken.

3 Treaty of Amity and Cooperation in Southeast Asia

Recommendation 2

The Committee supports the *Treaty of Amity and Cooperation* (Indonesia, 24 February 1976), *as amended by the Protocol amending the Treaty of Amity and Cooperation in Southeast Asia and the Second Protocol amending the Treaty of Amity and Cooperation in Southeast Asia*, and recommends that binding treaty action be taken.

4 Supplementary Agreement with the United Kingdom of Great Britain concerning the Anglo-Australian Optical Telescope

Recommendation 3

The Committee supports the *Supplementary Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope, at Siding Spring, New South Wales, Australia* and recommends that binding treaty action be taken.

Introduction

Purpose of the report

1.1 This Report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of three proposed treaty actions. The first of these treaty actions was tabled in Parliament on 7 December 2004¹ and the remaining two were tabled on 9 August 2005.² These treaty actions are:

- *International Treaty on Plant Genetic Resources for Food and Agriculture (PGRFA)*³
- *Treaty of Amity and Cooperation in Southeast Asia (Indonesia, 24 February 1976) as amended by the Protocol amending the Treaty of Amity and Cooperation in Southeast Asia, 1987 and the Second Protocol amending the Treaty of Amity and Cooperation in Southeast Asia, 1998*
- *Supplementary Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope, at Siding Spring, New South Wales, Australia.*

1 *House of Representatives Votes and Proceedings*, 7 December 2004, p. 99; *Senate Journal*, 7 December 2004, p. 233.

2 *House of Representatives Votes and Proceedings*, 9 August 2005, p. 484; *Senate Journal*, 9 August 2005, p. 861.

3 This treaty was first tabled in December 2002, with inquiry lapsing on prorogation of the 40th Parliament. The treaty was subsequently tabled in the 41st Parliament. The Committee's reviews of other treaties which were also tabled on 7 December 2004 are contained in Reports 63, 64 and 65.

Briefing documents

- 1.2 The advice in this Report refers to the National Interest Analyses (NIAs) prepared for the proposed treaty actions. These documents are prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty. Copies of the NIAs may be obtained from the Committee Secretariat or accessed through the Committee's website at:

www.aph.gov.au/house/committee/jsct/7dec2004/tor.htm

www.aph.gov.au/house/committee/jsct/9august2005/tor.htm

- 1.3 Copies of treaty actions and NIAs may also be obtained from the Australian Treaties Library maintained on the internet by the Department of Foreign Affairs and Trade. The Australian Treaties Library is accessible through the Committee's website or directly at:

www.austlii.edu.au/au/other/dfat/

Conduct of the Committee's review

- 1.4 The review contained in this report was advertised in the national press and on the Committee's website.⁴ Letters were also sent inviting comment from all State Premiers, Chief Ministers and from individuals who have expressed an interest in being kept informed of proposed treaty actions such as these. A list of submissions and their authors is at Appendix A.

- 1.5 Evidence was also received from public hearings held on 9 December 2002, 3 March 2003, 14 March 2005 and 5 and 12 September 2005. A list of witnesses who appeared at public hearings is at Appendix B. A transcript of evidence from the public hearings may be obtained from the Committee Secretariat or accessed through the Committee's website at:

www.aph.gov.au/house/committee/jsct/7dec2004/hearings.htm

www.aph.gov.au/house/committee/jsct/9august2005/hearings.htm

4 The Committee's review of the proposed treaty actions were advertised in *The Australian* on 9 February 2005 and 17 August 2005. Members of the public were advised on how to obtain relevant information and invited to submit their views to the Committee, both in the advertisement and via the Committee's website.

International Treaty on Plant Genetic Resources for Food and Agriculture

Introduction

- 2.1 The *International Treaty on Plant Genetic Resources for Food and Agriculture* (the Treaty) was approved by the Food and Agriculture Organization (FAO) at its 31st session in Rome in November 2001. The Treaty will provide a binding international framework for the conservation, sustainable use and exchange of plant genetic resources for food and agriculture (PGRFA) for global food security.¹ This framework is designed to ensure the fair and equitable sharing of benefits arising from PGRFA.
- 2.2 The Treaty was negotiated over a seven year period, and is intended to replace the non-binding International Undertaking on Plant Genetic Resources (the International Undertaking) established under the FAO in 1983. The International Undertaking provides the basis for current international cooperation in the use of PGRFA for members of the FAO. This includes Australia.²

1 National Interest Analysis (NIA), para. 5.

2 NIA, paras 5-6.

Overview

- 2.3 All countries depend on the use of PGRFA to develop new varieties of grains, pasture and horticultural plants for food and agriculture. This Treaty builds upon the International Undertaking while complementing elements of the Convention on Biological Diversity. The Convention on Biological Diversity was a forerunner to the Treaty and led to a review of international cooperation in this area.³ The focus of the review was FAO agreements with International Agricultural Research Centres (IARCs) regarding international public domain collections of plant genetic resources held in trust.⁴
- 2.4 Australian food and agriculture sectors rely on the development of varieties of grain crops and pasture and horticultural plants, derived almost entirely from overseas plant genetic material. This includes collections held by IARCs.⁵
- 2.5 The Treaty would impose a system of minimum reciprocal rights of access and benefit sharing between contracting parties, under a multilateral system. The Australian Government would be required to ensure that the standard Material Transfer Agreement (MTA),⁶ to be adopted by the Governing Body,⁷ is used to facilitate access transactions. Procedures for the recognition and enforcement of the MTA would be subject to jurisdictional requirements that apply under Australian law.⁸ Obligations under the Treaty regarding material exchange would be in regard to material held in the public domain under Australian Government control.⁹ This would exclude material held in State collections.¹⁰

3 NIA, para. 6.

4 NIA, para. 6.

5 NIA, para. 8.

6 The MTA provides the legal basis for the flow of plant genetic material for research, development, training and conservation under the treaty. Paul Morris, *Transcript of Evidence*, 9 December 2002, p. 18.

7 The Governing Body consists of contracting parties to the Treaty and makes decisions by consensus. The Governing Body considers operational details involving material transfer and arrangements between itself and IARCs for access to their collections. The Governing Body also considers a funding strategy for the Treaty. NIA, para. 13.

8 NIA, para. 17.

9 Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 36.

