

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Joint Standing Committee on Treaties

Tenth Report

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ISBN

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COMMITTEE MEMBERS

Mr W L Taylor MP (LP, QLD) (Chairman)
 Mr R B McClelland MP (ALP, NSW) (Deputy Chairman)
 Senator E Abetz (LP, TAS)
 Senator V W Bourne (DEM, NSW)
 Senator H Coonan (LP, NSW)¹
 Senator B Cooney (ALP, VIC)²
 Senator S M Murphy (ALP, TAS)³
 Senator B J Neal (ALP, NSW)
 Senator W G O'Chee (NP, QLD)
 Hon D G H Adams MP (ALP, TAS)
 Mr K J Bartlett MP (LP, NSW)
 Mr L D T Ferguson MP (ALP, NSW)
 Mr G D Hardgrave MP (LP, QLD)
 Ms S B Jeanes MP (LP, SA)⁴
 Mr A C Smith MP (LP, QLD)
 Mr W E Truss MP (NP, QLD)

Committee Secretary

Mr Peter Stephens

Inquiry Secretary

Mr Patrick Regan

Senior Research Officer

Mr Bob Morris

Executive Assistant

Ms Jodie Williams

¹ Replaced Senator the Hon C Ellison (LP, WA) from 26 February 1997.

² Replaced Senator K Carr (ALP, VIC) from 4 December 1996.

³ Replaced Senator K Denman (ALP, TAS) from 12 December 1996.

⁴ Replaced Mr C W Tuckey MP (LP, WA) from 24 September 1997.

EXTRACT FROM RESOLUTION OF APPOINTMENT

The Joint Standing Committee on Treaties was formed in the 38th Parliament on 30 May 1996. The Committee's Resolution of Appointment 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.

CHAPTER 1

INTRODUCTION

Treaties tabled on 17 June 1997

1.1 On 17 June 1997, texts of the following documents together with National Interest Analyses (NIA) were tabled in both Houses of the Parliament:

- an Agreement on Economic, Trade and Technical Cooperation between the Government of Australia and the Government of Lebanon, done at Beirut on 11 March 1997, and
- an amendment to Article 20, paragraph 1, of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), of 18 December 1979.¹

1.2 The '15 sitting day' period for these agreements expired on 4 September 1997. On 4 August 1997, the Minister for Foreign Affairs was advised of our intention to include comments on the above treaties in a report on the treaties which were to be tabled on 26 August 1997. We indicated that this report was likely to be tabled on 20 October 1997, one day outside the '15 sitting day' period for the latter.

1.3 Submissions and comments on these agreements were called for in a newspaper advertisement, and a number of requests were received for copies of the NIAs and the texts of the documents. No additional submissions or comments were received as a result of these expressions of interest.²

1.4 A short public hearing was held in Canberra on 24 June 1997, at which evidence was taken from relevant Commonwealth departments and agencies. Those witnesses who gave evidence at that hearing are listed in Appendix 1. A subsequent submission which was received about CEDAW is listed in Appendix 2. Any additional material received in connection with these agreements is listed in Appendix 3.

1.5 These agreements are dealt with in Chapter 2.

¹ Senate, *Hansard*, 17 June 1997, p. 4415; House of Representatives, *Hansard*, 17 June 1997, p. 5375.

² See *The Weekend Australian*, 21-22 June 1997, p. 25.

Treaties tabled on 26 August 1997

1.6 On 26 August 1997, the texts of the following treaties together with NIAs were tabled in both Houses of Parliament:³

- Fourth Protocol, done at Geneva on 15 April 1997, to the General Agreement on Trade in Services (GATS), of 15 April 1994.
- Exchange of Notes, done at Seoul on 11 August 1997, constituting an Agreement between the Government of Australia and the Government of the Republic of Korea concerning the Retransfer of Australian Obligated Nuclear Material under the Agreement concerning Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material, of 2 May 1979.
- Second Agreement, done at Vienna on 24 May 1997, to extend the Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology, of 2 February 1987.
- Amendments, done at Harare in June 1997, to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of 3 March 1973.
- Project Arrangement between the Government of Australia and the Government of the United States of America on Detection and Tracking of Targets in Clutter.
- Project Arrangement between the Government of Australia and the Government of the United States of America on Data Fusion for Over-the Horizon Radar.
- Agreement between the Government of Australia and the Government of the Republic of Kazakhstan on Economic and Commercial Cooperation, done at Almaty on 7 May 1997.
- Treaty between the Government of Australia and the Government of the United States of America on Mutual Assistance in Criminal Matters, and Exchange of Notes constituting an Agreement on the Interpretation and Application of the Treaty on Mutual Assistance in Criminal Matters, done at Washington on 30 April 1997.

³ Senate, *Hansard*, 26 August 1997, p. 5655; House of Representatives, *Hansard*, 26 August 1997, p. 6809.

1.7 NIAs were also tabled for the following treaties, the texts of which had previously been tabled:

- Treaty on Extradition between Australia and the Oriental Republic of Uruguay, done at Montevideo on 7 October 1988. The text of the Treaty was tabled in the House of Representatives on 10 May 1989 and in the Senate on 23 May 1989.
- Treaty on Extradition between Australia and the Republic of Turkey, done at Canberra on 3 March 1994, and Exchange of Notes, done at Ankara on 27 and 28 March 1995, constituting an Agreement to amend the Treaty on Extradition and as to the interpretation of the Treaty as amended. The texts of the Treaty and the Exchange of Notes were tabled in both Houses of the Parliament on 21 June 1995.

1.8 The '15 sitting day' period for these treaties expired on 2 October 1997.

1.9 Submissions and comments on these agreements were called for in a newspaper advertisement, and a number of requests were received for copies of some of the NIAs with the texts of the agreements.⁴

1.10 On 27 August 1997, officials from the Department of Defence briefed the Committee on the Over-the-Horizon Radar system and the place Project Agreements have in the 1992 Radar Agreement between the Australian and American Governments.