10 William Campbell, *Transcript of Evidence*, 14 March 2005, p. 36.

- 2.6 Under the terms of the Treaty, the Australian Government would be required to provide certain non-confidential data to an information system. This would include providing access to technologies for the conservation, characterisation, evaluation and use of PGRFA and the genetic material required to transfer this technology.

Entry into force

- 2.7 On 29 June 2004 the Treaty entered into force internationally. As of 14 March 2005 a total of 66 nations had ratified the Treaty,¹¹ including Canada, Germany, Italy, Spain, Switzerland and the United Kingdom. That number has now risen to 73.¹² The United States is a signatory to the Treaty but has not ratified it. Japan, China and Russia have not signed up to the Treaty.¹³

Implementation and costs

- 2.8 Implementation of the Treaty does not require amendment to domestic legislation and may be undertaken administratively. Ratification of the Treaty would involve costs to support the activities of the International Secretariat and Australia's participation in the work of the Governing Body.¹⁴

Review of the Treaty during the 40th Parliament

- 2.9 The Treaty was signed by Australia on 10 June 2002 and was first tabled in Parliament on 3 December 2002, during the 40th Parliament. The Committee held a public hearing on 9 December 2002 to examine the proposed treaty action.
- 2.10 Following the public hearing, the Committee received information highlighting industry concerns about the operability of the treaty and the timing of its entry into force. The Committee then requested further information from the Department of Agriculture, Fisheries and Forestry Australia (AFFA) about industry concerns. The Committee held another public hearing on 3 March 2003 to resolve

11 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 27.

12 As of 11 October 2005, <www.fao.org/Legal/TREATIES/033s-e.htm>.

13 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 38.

14 NIA, paras 27-28.

issues raised by industry groups. In addition to AFFA, representatives from the following organisations attended the public hearing: the Australian Seed Federation (ASF);¹⁵ Grains Council of Australia (GCA); and the Grains Research and Development Corporation (GRDC).

- 2.11 The ASF sought detailed information and discussion with the Australian Government and industry on the following issues:
- a. **Consultation** regarding the benefits or otherwise of ratification of the treaty.
 - b. **Funding** regarding administration of the treaty, for example, how funds will be raised and how the Governing Body will be financed.
 - c. **MTAs** – How MTAs will coexist with common law contracts, and technical, financial and policy areas which are yet to be discussed by the expert group.
 - d. **Legal implications of ratification** – The ASF does not accept AFFA’s view that Australia would need legislative change to administer Australian obligations under the Treaty and sought further clarification from AFFA on this point.
 - e. **Scope of coverage of the Treaty** – The ASF is concerned that the Treaty will apply to all holders of PGRFA and allow the Australian Government to take whatever measures it deems necessary to include private PGRFA holdings.¹⁶
- 2.12 The GRDC and GCA expressed similar concerns to that of the ASF. In addition to funding, the GRDC was concerned that the costs associated with the Treaty may be borne by industry. The GRDC agreed with the ASF’s stance on MTAs and the scope of coverage of the Treaty. The GRDC also drew attention to: the use of ambiguous language in relation to articles of the Treaty relating to MTA’s; and the uncertainty of whether States and Territories may be required to modify existing practices, policies and provide access to PGRFA material.¹⁷
- 2.13 The GRDC observed that there is no evidence to support the statement in the NIA that the capacity of Australian plant breeders to access genetic resources from overseas is likely to become more
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15 **Note:** The ASF appeared before the Committee under its previous name, the Seed Industry Association of Australia (SIAA). In this report, the SIAA is referred to by its current name, the Australian Seed Federation.

16 ASF, *Submission 5* (40th Parliament), pp. 1-4.

17 GRDC, *Submission 7* (40th Parliament), pp. 2-3.

difficult if Australia does not ratify the Treaty. Further, the GRDC stated that Australian participants involved in the exchange of germ plasm have not concluded that the proposed regime under the Treaty will improve access.¹⁸

- 2.14 The GRDC also expressed concern about the list of crops covered by the Treaty. For example, the Treaty excludes crops which Australian Industry would expect to see included as part of a comprehensive, effective, multilateral system. For example, soyabeans, peanuts, linseed, safflower, panicum, buckwheat and sesame and for the horticulture industry, tomatoes. The GRDC believes non-inclusion of such items could lead to disputes between Parties with Australian interests unable to be satisfied in the wider area of the multilateral negotiations.¹⁹
- 2.15 Another shared concern was the small number of countries that have ratified the Treaty, that the United States of America had not ratified, and Japan not signed up to the Treaty. Industry groups were concerned that the attitudes of these countries have not been explained and the reasons for their opposition or lack of interest have not been explored.²⁰
- 2.16 The GCA recommended that Australia as signatory to the Treaty may and should participate in the work of the Expert Group and the Interim Committee of which it can be a member without ratifying. This would provide an opportunity for the Australian Government to identify the costs and benefits of the Treaty to industry in a practical sense.²¹
- 2.17 Industry groups agreed that Australia should not ratify the Treaty until its exact impact and its associated costs and benefits in all areas had been identified and assessed to industry satisfaction.²²
- 2.18 AFFA undertook that it would facilitate further meetings between itself and the industry organisations, with a view to settle any outstanding issues of concern. In its supplementary submission dated November 2003²³ AFFA advised the Committee that it had addressed the issues raised through additional consultation with industry stakeholders.

18 GRDC, *Submission 7* (40th Parliament), p. 1.

19 GRDC, *Submission 7* (40th Parliament), p. 4.

20 GCA, *Submission 6* (40th Parliament), p. 2; GRDC, *Submission 7* (40th Parliament), p. 5.

21 GCA, *Submission 6* (40th Parliament), p. 2.

22 SIAA, *Submission 5* (40th Parliament), p. 2; GCA, *Submission 6* (40th Parliament), p. 2; GRDC, *Submission 7* (40th Parliament).

23 AFFA, *Submission 2.3* (40th Parliament).

- 2.19 The Committee was scheduled to table its review of the Treaty on 19 March 2003. Following evidence received at its public hearing of 3 March 2003 that several elements of the Treaty are ill-defined such as: benefit sharing, terminology, payments, and definitional terms,²⁴ the Committee chose to defer reporting on its review of the treaty, pending further consideration.
- 2.20 Due to the prorogation of the 40th Parliament on 31 August 2004, the Committee dissolved and review of the Treaty consequently lapsed.

Review of the Treaty during the 41st Parliament

- 2.21 On 18 November 2004, a new Joint Standing Committee on Treaties was established.²⁵ The *International Treaty on Plant Genetic Resources for Food and Agriculture* was re-tabled during the 41st Parliament on 7 December 2004 and automatically referred to the Committee for review. The Committee scheduled a public hearing on 14 March 2005 to ascertain whether industry organisations had any remaining areas of concern about the Treaty.
- 2.22 The Committee invited AFFA and representatives of the industry organisations who had appeared before the Committee during the 40th Parliament to the public hearing. AFFA continued to support ratification of the Treaty.²⁶ Industry organisations, such as the GCA and GRDC, although having previously held reservations regarding the details of the Treaty, expressed support for ratification of the Treaty.²⁷ The ASF however maintained that there are outstanding issues concerning administration of the Treaty and compliance with the MTA, which preclude it from determining whether or not it is in Australia's interest to ratify the Treaty.²⁸

24 Dr Ross Gilmour, *Transcript of Evidence*, 3 March 2003, p. 7; Mr Charles Willoughby, *Transcript of Evidence*, 3 March 2003, p. 15; Mr Christopher Melham, *Transcript of Evidence*, 3 March 2003, p. 21.

25 *Senate Journal*, 18 November 2004, p. 85; *House of Representatives, Votes and Proceedings*, No 3, 18 November 2004, p. 41.

26 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 27.

27 Mr Mathew Munro, *Transcript of Evidence*, 14 March 2005, p. 29; Mr John Harvey, *Transcript of Evidence*, 14 March 2004, p. 32.

28 Mr Christopher Melham, *Transcript of Evidence*, 14 March 2005, p. 32.

- 2.23 AFFA advised the Committee that there were areas central to the Treaty which would be decided upon at the first meeting of the Treaty's Governing Body. The meeting is due to be held by 29 June 2006.²⁹ The Committee understands that it is the Government's goal for Australia to be involved in the Governing Body in order to be able to influence the outcome of decisions. This is especially the case in regard to payments and the contracts under which PGRFA exchanges would take place.
- 2.24 AFFA indicated that the MTAs would grant Australia access to overseas sources of PGRFA (public and private collections). AFFA has stated that this is important because ongoing improvement in plant breeding is essential to Australia's future competitiveness.³⁰
- 2.25 The ASF does not support this view, stating that: the Treaty is unnecessary as bilateral agreements already provide benefits in relation to the exchange of PGRFA;³¹ Australia would have access to international germ plasm through bilateral agreements whether or not the Government ratifies the Treaty;³² and ratification will mean opening up Australia's plant genetic resources to the international community which may have an adverse impact on maintaining investment in programs.³³
- 2.26 In relation to the current system of PGRFA exchange and the multilateral dimension to the Treaty, AFFA stated that:
- ... the current arrangements are in fact a multilateral system that is based on a common material transfer agreement. What the new system does is provide reciprocal rights of ... access and benefit sharing ... [which] ... has never been formally recognised. That is the side that is very important in the context of the standard material transfer agreement.³⁴
- 2.27 AFFA continues to support Australia's ratification of the Treaty to gain a seat on the Governing Body.³⁵

29 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 33.

30 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 27.

31 Mr Christopher Melham, *Transcript of Evidence*, 14 March 2005, p. 32.

32 Mr Christopher Melham, *Transcript of Evidence*, 14 March 2005, p. 30.

33 Mr Christopher Melham, *Transcript of Evidence*, 14 March 2005, p. 31.

34 Ms Kristiane Herrman, *Transcript of Evidence*, 14 March 2005, p. 41.

35 Mr Paul Morris, *Transcript of Evidence*, 14 March 2005, p. 39.

Conclusion and recommendation

- 2.28 The Committee acknowledges the views expressed by the ASF, GCA, GRDC and AFFA. The Committee also acknowledges the ASF's ongoing reservations about the administration of the Treaty and compliance with MTAs. Having taken into consideration the evidence received, the Committee believes that the Treaty will ensure that Australia continues to have access to overseas (other Parties) sources of PGRFA. This includes access to IARCs and the global system of conservation, sustainable use and exchange of PGRFA between Parties. The Committee understands that the Treaty will provide minimum reciprocal rights of access and formally recognised benefit sharing. The Committee believes that the concerns expressed to it by industry groups may be appropriately addressed by Australia's participation in the Governing Body. The Committee supports the Treaty and Australia's proposed goal of representation on the Governing Body.

Recommendation 1

The Committee supports the *International Treaty on Plant Genetic Resources for Food and Agriculture* and recommends that binding treaty action be taken.

Treaty of Amity and Cooperation in Southeast Asia

Introduction

- 3.1 The *Treaty of Amity and Cooperation in Southeast Asia (TAC)*, as amended by the *Protocol amending the Treaty of Amity and Cooperation in Southeast Asia* and the *Second Protocol amending the Treaty of Amity and Cooperation in Southeast Asia*, promotes peace, amity and cooperation between Parties.¹ TAC is a foundation document for the Association of Southeast Asian Nations (ASEAN)² and has considerable symbolic importance.³

1 TAC has 19 States Parties: Brunei Darussalam, Cambodia, India, Indonesia, Japan, Lao People's Democratic Republic, Malaysia, Mongolia, Myanmar, New Zealand, Pakistan, Papua New Guinea, People's Republic of China, Philippines, Republic of Korea, Russian Federation, Singapore, Thailand and Vietnam. Department of Foreign Affairs and Trade, *Submission 8*, Attachment: Status of the Treaty of Amity and Cooperation and the Protocols.

2 ASEAN has 10 Member States: Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam; and 11 Dialogue Partners: Australia, Canada, China, European Union, India, Japan, New Zealand, Republic of Korea, the Russian Federation, the United States and the United Nations Development Programme.

3 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 2.