1.11 A public hearing was held in Canberra on 1 September 1997, at which evidence was taken from relevant Commonwealth departments and agencies. Those people who gave evidence at that hearing are listed in Appendix 1, and the submissions received in connection with these agreements are listed in Appendix 2. Additional material provided on these subjects is listed in Appendix 3.

1.12 In connection with the Second Extension Agreement to the Regional Cooperative Agreement of 1987, the Committee visited the Australian Nuclear Science and Technology Organisation's (ANSTO) facilities at Lucas Heights in Sydney on 10 September 1997.

⁴ See *The Weekend Australian*, 30-31 August 1997, p. 15.

1.13 Following a briefing by Professor Helen Garnett, Executive Director, ANSTO, the party visited the reactor building and was briefed on its operations. It then visited, and was briefed on the work of, the radiopharmaceuticals, environment and materials areas of ANSTO.

1.14 As a result of reports that Telstra's licence in Kazakhstan had been revoked, we decided to take further evidence on the Economic and Commercial Cooperation Agreement with that country. On 23 September 1997, the Acting Chairman wrote to the Minister for Foreign Affairs advising that we will be reporting on this Agreement later in 1997.⁵

1.15 Additional evidence was taken on the Agreement with Kazakhstan at a hearing on 30 September 1997. It was agreed that no further action would be taken until a report was received from the Minister for Foreign Affairs following his meeting with the Kazakhstan Minister for Foreign Affairs at the recent meeting of the General Assembly of the United Nations.

1.16 With the exception of that Agreement with Kazakhstan and the Seabed Boundary Treaty with Indonesia, the other agreements tabled on 26 August 1997 are considered in Chapter 3.

Seabed Boundary Treaty with Indonesia

1.17 In addition, the Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries, done at Perth on 14 March 1997, was included in the tabling in both Houses on 26 August 1997.

1.18 This will be the subject of a separate inquiry, and a report is expected to be tabled in the Parliament later in 1997.

⁵ See *The Sydney Morning Herald*, 19 September 1997, p. 8.

CHAPTER 2

TREATIES TABLED ON 17 JUNE 1997

Agreement with Lebanon

Provisions of the Agreement

2.1 The Agreement on Economic, Trade and Technical Cooperation between the Government of Australia and the Government of Lebanon (the Agreement) was signed on 13 March 1997.

2.2 It seeks to enhance the friendship between the countries, and to develop the trade, economic and technical cooperation between them on the basis of equality and mutual benefit (Article 1). This cooperation includes encouraging development projects in trade, engineering, industry, agriculture, animal husbandry and technology. It also includes the exchange of various commodities products and services, as well as encouraging the training and exchange of experts and technicians to implement specified projects, and exchange of relevant information (Article 2).

2.3 Article III deals with the protection of intellectual property in commercial relations. Under Article IV, the Parties shall give each other unconditional most-favoured-nation status in all matters relating to customs duties and other charges. Any advantages given to a third country under paragraph (1) shall be given to the other Party, and no prohibitions such as quotas shall be instituted by either party on imports from the other. Each Party shall accord treatment to services and suppliers of the other Party no less favourable than that given to other nations'. Sub-paragraph (5) excludes some preferences or advantages, and allows either Party to take a range of other actions.

2.4 All payments from commercial transactions shall be in a convertible currency (Article V), and both Parties are to encourage cooperation including the setting up of joint projects and companies (Article VI) and visits, trade fairs and short-term exhibitions (Article VII).

2.5 Article VIII establishes a Joint Committee which may discuss all of the matters in the Agreement, including its interpretation. Article IX deals with the date of effect of the Agreement: it remains in effect for one year and will be

extended year by year, unless one of the Parties notifies the other in writing of its intention to terminate at least three months before the expiration of the original or extended period.

2.6 If the Agreement is terminated, it continues to apply to unfulfilled obligations, including related payments, entered into during the period it was in force.

2.7 This Agreement with Lebanon is a version of a standard document, except that such things as the trade in bulk services for tourism are included. This is an area such agreements now tend to cover. The NIA does not mention the existence or otherwise of a double taxation agreement with Lebanon.¹

2.8 This Agreement is in addition to an Air Services Agreement with Lebanon, on which we reported in our *Eighth Report*.²

Consultation

2.9 The NIA stated that information on the Agreement was provided to the States and Territories through the Standing Committee on Treaties (SCOT) process. There were no consultations with any organisations with commercial or business interests in Lebanon.³

Trade with Lebanon

2.10 In 1996, Australia's exports to Lebanon were worth nearly \$A16 million, while imports from Lebanon totalled over \$A5 million. The level of trade between the nations has increased very rapidly from a low base since the Australian Embassy in Beirut was re-opened two years ago: 100 per cent in the first year and 25 per cent in the second. As it is estimated that Lebanon's import market is worth about \$A7 billion per year, Australia has about 0.2 per cent of that potential market. This market, together with the program estimated at \$A18 billion for the reconstruction of Beirut and the country generally following the end of the civil war, gives some indication of the opportunities which could be available in the context of this Agreement.⁴

¹ Transcript, 24 June 1997, p. 3.

² See *Eighth Report*, Chapter 3, pp. 17-18.

³ Transcript, 24 June 1997, pp. 3-4, 6.

⁴ *ibid*, pp. 4-5, 8.

2.11 In the past, our exports to Lebanon were dominated by the sale of live animals, but elaborately transformed manufactures (ETMs) such as computers and office machinery are now very important in the figures which were provided following the public hearing on 24 June 1997. Even in 1996, live animals were worth \$A1.3 million, while ETMs and various electrical goods were worth about \$A4.8 million. A number of grain types are also exported, together with dairy products.⁵

2.12 Lebanese entrepreneurs increasingly look to Europe and the USA, their major trading partners. Lebanon is at present examining an association agreement with the European Union (EU), which it is hoped will be signed by the end of 1998. Should this be signed, Europeans will gain increased access to the Lebanese market. The NIA points out, however, that such an agreement could make Lebanon an attractive base for investment in a range of industry sectors including the processing of Australian commodities, such as sugar, dairy products and metals.⁶

Committee views

2.13 There can be no doubt of the value of such an Agreement with Lebanon. It reinforces in a practical manner the close contacts between the two countries and is most worthwhile, given the potential size of the market and the possibility of additional benefits if Lebanon's agreement with the EU is finalised.

2.14 In a number of earlier reports and tabling statements, we have commented on the importance of consultation in the revised treaty-making procedures. This Committee is an integral part of that process, and it takes the view that consultation does not just mean informing the States and Territories about a treaty through the SCOT process.

2.15 This limited approach has clearly become the form of consultation which Departments and agencies regard as acceptable. We believe, however, that it means real and effective discussions with those bodies and individuals with a known or likely interest in the provisions of a particular treaty.

2.16 In the case of this Agreement, information was given to the SCOT. No business, professional or social bodies with an interest in trade or contacts generally with Lebanon were consulted, although these bodies exist. This is not

⁵ *ibid*, pp. 5, 9. See Exhibits Nos 1 and 2 for details.

⁶ Transcript, 24 June 1997, pp. 6-7.

satisfactory, and we will continue to keep this issue in focus for all treaties as they are tabled.⁷

2.17 The NIA for this Agreement referred to Australia's exports to, and imports from, Lebanon only in the broadest terms. If further agreements of this type are tabled, it would assist our process if more detailed information on the type and value of both exports to and imports from the particular country was included in the NIA.

2.18 Without making a recommendation on the matter, we believe that a double taxation agreement with Lebanon would assist trade and investment between the two countries. We suggest that this matter is worthy of further investigation.

2.19 The Joint Standing Committee on Treaties notes the material it has received, acknowledges the value of this Agreement on Economic, Trade and Technical Cooperation with the Government of Lebanon and supports its entry into force as proposed.

Amendment to CEDAW

The Convention

2.20 The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was signed on 18 December 1979 in New York, USA, and came into force generally on 3 September 1981. Australia signed it on 17 July 1980 and an instrument of ratification, including reservations, was deposited on 28 July 1983. It entered into force for Australia on 27 August 1983, and there are currently 158 States Parties to the Convention.⁸

2.21 To date, 14 States Parties have accepted this amendment.

Provisions of the Convention

2.22 In Article 1, the States Parties to this Convention defines discrimination as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying' recognition, enjoyment or

⁷ *ibid*, p. 6. See also paragraphs 2.37 and 2.38 below.

⁸ *Australian Treaty List, Multilateral* (as at 31 December 1996), Department of Foreign Affairs and Trade, p. 423.

exercise by women, on the basis of equality between men and women, of human rights and fundamental freedoms in any field. Article 2 condemns discrimination against women in all its forms.

2.23 The Convention states that all appropriate measures shall be taken to ensure the full development and advancement of women in political, social, economic and cultural fields (Article 3), and successive Articles detail the areas in which measures should be taken. In Article 24, Parties undertake to adopt all necessary measures at the national level to achieve the rights in the Convention. Particular problems faced by rural women shall be taken into account to ensure the application of CEDAW's provisions (Article 14).

2.24 Article 15 accords women equality with men before the law. Article 16 deals with the elimination of discrimination against women in all matters relating to marriage and family relations.

2.25 Part V deals with the Committee on the Elimination of Discrimination. Article 17 establishes it, specifying election by a secret ballot from persons nominated by States Parties from their nationals and serving in their personal capacities. The Parties report to the Secretary-General of the United Nations (UN) on the measures adopted to give effect to the Convention's provisions: within one year after entry into force for the State concerned and thereafter every four years or whenever requested by the Committee (Article 18). Articles 19 and 20 deal with rules of procedure and meeting arrangements, Article 21 with an annual report to the General Assembly of the UN and Article 22 allows the Committee to invite specialised agencies of the UN to submit reports on implementation of the Convention in their areas.

2.26 Article 23 states that nothing in the Convention shall affect provisions more conducive to the achievement of equality which may be in State Party legislation or any other treaty. All states may sign/accede to CEDAW and the Secretary-General of the UN shall be the depositary (Article 25). Articles 26 to 30 deal with amendment of the Convention, its entry into force, the handling of reservations, disputes and its authentic texts.

Consultation

2.27 The NIA stated that all State and Territory Governments had been advised of the amendment through the SCOT process. A letter had also been sent to all Premiers and Chief Ministers inviting their views on the amendment, and no objections were raised. The NIA does not mention any consultation with interested non-government organisations (NGOs).

Denunciation

2.28 The Convention does not include provisions dealing with withdrawal, and any State wishing to do so would proceed in accordance with Section 54 of the Vienna Convention on the Law of Treaties. This specifies that a Party may withdraw at any time by consent of all the Parties after consultation with all the other contracting States.

The amendment

2.29 The proposed amendment would alter Article 20, paragraph 1, of the Convention by allowing the CEDAW Committee to meet annually. It also states that the duration of the meetings shall be determined by a meeting of the Parties to the Convention, subject to the General Assembly's approval. This amendment was agreed at the Eighth Meeting of States Parties on 22 May 1995.⁹

2.30 The CEDAW Committee is the UN body responsible for monitoring the implementation of the Convention by its Parties. This is done principally by examining the reports submitted in accordance with Article 18. The amendment would remove the limitation in Article 20.1 which allows the Committee to meet 'not more than two weeks annually'. This limitation has led to considerable delays in the Committee's program, so that Australia's third periodic report from 1993 was only recently considered.¹⁰

2.31 This report was actually submitted as a supplementary report to Australia's second periodic report, and had not been considered when the latter was addressed in 1994. Thus, the supplementary report came to be designated the third periodic report in 1995. Information provided after the public hearing on 24 June 1997 states that, while the two previous reports benefited from their contributions, this report was not prepared with any involvement from Australian NGOs.¹¹

2.32 The information provided also shows how far behind the CEDAW Committee has slipped in its consideration of country reports, even allowing for the late submission of reports by countries such as Australia. Thus, the second

⁹ Transcript, 24 June 1997, p. 11.