Background

- 3.2 In April 2005, ASEAN Foreign Ministers made accession to TAC one of three criteria a State must meet in order to attend the East Asia Summit.⁴
- 3.3 The Committee was informed by the Department of Foreign Affairs and Trade (DFAT) that the East Asia Summit is
- a new leaders grouping which has the potential to be an important mechanism to pursue closer integration on economic and strategic issues in the region.⁵
- 3.4 The National Interest Analysis (NIA) states that it is directly relevant to Australia's interests to have a seat at the East Asia Summit from the start in order to contribute to the Summit's development.⁶
- 3.5 On 13 July 2005, the Minister for Foreign Affairs, the Honourable Alexander Downer MP, wrote to His Excellency Mr Somsavat Lengsavad, Deputy Prime Minister and Minister for Foreign Affairs of Laos and Chairman of the ASEAN Standing Committee, to advise that Australia intended to accede to TAC.⁷

The First and Second Protocols

- 3.6 TAC has been amended twice. The First Protocol (1987) made three changes, amending TAC to:
- allow non-ASEAN States in Southeast Asia to accede to TAC
 - allow non-Southeast Asian States to accede to TAC with the consent of the Southeast Asian States then party to TAC
 - specify the circumstances in which non-Southeast Asian States could participate in the High Council.⁸

4 Two further criteria are required: a State must be a full dialogue partner of ASEAN and a State must have substantive relations with ASEAN. National Interest Analysis (NIA), para. 8.

5 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 2.

6 NIA, para. 6.

7 NIA, para. 4.

8 NIA, para. 11.

- 3.7 The Second Protocol (1998) amended TAC to expand the category of Southeast Asian States whose consent is required to permit States outside Southeast Asia to accede to TAC. This change reflects the expansion of ASEAN.⁹

Key provisions

- 3.8 TAC is designed to promote peace and stability throughout the Southeast Asian region and to provide a procedure for peacefully settling disputes should they occur.
- 3.9 Article 2 of TAC provides a number of fundamental principles which will guide relations between Contracting Parties. These principles include:
- mutual respect for sovereignty, independence, equality, territorial integrity of all nations
 - the right of every State to lead its national existence free from external interference, subversion or coercion
 - non-interference in the internal affairs of one another
 - settlement of disputes by peaceful means
 - renunciation of the threat or use of force.
- 3.10 Article 10 provides that Contracting Parties shall not participate in any activity which constitutes a threat to the political or economic stability, sovereignty, or territorial integrity of another Contracting Party.
- 3.11 Article 13 requires Contracting Parties to settle disputes through negotiation and without the threat or use of force.
- 3.12 Article 14 establishes a High Council in order to resolve disputes. The High Council is made up of ministerial level representatives from each Contracting Party. This provision only applies to a Contracting Party outside Southeast Asia where that State is directly involved in the dispute to be settled. To date, the High Council has never been convened.¹⁰

9 NIA, para. 11.

10 NIA, para. 32.

- 3.13 Where a dispute cannot be resolved through direct negotiations, Article 15 provides that the High Council shall take note of the dispute and recommend an appropriate means of settlement. With the consent of the Parties to the dispute, the High Council can also mediate, inquire into or attempt to conciliate the dispute. Under Article 16, the High Council will not involve itself in a dispute without the consent of all Parties to the dispute.
- 3.14 In addition to the text of TAC itself, Australia clarified the interpretation of key provisions through four ‘understandings’. These are set out by Mr Downer in his letter of 13 July 2005. The understandings were reached through extensive discussions between Australian officials and their ASEAN counterparts and are to be regarded as part of the context of Australia’s accession to TAC, as specified under Article 31 of the *Vienna Convention on the Law of Treaties*.¹¹
- 3.15 The four understandings are:
- accession to TAC will not affect Australia’s obligations under other bilateral or multilateral agreements. This understanding ensures that Australia’s existing security agreements, such as the ANZUS Treaty¹² and the Five Power Defence Arrangements, remain unaffected by Australia’s accession to TAC¹³
 - TAC is to be interpreted in conformity with the United Nations (UN) Charter, and accession to TAC will not affect Australia’s rights and obligations under the UN Charter. This understanding ensures that Australia’s obligation not to interfere in the internal affairs of other TAC Parties, under Article 2, will not affect Australia’s rights and obligations under the UN Charter. In particular, Australia’s obligation to promote and encourage respect for human rights, fundamental freedoms for all without distinction as to race, sex, language or religion, and Australia’s right under Article 51 of the UN Charter to use force in self-defence¹⁴
 - TAC will not apply to, nor affect, Australia’s relationship with States outside Southeast Asia. This understanding clarifies that

11 NIA, para. 27.

12 Security Treaty between Australia, New Zealand and the United States of America

13 NIA, para. 28.

14 NIA, paras 29 and 30.

TAC only governs the relations of each of the non-ASEAN Contracting Parties with the ASEAN Contracting Parties¹⁵

- Articles 14 and 16 provide that when a Contracting State outside Southeast Asia is directly involved in a dispute, the agreement of that Contracting State is required before the High Council can be convened. Should the High Council be convened, that Contracting State would be entitled to participate in the High Council. This understanding clarifies that the High Council could not consider or seek to resolve a dispute in which Australia was directly involved unless Australia first agreed to the convening of the High Council for that purpose.¹⁶

3.16 At the request of ASEAN States, the exchange of correspondence states that the understandings are provided on a 'non-prejudice basis to ASEAN'. This phrase does not qualify the understandings but rather reflects the fact that it is not usual ASEAN practice to record understandings of the Treaty in a public document.¹⁷

The East Asia Summit

3.17 The first meeting of the East Asia Summit will be held in Kuala Lumpur in December 2005.¹⁸

3.18 Representatives from DFAT informed the Committee that the East Asia Summit is seen as a significant new regional grouping with the potential to make progress on regional economic issues and strategic cooperation and it is in Australia's interests to participate as an inaugural member.¹⁹

3.19 The agenda for the Summit is yet to be finalised. Representatives from DFAT informed the Committee that Australia does not want to be overly prescriptive in setting the topics for discussion at the Summit. Rather, it is more important that

leaders are able to address whatever the big issues of the day are for the region ... Terrorism is obviously a big issue.

15 NIA, para. 31.

16 NIA, para. 32.

17 NIA, para. 33.

18 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 2.

19 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 2.

Regional pandemics are an issue that has got a lot of attention of late.²⁰

- 3.20 Although the agenda has not yet been set, representatives from DFAT acknowledged the importance of the East Asia Summit having a distinct purpose, given the number of pre-existing regional organisations in Southeast Asia which would appear to cover some of the same issues.²¹

Consultation

- 3.21 State and Territory Governments were consulted through the Standing Committee on Treaties mechanism. However, the NIA points out that TAC is unlikely to directly affect State and Territory Governments and is primarily a matter of foreign policy.²²

Implementation and costs

- 3.22 No changes to Australian legislation are required to give effect to Australia's obligations under TAC.²³
- 3.23 The NIA states that there are no costs associated with Australia's accession to TAC.²⁴ However, the Committee would expect there to be costs associated with sending a delegation to attend the East Asia Summit which are not specified in the NIA.

Future treaty action

- 3.24 Future treaty action, such as a Protocol, would be subject to Australia's domestic treaty process, which includes tabling and consideration by this Committee.²⁵

20 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 4.

21 Ms Gillian Bird, *Transcript of Evidence*, 12 September 2005, p. 5.

22 NIA, Consultation Annex, paras 1 and 2.

23 NIA, para. 34.

24 NIA, para. 37.

25 NIA, para. 40.

Conclusion and recommendation

- 3.25 The Committee welcomes the opportunity to further strengthen ties with ASEAN Member States, with whom Australia currently enjoys strong and mutually beneficial relationships, both individually and collectively.
- 3.26 The Committee believes that the East Asia Summit will provide a valuable new forum for dialogue between leaders in the region.

Recommendation 2

The Committee supports the *Treaty of Amity and Cooperation (Indonesia, 24 February 1976)*, as amended by the *Protocol amending the Treaty of Amity and Cooperation in Southeast Asia* and the *Second Protocol amending the Treaty of Amity and Cooperation in Southeast Asia*, and recommends that binding treaty action be taken.

Supplementary Agreement with the United Kingdom of Great Britain concerning the Anglo-Australian Optical Telescope

Introduction

- 4.1 The *Supplementary Agreement between Australia and the United Kingdom of Great Britain (UK)*¹ concerning the *Anglo-Australian Optical Telescope*² (the Supplementary Agreement) will amend the existing Agreement³ (the Agreement) to provide for the:
- UK's commitment to the Anglo-Australian Telescope (AAT) to continue until Australia obtains sole ownership on 1 July 2010⁴
 - termination of the Agreement and Supplementary Agreement on 1 July 2010.⁵

1 The United Kingdom of Great Britain and Northern Ireland.

2 The full title of the proposed treaty action is the *Supplementary Agreement between the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope, at Siding Spring, New South Wales, Australia*. National Interest Analysis (NIA), para. 1.

3 The existing Agreement is titled *The Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland to provide for the establishment and operation of a large optical telescope [1971], ATS 2, as amended by an Exchange of Notes [1986] ATS 4*. NIA, para. 2.

4 NIA, paras 4 and 8.

5 Supplementary Agreement Article 6 (1).

Background

- 4.2 The Anglo-Australian Telescope Board (AATB) operates as the Anglo-Australian Observatory (AAO) and is an independent bi-national authority funded by both Australia and the UK. The AATB is established by the *Anglo-Australian Telescope Agreement Act 1970* to manage and operate the AAT and the UK Schmidt Telescope (UKST).⁶ Both the AAT and the UKST are located at Siding Spring, New South Wales (NSW).⁷ The Siding Spring Observatory (SSO) where the AAT is situated is owned by the Australian National University (ANU) and managed by the ANU's Research School of Astronomy and Astrophysics (RSAA). The RSAA and the AAO have a long history of collaboration on scientific, technical and Siding Spring site issues.⁸
- 4.3 Collaboration with the UK on the AAT has been a key element in Australia's globally competitive performance in astronomy.⁹ The AATB highlighted in its submission that:
- The AAO enjoys a worldwide reputation for providing outstanding observing facilities to astronomers, for the high quality of its research, and for its design and construction of innovative telescope instrumentation. Based on the numbers of published research papers, the AAT is one of the most productive telescopes in the world. The high level of citations to these papers testifies to the impact of this research.¹⁰
- 4.4 In 2001, however, the UK advised Australia that it had other astronomy priorities and so intended to end its involvement with the AAT.¹¹ The Committee was informed that the UK would be directing some of its astronomy assigned funding towards facilities such as the European Southern Observatory and Gemini Observatories both of which operate next generation eight-metre optical telescopes.¹²
- 4.5 Instead of terminating the Agreement with Australia, the UK agreed to amend the Agreement to continue the UK's commitment to the
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6 Anglo-Australian Telescope Board, *Submission 3*, p. 1; Department of Education, Science and Training, *Submission 9*, p. 1.

7 Anglo-Australian Telescope Board, *Submission 3*, p. 1.

8 ANU Research School of Astronomy and Astrophysics, *Submission 7*, p. 1.

9 NIA, para. 10.

10 Anglo-Australian Telescope Board, *Submission 3*, p. 1.

11 NIA, para. 7.

12 Dr Evan Arthur, *Transcript of Evidence*, 5 September 2005, p. 2.

AAT, but at a reduced level¹³ until the termination of both agreements. The new termination and the AAT handover arrangements will ensure long term access for Australian astronomers to a valuable scientific instrument¹⁴ in the lead up to Australia's acquisition of the AAT.

Features of the Supplementary Agreement

4.6 The Supplementary Agreement will allow:

- for the transfer of the AAT to sole Australian ownership on 1 July 2010
- the UK to withdraw from its joint ownership arrangement of the AAT with Australia on 1 July 2010 and reduce its direct funding commitment to the AAT from 2006¹⁵
- Australia to maintain a higher level of financial contribution to the AAT, if it chooses¹⁶
- The AATB to develop and access other sources of funding. These include external earnings from instrument development and UK competitive grants. However, access to certain competitive grants is conditional on the Supplementary Agreement's entry into force¹⁷
- revision of time sharing arrangements for the use of the AAO.¹⁸ Commensurate with Australia's expected higher financial contribution Australian astronomers will gain more observation time¹⁹
- Australia additional time to develop its long term policy for the AAO, while it continues to benefit from collaboration with the UK.²⁰