¹⁰ *ibid*, pp. 11, 12, 14.

¹¹ Submissions, p. 1.

report referred to above was due to be submitted in August 1988 but was submitted in July 1992. A fourth periodic report was due in August 1996 but has not yet been submitted.¹²

2.33 Australia appeared before the CEDAW Committee in July 1997 and there was 'some confusion' in the Australian media about these reporting requirements. This country had been acting on advice that its fourth report was due in 1998. These requirements have been clarified, and Australia is now required to submit a combined fourth and fifth report to the CEDAW Committee by August 2000.¹³

2.34 The NIA comments that this amendment seeks to allow a more realistic time frame so that due consideration can be given to all Parties' reports. The proposal would also accord more closely with the meeting times of comparable UN bodies.¹⁴

2.35 This amendment will place no additional obligations on Australia, there are no additional costs, nor does it require domestic implementation.¹⁵

Committee views

2.36 This is a technical amendment which seeks to make the Convention, and the CEDAW Committee, operate more efficiently. The backlog of consideration of reports, and the need to clarify Australia's reporting requirements to that Committee, are strong arguments in favour of the proposed amendment.

2.37 This amendment also raises the issue of consultation and the comments made above, in relation to the Agreement with Lebanon, are relevant: we do not consider that putting treaties, or amendments to treaties, through the SCOT process is 'consultation'. Writing to Premiers and Chief Ministers is simply a gloss on that effort and no substitute for genuine consultation with, in the case of this amendment to CEDAW, the many NGOs which might have an interest in the matter.¹⁶

2.38 The fact that this is a minor amendment to that Convention cannot be advanced as a defence for that lack of consultation. As this Committee has only

¹² *ibid*, p. 2.

¹³ *ibid*, p. 2.

¹⁴ Transcript, 24 June 1997, pp. 11-12.

¹⁵ *ibid*, pp. 11-12.

¹⁶ See paragraphs 2.14 to 2.16 above.

been in existence for a little over a year, the opportunity provided by this change could have been used to obtain the views of relevant NGOs on the overall operation of CEDAW. The issue of community consultation, 'the key word' in the revised treaty-making process established in May and June 1996, will continue to be a major focus of our attention.¹⁷

2.39 The Joint Standing Committee on Treaties notes the information provided on the amendment to the Convention on the Elimination of all Forms of Discrimination Against Women, and supports acceptance as proposed.

¹⁷ Minister for Foreign Affairs, House of Representatives, *Hansard*, 2 May 1996, p. 231.

CHAPTER 3

TREATIES TABLED ON 26 AUGUST 1997

Fourth Protocol, General Agreement on Trade in Services

The Fourth Protocol to GATS

3.1 The General Agreement on Trade in Services (GATS) sets out rules for non-discriminatory trade in services. It was negotiated during the Uruguay Round of multilateral trade negotiations and forms part of the 'single undertaking' of commitments accepted by all members of the World Trade Organisation (WTO). The WTO was established on 15 April 1994 by the Marrakesh Agreement which entered into force on 1 January 1995. Australia's instrument of acceptance of this Agreement was deposited on 21 December 1994.¹

3.2 The Fourth Protocol to this Agreement was done at Geneva on 15 April 1997 and is open for acceptance until 30 November 1997. It will enter into force on 1 January 1998, provided it has been accepted by all members concerned. If all such members have not accepted it before 1 December 1997, those which have may decide prior to 1 January 1998 on the date of entry into force. Australia proposes to accept this Protocol before 1 December 1997.

3.3 The Second and Third Protocols to GATS were considered in our *First Report*.²

Background to GATS

3.4 The GATS was the first agreement under the WTO to establish world wide rules on trade and investment in services, including all economic activities whose outputs are other than tangible goods. It consists of:

- A framework agreement which lays out the general obligations for trade in services, in much the same way the GATT does for trade in goods.

¹ *Australian Treaty List, Multilateral* (as at 31 December 1996) Department of Foreign Affairs and Trade, p. 455.

² Joint Standing Committee on Treaties, *First Report*, August 1996, pp. 8, 12.

- Annexes on specific services sectors.
- Schedules of commitments for each signatory.

3.5 It embraces the key features of the General Agreement on Tariffs and Trade (GATT):

- unconditional most-favoured nation (MFN) status,
- transparency,
- national treatment, and
- binding concessions.

According to two commentators, there are important differences between the GATT and the GATS in the way most of these principles are implemented.³

3.6 The GATS permits exemptions from unconditional MFN for specified sectoral measures, provided they were scheduled by 1 January 1995 or unless the relevant sectors were subject to ongoing negotiations. Countries have insisted on, and used, MFN exemptions in the GATS to facilitate specific reciprocates.

3.7 Under the GATT, national treatment is a general obligation requiring governments to treat imported and domestic 'like products' equally once national barriers are cleared. As a general rule import tariffs are the only form of barrier permitted, although quantitative restrictions are allowed in certain limited and specific circumstances.

3.8 Under the GATS, however, any form of barrier to trade in services can be maintained or increased in any sector until it is scheduled: only then has 'national treatment' any relevance to the services traded. It is more broadly defined in the GATS to embrace all measures which discriminate between domestic and foreign services, and is inter-woven with 'market access': a term which does not appear in the GATT.

Provisions

3.9 Members of the WTO who support this Protocol agreed that a Schedule of Specific Commitments and a list of Exemptions from Article II shall supplement or modify their Schedules and Lists of Exemptions.⁴

³ Exhibit No 1, p. 185-186, has been used as the basis of this section.

3.10 It was the outcome of negotiations which sought increased liberalisation of world trade in basic telecommunications (eg. voice, telephone services, facsimile and telex). The principal benefit from the Protocol is that market access for trade and access in telecommunications will now be subject to legally binding WTO commitments.⁵

3.11 At the end of the Uruguay Round in April 1994, agreement had not been reached on the treatment of basic communications. Negotiations were to have concluded on 30 April 1996, but members of the WTO agreed that these should be extended to improve both the quality and quantity of offers. An agreement was reached on 15 February 1997.⁶

3.12 A total of 68 countries, including Australia, involving about 93 per cent of world telecommunications trade, have made commitments covering access to and investment in international and domestic services in this global market. For the purposes of negotiations, this was estimated to be worth between \$A600 billion and \$A900 billion. It was estimated that Australia contributed 2 per cent to global revenue, and that these commitments were expected to provide significant opportunities for Australian telecommunications services exporters.⁷

3.13 During the negotiations, all Australia's target markets made commitments not to introduce new measures which would restrict market access, and most offered improved access. While Australia also offered improved access, and has since removed restrictions, its new commitments were consistent with reforms which had already begun in telecommunications:

- the legal commitment to the 1997 telecommunications regime;
- the sale of one-third of Government equity in Telstra;
- no limits on total foreign equity in Optus, and
- limitations until 30 June 1997 on the primary supply of satellite services to two providers and on the primary supply of public mobile cellular telecommunications to three providers, and unfettered after that date.⁸

⁴ See paragraph 3.17 below.

⁵ Transcript, 1 September 1997, p. 6.

⁶ *ibid*, p. 3.

⁷ *ibid*, pp. 3, 5. The NIA included a reference to 'the global telecommunications market of \$A40,000 billion'.

⁸ Transcript, 1 September 1997, pp. 3-4. The 1997 regime comprises the *Telecommunications Act 1997*, the *Australian Communications Authority Act 1997* and other statutory and regulatory instruments which were introduced on 1 July 1997.

3.14 As did most other countries, Australia also adopted a set of agreed, pro-competitive regulatory principles which will facilitate market access and add transparency and certainty to telecommunications operations. These principles cover the management of a number of technical areas associated with providing telecommunications services. As required by the Protocol, they have been scheduled as additional legally binding commitments.⁹

3.15 The National Interest Analysis (NIA) states that Australia's new commitments had a positive effect, particularly on those countries which were reluctant to liberalise their telecommunications markets. These commitments assisted in generating new and improved offers from Australia's trading partners which will benefit its exporters. Further, they will provide security for investors in the basic Australian telecommunications sector.

3.16 Further negotiations under the GATS on basic telecommunications and value-added services are due to begin on 1 January 2000, and the current agreement is expected to last until that time. This Protocol does not cover the Internet, although access to it is being considered in the lead up to those negotiations in the context of the growing importance of electronic commerce.¹⁰

Obligations under the Protocol

3.17 The Protocol obliges Australia to supplement its Schedule of Specific Commitments and List of Article II Exemptions, agreed to at the end of the Uruguay Round, with the new inscriptions. Article II exemptions relate to MFN status.¹¹

Costs

3.18 There are no direct financial costs to Australia in accepting this Protocol, nor does it require additional contributions to international organisations. No new domestic agencies are required.

⁹ *ibid*, pp. 3-4.

¹⁰ *ibid*, p. 6.

¹¹ *ibid*.

Future protocols and implementation

3.19 The Protocol does not provide for future legally binding instruments. Australia's commitments under the GATS reflect the 1997 telecommunications regime already in place.

Consultation

3.20 States and Territories were kept informed on the negotiations through the SCOT process. The NIA states that regular consultations were held with the Australian telecommunications industry throughout these negotiations. The organisations which were consulted supported liberalisation of basic telecommunications services and the new commitments, and 'no adverse representations' were received.¹²

Denunciation

3.21 Any member may withdraw from any of the agreements which form part of the Marrakesh Agreement, including its Multilateral Trade Agreements such as the GATS. Withdrawal takes effect on the expiration of six months from the date written notice of withdrawal is received by the Director-General of the WTO.

3.22 Article XXI of the GATS allows a member to modify or withdraw any commitments in its Schedule after three years from the date the commitment entered into force. With at least three months' notice, there may have to be negotiations with other members whose interests are affected by modifications with a view to reaching agreement on any compensation.

Committee views

3.23 We have made many comments about consultation with organisations and individuals with an interest in particular agreements. We are firmly of the view that such organisations and individuals should, within reason, be listed in the NIA for that agreement. The NIA for this Protocol only referred to regular consultations with 'service suppliers and user groups'.

¹² *ibid*, p. 4.

3.24 The Joint Standing Committee on Treaties notes the material it has received, acknowledges the benefits of such agreements and supports acceptance of the Fourth Protocol to the General Agreement on Trade in Services as proposed.

Nuclear Retransfers Agreement with Korea

The Agreement

3.25 This Agreement is made under the provisions, especially paragraph 1 of Article VIII, of an Agreement between the Governments of Australia and the Republic of Korea (ROK) which was done at Canberra on 2 May 1979 (the Head Agreement). The proposed Agreement will enter into force on the date that the Governments notify each other through diplomatic channels that all necessary domestic, legal and constitutional procedures required to give it effect in each country have been completed. It is proposed to give this notification after 20 October 1997.