13 NIA, para. 4.

14 NIA, para. 6.

15 NIA, para. 8.

16 NIA, para. 5.

17 NIA, paras 5 and 9.

18 NIA, para. 11.

19 NIA, para. 5.

20 NIA, para. 10.

- 4.7 The potential consequences of the Supplementary Agreement not entering into force include:
- Australia having to match its future contributions to the reduced UK contribution from 1 July 2006, as the UK has indicated that it will not maintain the current level of funding beyond 2005-06
 - the AAT and associated facilities may not pass to Australian ownership and control as there would be no agreement in place establishing procedures for an official hand over
 - Australia's science and technology relationship with the UK may be adversely affected in the area of future collaboration in astronomy.²¹

Future direction of the Anglo-Australian Observatory

- 4.8 The Committee was informed that the AATB and the Department of Education, Science and Training (DEST) are reviewing the AAO. The review is intended to provide the Australian Government with options for the AAO's direction up to and beyond termination of the Supplementary Agreement in 2010. The Australian astronomical community's vision for the future role of the AAO is included in 'New Horizons: A Decadal Plan for Australian Astronomy 2006-2015'.²²
- 4.9 One of the main goals under the plan is to maximise the benefit to Australia of astronomical education and research. In this respect, the AAO is expected to develop into Australia's national observatory for optical and infrared astronomy, supporting the AAT and Australia's other national optical/infrared telescope facilities.²³
- 4.10 The AATB supports the Supplementary Agreement and made the following comment in relation to the future of the AAO:

The AATB strongly supports the amendment to the AAT Agreement by way of the Supplementary Agreement. The latter provides a mechanism to allow both partners to achieve their goals, including an orderly withdrawal by the UK

21 NIA, para. 13.

22 AATB, *Submission 3*, p. 2.

23 AATB, *Submission 3*, p. 2.

Government, and sufficient time for the Australian Government to plan for the future of the AAO.²⁴

Implementation

- 4.11 The *Anglo-Australian Telescope Agreement Act 1970* (Cth) (the Act) will be amended to include the Supplementary Agreement as a schedule to the Act, in addition to changes to the definition of agreement and the revised powers of the AATB.²⁵
- 4.12 The Act may also be amended or repealed in preparation for termination of the existing Agreement and transfer to sole Australian ownership of the AAT.²⁶

Consultation

- 4.13 DEST informed the Committee that it had consulted with State and Territory Governments and other primary stakeholders in relation to the Supplementary Agreement. This included consultation with the Australian and UK Governments, the AATB and the AAT Director and staff.
- 4.14 No issues were initially raised by the NSW, Western Australian or Northern Territory Governments. The NIA states that no concerns or significant issues were expressed by any other State or Territory Government.²⁷ As the AAT is situated in NSW, DEST provided a second opportunity for the NSW Government to comment on the Supplementary Agreement.
- 4.15 During DEST's consultations, the NSW and Australian Capital Territory (ACT) Governments raised two separate issues. The NSW Government raised the issue of future funding of the AAT which is addressed later in this chapter under the section titled *Funding*. The ACT Government was primarily concerned that DEST had not

24 AATB, *Submission 3*, p. 2.

25 NIA, para. 21.

26 NIA, para. 22.

27 NIA, Consultation Annex, paras 1- 3.

consulted with the RSAA in relation to the Supplementary Agreement.²⁸

- 4.16 The ACT Government also brought the issue to the Committee's attention during the course of the review of the Supplementary Agreement.
- 4.17 In his letter of 30 May 2003, the ACT Chief Minister responded to the Minister for Education, Science and Training's initial request for comment on the Supplementary Agreement with:

... I assume that you have consulted separately with the Australian National University (ANU) on this issue. As you would be aware, the ANU is under the jurisdiction of the Commonwealth. I am concerned, particularly in view of the destruction of the Mt Stromlo telescope during the recent ACT bushfires, that the amended agreement may have adverse implications for the ANU.²⁹

- 4.18 The ACT Government again canvassed the issue on DEST's consultation with RSAA in its submission to the Committee where it stated:

While it is pleasing that the RSAA supports the Agreement it is of great concern that it was not consulted during the Agreement negotiations. As managers of the site where the AAT is located, it has a considerable interest in proposed changes to the AAT. Further, the RSAA, as the largest astronomical group in the country, is also the chief Australian user of the AAT. Failing to consult the RSAA is a clear failure in the consultation process for this Agreement and a matter the Joint Standing Committee on Treaties should consider and report on.³⁰

- 4.19 In addition, the ACT Government contacted the RSAA for comment about the Supplementary Agreement and informed the Committee that the RSAA was supportive of the proposed treaty action:

During ACT Government consultation with the RSAA it became clear that the RSAA were unaware of the proposed Agreement.

28 NIA, Consultation Annex, ACT Government reply.

29 NIA, Consultation Annex, ACT Government Reply.

30 ACT Government, *Submission 4*, p. 2.

... after considering the Agreement, the RSAA indicated that it was happy with the thrust of the agreement and urged its immediate implementation.³¹

- 4.20 At its public hearing the Committee was informed by Dr Arthur of DEST that discussions about the Supplementary Agreement had occurred with ANU:

Certainly there have been discussions with the Australian National University and, indeed, with the Australian astronomy community generally. In fact, the Australian astronomy community, generally, of which a major component is provided by the ANU, has been engaged in a large-scale review of astronomy in Australia and is about to publish the final version of what they call their decadal review of astronomy in Australia. So the future of the AAT has been carefully considered with the Australian astronomy community in general and particularly, therefore, with the ANU.³²

- 4.21 The Department of Education, Science and Training in its submission to the Committee expanded further on this issue and stated:

... the ANU and the RSAA have been fully aware of the Supplementary Agreement, through its links to the Anglo-Australian Telescope Board (AATB), from the commencement of negotiations until their recent conclusion.

The Committee may wish to note that the initial Commonwealth negotiator on the treaty was Professor Lawrence Cram, the then DEST representative on the AATB. Professor Cram is now Deputy Vice-Chancellor (Research) at the Australian National University. From the commencement of negotiations in 2002 until July 2004, Professor KC Freeman of the RSAA was a member of the AATB. Shortly after Professor Freeman's appointment to the Board lapsed, Dr Brian Schmidt, also of the RSAA, was appointed to the Board (in December 2004). In addition I am advised by Dr Matthew Colless, Director of the Anglo-Australian Observatory, that he has provided regular briefings on the Supplementary Agreement to his counterpart at the RSAA,

31 ACT Government, *Submission 4*, p. 1.

32 Dr Evan Arthur, *Transcript of Evidence*, 5 September 2005, p. 2.

Professor Penny Sackett, since he assumed his post in early 2004.³³

4.22 In view of the comments made by Dr Arthur at the public hearing and the submission received from the ACT Government, the RSAA was invited to make a submission to the Committee.