Background

3.26 The Head Agreement contains a provision that Australian obligated nuclear material (AONM) will not be transferred to a third country without prior consent. Such requests are and will continue to be considered on a case-by-case basis, and are limited to countries within Australia's safeguards network. The material will continue to be accounted for by the Australian Safeguards Office, and there is a process of detailed accounting for AONM in the ROK.¹³

3.27 Under this Agreement, consent to retransfers will be given in advance on a generic basis for specified purposes which are directly related to ROK's use of nuclear material for power generation:

- conversion;
- enrichment to less than 20 per cent in the isotope U-235;

¹³ Transcript, 1 September 1997, pp. 7, 9.

- fuel fabrication, and
- related research.

3.28 This Agreement was seen as 'a relatively minor adjustment' to the way the Head Agreement operates. It seeks to establish common rules within Australia's system, and between Australia and the countries which are most like-minded about the supply of uranium. The facility to transfer uranium from the ROK to a third country is not in the Agreement because it was the first ever concluded. Australia is obliged under this arrangement to keep the ROK informed as to which countries our uranium is sold and to whom AONM flows.¹⁴

3.29 Australia has similar agreements with a number of nations, and the granting of generic prior consents does not detract from our non-proliferation and security objectives. This Agreement will streamline the operations of the Head Agreement by removing an administrative layer, while preserving Australia's approval rights to designate third parties. The ROK considers it desirable, and it is consistent with the practices of other major uranium suppliers. It is not, in fact, likely to be used often as most Australian uranium sent to the ROK stays there.¹⁵

3.30 This Agreement will also enhance Australian competitiveness in bidding for ROK uranium contracts. In 1994, this country provided 20 per cent of its requirements and this is expected to rise to 33 per cent in 1997. In 1996, Australia provided about 550 tonnes of uranium oxide to the ROK, worth about \$A30 million.¹⁶

Costs, Future Protocols and Implementation

3.31 There are no additional costs to Australia from this Agreement, no future binding instruments are envisaged and no additional legislation is required. No changes to Commonwealth or State/Territory roles are involved.

¹⁴ *ibid*, pp. 7-8, 9-10.

¹⁵ *ibid*, pp. 7, 9.

¹⁶ *ibid*, p. 8.

Consultation

3.32 Information was provided to the States and Territories through the SCOT process. Early in 1997, additional information was provided to clarify the objective and history of the Agreement, as well as action required to conclude it and the level of consultation undertaken.¹⁷

Denunciation

3.33 This Agreement will remain in force as long as the Head Agreement remains in force, unless otherwise agreed by the Governments. The Head Agreement remains in force indefinitely unless otherwise agreed by the two Governments.

Committee views

3.34 It is desirable that Australia's transfers of AONM to third parties via the ROK be regularised, and any agreements which are now non standard should be corrected. This Agreement seeks to do these things.

3.35 The Joint Standing Committee on Treaties notes the material it has received, and supports entry into force of the Agreement with the Republic of Korea concerning the retransfer of Australian Obligated Nuclear Material as proposed.

Regional Nuclear Cooperation Agreement

The RCA and the Second Extension Agreement

3.36 The Head Agreement, the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA), is based on a 1972 Agreement of the same name which was extended in 1977 and again in 1982. The provisions of the 1987 RCA follow

¹⁷ *ibid*, p. 10.

closely those of the original 1972 Agreement, and differ only insofar as it was updated to enhance overall coordination and supervision of cooperative projects carried out under RCA arrangements.

3.37 The 1987 RCA was extended for five years in 1992, and this Second Extension Agreement seeks to extend it for a further five years from 1997. With the second notification of acceptance from a member of the International Atomic Energy Agency (IAEA), this Agreement entered into force on 12 June 1997. Entry into force for Australia will take place on the date of receipt by the Director-General of the IAEA of Australia's acceptance of this Agreement.

Background to the RCA

3.38 Australia has been an active party to the RCA since 1977 and in that time, it has become an important vehicle for Australia's cooperation with regional countries in nuclear science and technology. It has enabled Australia to participate in mutually beneficial research and training with the other 16 members in the Asia-Pacific region:¹⁸

Bangladesh	Malaysia	Singapore
Burma (Myanmar)	Mongolia	Sri Lanka
China	New Zealand	Thailand
India	Pakistan	Vietnam
Indonesia	Philippines	
Japan	Republic of Korea (ROK)	

3.39 There are some 30 research reactors in Australia's region with a power of one megawatt or more. The present reactor at Lucas Heights has a power of ten megawatts. Of the nations in the RCA, China has eight reactors; India, four, and Indonesia has two. Research reactors are also operated in Bangladesh, the ROK, Malaysia, Pakistan, the Philippines, and Thailand. In addition, the ROK and Indonesia have recently commissioned 'significant' new research reactors with a capability exceeding what Australia currently has.¹⁹

3.40 Those countries which do not have research reactors play a role in the RCA in the use of radiation and isotopes in industry and medicine. A country

¹⁸ Transcript, 1 September 1997, p. 10.

¹⁹ *ibid*, pp. 12-13.

like New Zealand, which has a small nuclear program, has expertise in the use of isotopes and is an active member of the RCA.²⁰

Operation of the RCA

3.41 RCA activities are conducted under the auspices of the technical assistance and cooperation program administered by the IAEA. Projects encompass four broad areas:

- industry: upgrading capabilities of key personnel in science and industry in technology and techniques associated with using isotopes and radiation suitable for addressing environmentally sustainable development problems;
- health: the maintenance of nuclear medical equipment, the diagnosis of Hepatitis B, the establishment of improved systems for tissue banking, the training of nuclear medicine technologists, the use of computers in technician 99 imaging, and the treatment of hyperthyroidism using iodine 131 therapy;
- radiation protection: building up radiation protection infrastructure in our region, internal and external dosimetry, emergency response to radiological accidents and training in radiation protection for industrial users of ionising radiation, and
- general areas such as information systems, research, utilisation and energy planning.²¹

The RCA and Australia

3.42 Australia has received significant advantages through participation in this Agreement, notably the enhancement of our commercial position through contracts which provide the opportunity to make expertise available to regional countries. The Australian Nuclear Science and Technology Organisation (ANSTO) is the designated point of contact for Australia's participation in the RCA.²²

²⁰ *ibid*, p. 13.