4.23 In relation to the issue highlighted by the ACT Government, that is, of DEST's lack of consultation with ANU on the Supplementary Agreement, Professor Penny Sackett of the RSAA stated:

Although as a member of the Australian astronomical community I have been aware of the existence and basic intent of the agreement, to my knowledge this is the first time the ANU has been approached to make a submission ...³⁴

4.24 Professor Penny Sackett also reiterated the RSAA's support for the Supplementary Agreement:

As the largest astronomical research group in the country, RSAA is the chief Australian user of the AAT, and is impressed with the level of user service that the AAO provides, and its innovation in renewing the telescope to best scientific advantage. As the two premier optical astronomical instrumentation groups in Australia, the RSAA and the AAO have frequent occasions to collaborate technically. Finally, as the "landlords" for the SSO site, RSAA has amicable and fruitful staff relations with AAT staff. Indeed, given that our own ANU telescopes are now solely sited at SSO, we face and address many of our common challenges together. It is with this background that I thoroughly endorse the thrust of the Supplementary Agreement for the AAT, and urge its immediate implementation. It is of vital importance to the Australian astronomical community that the AAO begin this transition step toward a fully-Australian entity.³⁵

33 Department of Education, Science and Training, *Submission 9*, pp. 1-2.

34 ANU Research School of Astronomy and Astrophysics, *Submission 7*, p. 1.

35 ANU Research School of Astronomy and Astrophysics, *Submission 7*, p. 1.

Funding

- 4.25 The current level of funding provided to the AATB is A\$4.112 million indexed annually, which is expected to continue. This is considerably higher than the obligatory payment of A\$500 000 required under Article 11(2) of the existing Agreement as amended by Article 5 of the Supplementary Agreement.³⁶
- 4.26 The UK's funding to the AATB will decrease by 50 percent in 2006-07 to around A\$2 million with a further 50 percent decrease in 2007-08 to around A\$1 million. UK funding would remain stable thereafter until termination of the Agreement in 2010. Some additional funding may be provided through competitive grants.³⁷
- 4.27 Dr Evan Arthur of DEST informed the Committee of the likely success rate for winning competitive grants:
- Competitive grants, as their name suggests, are always awarded on a competitive basis and therefore cannot be guaranteed. However, given that the telescope ... has a very high success rate in terms of its publications and the citations of those publications and has a very high reputation amongst the astronomical community, one would assume that its prospects of securing grants are good.³⁸
- 4.28 In its submission to the Committee, the RSAA was concerned about the impact of reduced AAO funding during the period covered by the Supplementary Agreement. Professor Penny Sackett of the RSAA recommended a review of funding for the AAO:
- The declining budget for the AAO in the period 2006-2010 could have deleterious implications for the ability of this model national facility to maintain its excellent service to its user base, while exploring new opportunities for optical-infrared astronomy for the Australian community. A separate review of this matter would be timely.³⁹

36 NIA, para. 23.

37 NIA, para. 24.

38 Dr Evan Arthur, *Transcript of Evidence*, 5 September 2005, p. 5.

39 ANU Research School of Astronomy and Astrophysics, *Submission 7*, p. 1.

- 4.29 The AATB echoed RSAA's concern about the impact of reduced future funding of the AAO, but stated:

The gradual withdrawal of the UK funding does provide the AATB with some challenges. However, the AATB is confident that it can ensure the continued scientific excellence of the AAO.⁴⁰

- 4.30 During DEST's consultations, the NSW Government also expressed concern about the possible impact of reduced UK funding on Local and State economies and research in NSW. The NSW Government's response suggested that the Commonwealth should commit to ease any shortfall in funding.⁴¹

- 4.31 These concerns were addressed by the Minister for Education, Science and Training, in his correspondence to the NSW Government:

The revised Agreement is designed to put the AAO on a sound financial footing during the transition period. By permitting non-symmetrical contributions it allows the Australian Government to maintain its current level of direct funding. The revised Agreement provides the AAO with greater flexibility to develop and access other sources of funding such as external earnings from instrument development and UK competitive grants. ... the AAO is using the last few years of full bilateral funding to comprehensively upgrade the Anglo-Australian Telescope to ensure that it can continue to support world-class astronomy. The Government maintains a close and productive relationship with the Anglo-Australian Telescope Board. I will be working closely with the Board over the coming years to ensure the continuing success of the AAO.⁴²

- 4.32 The Committee also received evidence that if a future government chose not to fund the AAT beyond 1 July 2010, then Australia would retain sole responsibility for funding and managing the decommissioning of the facility including the payment of staff entitlements. This would pose a financial risk of A\$3 million in redundancy payments which could however, be offset by the AATB's asset base which has an estimated value of A\$48 million.⁴³

40 AATB, *Submission 3*, p. 2.

41 NIA, Consultation Annex, NSW Reply in October 2004.

42 NIA, Consultation Annex, Response from Minister Nelson MP to the NSW reply.

43 NIA, para. 14.

Signing of the supplementary agreement

- 4.33 DEST informed the Committee that the Supplementary Agreement had not been signed prior to its tabling in Parliament and subsequent referral to the Committee. The Supplementary Agreement is expected to be signed in October 2005.⁴⁴
- 4.34 The Committee notes that while its terms of reference would not have precluded it from inquiring into the treaty, signature of the treaty indicates the Australian Government's formal intention on behalf of Australia to enter into a treaty.

Entry into force and withdrawal

- 4.35 The Supplementary Agreement will enter into force when the Contracting Parties exchange diplomatic notes stating that all domestic procedures for entry into force have been met. This is expected to occur in the first half of 2006.⁴⁵
- 4.36 Pursuant to Article 7, the Contracting Parties may extend, amend or supplement the Supplementary Agreement.⁴⁶

Conclusion and recommendation

- 4.37 The Committee acknowledges the evidence provided to it and, on balance, is satisfied that DEST undertook an adequate level of consultation with relevant treaty stakeholders and organisations within the Australian astronomy community.
- 4.38 The Committee further acknowledges that the Supplementary Agreement will provide Australia with a significant opportunity to attain sole ownership of the AAT, while continuing in the short term to benefit through collaboration in astronomy research with the UK.

44 Dr Evan Arthur, *Transcript of Evidence*, 5 September 2005, p. 5.

45 NIA, para. 3.

46 NIA, para. 27.

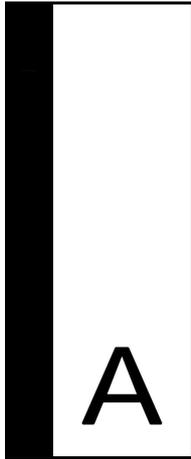
- 4.39 The Committee welcomes the Supplementary Agreement and believes that the cost involved in maintaining the AAT may be offset by the great potential for scientific benefit to Australia of increased access to and control of the AAO and associated scientific instruments and facilities.

Recommendation 3

The Committee supports the *Supplementary Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Anglo-Australian Optical Telescope, at Siding Spring, New South Wales, Australia* and recommends that binding treaty action be taken.

Mrs Margaret May MP

Acting Committee Chair



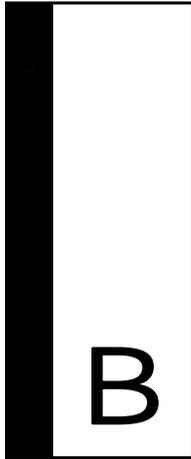
Appendix A - Submissions

Plant Genetic Resources for Food and Agriculture

- 1 Australian Patriot Movement
- 2 Department of Agriculture Fisheries & Forestry
- 2.1 Department of Agriculture Fisheries & Forestry (supplementary)
- 2.2 Department of Agriculture Fisheries & Forestry (supplementary)
- 2.3 Department of Agriculture Fisheries & Forestry (supplementary)
- 3 Tasmanian Government
- 4 ACT Government
- 5 Seed Industry Association of Australia
- 6 Grains Council of Australia
- 7 Grains Research and Development Corporation
- 7.1 Grains Research and Development Corporation (supplementary)
- 8 Queensland Government
- 9 Dr Charles Lawson

Treaties tabled on 9 August 2005

- 1 Australian Patriot Movement
- 1.1 Australian Patriot Movement
- 2 Government of Western Australia
- 3 Anglo-Australian Telescope Board
- 4 ACT Government
- 5 Hon Alexander Downer MP
- 6 Queensland Government
- 7 The Australian National University
- 8 Department of Foreign Affairs and Trade
- 9 Department of Education, Science and Training



Appendix B - Witnesses

Monday, 9 December 2002 – Canberra

Attorney-General's Department

Mr John Atwood, Principal Lawyer, Office of International Law

Commonwealth Scientific and Industrial Research Organisation

Dr Jeremy Burdon, Assistant Chief, Division of Plant Industry

Department of Agriculture, Fisheries and Forestry-Australia

Mr Paul Morris, Executive Manager, Market Access and Biosecurity

Mr Craig Burns, General Manager, Trade Policy, Market Access and Biosecurity

Ms Kristiane Herrmann, Manager, FAO Plant Genetic Resources Treaty, Trade Policy, Market Access and Biosecurity

Department of Foreign Affairs and Trade

Mr Alan Fewster, Executive Director, Treaties Secretariat, Legal Branch

Mr Adrian White, Executive Officer, International Intellectual Property Section, Services and Intellectual Property Branch, Office of Trade Negotiations

Mr Russell Wild, Executive Officer, International Law and Transnational Crime Section, Legal Branch

Monday, 3 March 2003 – Canberra

Commonwealth Scientific and Industrial Research Organisation

Dr Jeremy Burdon, Assistant Chief, Division of Plant Industry

Department of Agriculture, Fisheries and Forestry-Australia

Mr Paul Morris, Executive Manager, Market Access and Biosecurity

Mr Craig Burns, General Manager, Trade Policy, Market Access and Biosecurity

Ms Kristiane Herrmann, Manager, FAO Plant Genetic Resources Treaty, Trade Policy, Market Access and Biosecurity

Department of Foreign Affairs and Trade

Mr Alan Fewster, Executive Director, Treaties Secretariat, Legal Branch

Mr Russell Wild, Executive Officer, Legal Branch

Grains Council of Australia

Mr Charles Willoughby, Manager, Quality Assurance

Grains Research and Development Corporation

Dr Ross Gilmour, Program Manager (Winter Cereals Improvement), Program Operations

Mr Ewan Letts, Consultant

Seed Industry Association of Australia

Mr Christopher Melham, General Manager

Monday, 14 March 2005 – Canberra

Attorney-General's Department

Mr William McFadyen Campbell, General Counsel, International Law

Australian Seed Federation

Mr Christopher Melham, Chief Executive Officer

Commonwealth Scientific and Industrial Research Organisation

Mr Brett Walker, Commercial Manager (Legal), Division of Plant Industry

Department of Agriculture, Fisheries and Forestry

Dr William Roberts, Executive Manager

Ms Kristiane Herrmann, Manager, Market Access

Mr Paul Morris, Executive Manager, Market Access

Department of Foreign Affairs and Trade

Mr Michael Jonathan Thwaites, Executive Director, Treaties Secretariat, Legal Branch, International Organisations and Legal Division

Grains Council of Australia

Mr Mathew Munro, Policy Manager, Industry Sustainability

Grains Research and Development Corporation

Mr John Harvey, Executive Manager, Varieties,

Monday, 5 September 2005 - Canberra**Attorney-General's Department**

Ms Susan Downing, Acting Principal Legal Officer, International Trade Law and General Advisings Branch

Department of Education, Science and Training

Dr Evan Arthur, Group Manager, Innovation and Research Systems Group

Department of Foreign Affairs and Trade

Mr Michael Jonathan Thwaites, Executive Director, Treaties Secretariat

Monday, 12 September 2005 - Canberra

Attorney-General's Department

Mr Mark Jennings, Senior Counsel, Office of International Law

Department of Foreign Affairs and Trade

Ms Gillian Bird, Deputy Secretary

Mr Michael Bliss, Director, International Law and Transnational
Crime Section, Legal Branch

Mr Michael Jonathan Thwaites, Executive Director, Treaties
Secretariat

Ms Lynette Wood, Director, ASEAN Burma and Cambodia Section
Legal Branch