²¹ *ibid*, p. 11.

²² *ibid*, p. 14.

3.43 Australia's support to the RCA has focussed on projects in areas of industrial and environmental applications of radioisotopes and radiation, nuclear medicine and the strengthening of radiation protection infrastructures. It supports these projects through the sharing of experience and expertise and through provision of appropriate resources, such as experts to participate in regional and national training and assisting in the planning and design of projects.²³

3.44 Concerns have been expressed about Indonesia's nuclear program for the generation of electricity. Such a program is, of course, a matter for Indonesian authorities. That country is a member of the RCA and there has been bilateral, inter-agency cooperation between ANSTO and Indonesia's nuclear research organisation, BATAN, since 1985. There have been exchanges of scientists and collaborative projects on a modest basis since then, in areas such as the application of radioisotopes in industry and medicine, radiation protection, research reactor safety and personnel training, where Australia has been able to contribute significantly.²⁴

Benefits of the RCA

3.45 The Agreement is seen as very successful, one which gives Australia a national capacity to keep pace with developments in nuclear technology, such as environmental and advanced material technologies. It contributes to our economy and the ability of our industries and services to remain competitive, building personal contacts and expertise in other countries' nuclear science and technology. Australia stands to continue to gain valuable knowledge in the application of nuclear techniques in the areas of agriculture, medicine, industry and energy planning.²⁵

3.46 It provides an important means of fulfilling the technical cooperation provisions of the Nuclear Non-Proliferation Treaty (NPT). The NIA states that the NPT is the centre-piece of the non-proliferation regime which has helped to keep our strategic environment free of nuclear weapons for over a quarter of a century.

3.47 In the case of Indonesia in particular, valuable contacts have been made through exchanges, confidence built up in both directions, in addition to first-

²³ *ibid*, pp. 11-12.

²⁴ *ibid*, p. 13. See Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Relations with Indonesia*, November 1993, pp. 182-185, 189 (Recommendation 27).

²⁵ Transcript, 1 September 1997, p. 14.

hand knowledge of the nuclear program and activities there. That country is also a member of a multilateral organisation, the International Conference on Nuclear Cooperation in Asia. Australia has convened a workshop, and another is planned, for this body on building up an enhanced nuclear safety culture in the region.²⁶

3.48 Non-acceptance of the Second Extension Agreement also would impede our ability to remain constructively engaged in regional nuclear activities. It would limit our ability to forge regional links at a time when a 'significant expansion' of nuclear power production is underway or under consideration by a number of countries in our region. Finally, non-acceptance would diminish our standing in international nuclear arms control forums, as well as our ability to influence international nuclear policy developments in accordance with our economic and security interests.

ANSTO and the RCA

3.49 On 3 September 1997, the Government announced that a replacement research reactor would be constructed at ANSTO, at Lucas Heights in Sydney. If this facility was not replaced, it was stated that it would have an impact on Australia's role in RCA activities. In terms of our ability to interact with regional countries across the broad face of nuclear science and technology, a research reactor and the expertise which Australia brings in nuclear research matters is important. Without such a reactor, Australian involvement in the RCA would be 'significantly diminished'.²⁷

3.50 During the briefing at ANSTO on 10 September 1997, members were told of the rapid developments in nuclear research in Australia's region. Details were also given of the wide range of activities carried out by ANSTO. While their production for medical use was well-known, the industrial uses of isotopes was less publicised. ANSTO has an environment division which has been involved in a range of consultancies, both in Australia and overseas, which use the results of nuclear research. Finally, the holding of Open Days at Lucas Heights was mentioned as a way of making the Australian community aware of the range of activities it undertook.²⁸

3.51 Members were reminded again of the importance of the contacts in a number of countries which had resulted from courses at ANSTO and, for

²⁶ *ibid*, p. 13.

²⁷ Minister for Science and Technology, Media Release, 3 September 1997; Transcript, 1 September 1997, p. 12.

²⁸ See paragraphs 1.12 and 1.13 above.

example, of the ways the safety of nuclear science and technology could be enhanced in other countries as a result of these contacts. With Japan, Australia is seen as the most advanced nuclear country in the region and, because of its credibility in nuclear research and the personal networks which have developed, is often approached for assistance.

3.52 Australia is being asked to play a leading role in nuclear research, larger than our regional economic status might otherwise allow, because of its involvement in the RCA.

Obligations

3.53 This Agreement imposes no new obligations but the RCA itself places a number of obligations on Parties, which are to be implemented within national laws, including:

- to undertake with Members and the IAEA to promote and coordinate cooperative research, development and training projects in nuclear science and technology through national institutions;
- meet to consider, approve or evaluate cooperative projects;
- make available the necessary scientific and technical facilities and personnel for cooperative projects;
- take steps for the acceptance of experts to work at designated installations for cooperative projects;
- ensure IAEA's safety standards are applied to cooperative projects, and
- ensure any assistance provided under the RCA is for peaceful purposes.

Costs

3.54 Australia is expected to contribute financially and 'in kind' to the RCA's cooperative projects, and the former has been in the region of \$A500,000 per year. The 'in kind' contribution has been through fellowships, the provision of courses and experts to provide assistance, and the hosting of RCA meetings sponsored by the IAEA.

Future Protocols and Implementation

3.55 The Second Extension Agreement does not provide for future Protocols and, if there were to be a further five year extension to the RCA, Australia would have to examine the merits of a third extension. No legislation is required to give effect to the extension, and there will be no change to existing Commonwealth/State roles as a consequence of implementing it.

Consultation

3.56 The States and Territories were informed of this Agreement through the SCOT process.

Denunciation

3.57 The Second Extension Agreement does not contain express provisions dealing with denunciation. With the consent of all Parties, it is possible to withdraw from this Agreement at any time under the provisions of the Vienna Convention on the Law of Treaties, Article 54. In addition, the NIA states that it would be possible to withdraw from it on one year's notice, if such a right could be implied from the nature of the Agreement. Article 56 of the Vienna Convention refers. It appears, however, from evidence given at the public hearing, that Article 56 does not apply in this case.²⁹

Committee views

3.58 We are satisfied that this Agreement serves a useful purpose in Australia's nuclear science and technology research program, and makes a useful contribution within the region.

3.59 The issue of a replacement research reactor at Lucas Heights is separate from the extension of the RCA. Those members who attended the briefing and inspection of ANSTO's facilities there were impressed at the range of its activities and believe that the RCA is a valuable way of encouraging and reinforcing high standards within the field of nuclear research in the region.

3.60 In future, whether or not Article 56 of the Vienna Convention applies to a particular treaty should be clarified before the relevant NIA is finalised.

²⁹ Transcript, 1 September 1997, p. 15.

3.61 The Joint Standing Committee on Treaties notes the material it has received, and supports acceptance of the Second Extension Agreement to the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology as proposed.

CITES

The Convention

3.62 The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* is also known as CITES, and this acronym will be used in this Report. It was signed at Washington, DC, USA, on 3 March 1973, and amended on 22 June 1979 and 30 April 1983. For Australia, the Convention was signed on 21 September 1973, the instrument of ratification was deposited on 29 July 1976 and it entered into force for this country on 27 October 1976.³⁰

3.63 The amendments which are the subject of this report arose from the Tenth Conference of the Parties, held in Harare, Zimbabwe, in June 1997.³¹

Provisions

3.64 CITES regulates the international trade, export, transit and import, in specimens of wild fauna and flora. It arose from a recognition that international cooperation is essential to protect certain species of wildlife. It aims to conserve endangered and threatened species of terrestrial and marine animals and plants from over-exploitation through international trade. It provides a mechanism for 'particularly strict regulation' of trade in an agreed list of endangered species (Appendix I) and for regulating and monitoring trade in other species which might become endangered (Appendix II).³²

3.65 The NIA states that there is 'significant national and international concern' about the effects of international trade on the conservation status of endangered species.

³⁰ *Australian Treaty List, Multilateral* (as at 31 December 1996), Department of Foreign Affairs and Trade, p. 396.

³¹ Transcript, 1 September 1997, p. 16.

³² Submissions, p. 1.

3.66 In the preamble to the Convention, States Parties recognise that wild fauna and flora are an irreplaceable part of the earth's natural systems which must be protected for this and the generations to come. They also recognise that peoples and States are and should be the best protectors of their fauna and flora, and that international cooperation is essential for the protection of certain species from over-exploitation through international trade.

3.67 Article I defines the terms used in the Convention, so that, for example:

- 'trade' means export, re-export, import and introduction from the sea;
- 're-export' means export of any specimen that has previously been imported.

3.68 Article II sets out CITES' fundamental principles:

- Appendix I includes all species threatened with extinction which may be affected by trade which must be subject to particularly strict regulation so that further survival is not endangered, and must only be authorised in exceptional circumstances.
- Appendix II includes:
 - all species which, although not necessarily threatened with extinction, may become so unless trade in specimens is subject to strict regulation
 - other species which must be subject to regulation so that trade in the above species may be brought under effective control.
- Appendix III includes all species which any Party identifies as being subject to its regulation to prevent or restrict exploitation, and as needing the cooperation of other Parties to control the trade.

3.69 The provisions of Articles III, IV and V regulate the trade in specimens of species included in Appendix I, II and III respectively. In each case, prior grants and presentation of export permits are required. The latter shall only be granted when particular conditions, such as scientific advice that export will not be detrimental to the species' survival, have been met. Article VI sets out the provisions for the permits and certificates issued under Articles III to V.

3.70 Article VII deals with exemptions and special provisions relating to trade so that, for example, the provisions of Articles III to V do not apply to the transit or transshipment of specimens through or in a Party's territory while in Customs control. Article VIII states that Parties shall 'take appropriate

measures' to enforce the Convention, and these shall include penalising trade in and/or possession of specimens and confiscation/return of specimens to the State of export.

3.71 Each Party shall designate one or more management authorities competent to grant permits or certificates, and scientific authorities (Article IX). Under Article X, where export, import or re-export is to/from a State not a Party to CITES, documentation comparable under its requirements may be accepted.

3.72 Article XI establishes a Conference of Parties (COP), and deals with administrative arrangements such as the frequency of its meetings. Article XII sets up, and prescribes the functions of, a Secretariat to be provided by the United Nation's (UN) Environment Program. Article XIII details actions to be taken by the Secretariat when it is satisfied species in Appendices I or II are being adversely affected by trade, while Article XIV deals with the effect of CITES on domestic legislation and other international conventions.

3.73 Article XV sets out the provisions for amending Appendices I and II and Article XVI deals with amending Appendix III. Article XVII details the process for amending the Convention, and Article XVIII for resolving disputes. Signing the Convention, ratification and the depositary government, accession, entry into force and reservations are the subjects of Articles XIX to XXIII respectively.

3.74 Under Article XXIV, a Party may denounce CITES by written notification to the depositary, the Government of the Swiss Confederation, with withdrawal taking effect 12 months after the notification has been received. Article XXV specifies the authentic languages of the Convention and sets out responsibilities of the depositary.

The 1997 amendments

3.75 The treaty actions proposed are:

- the transfer of three species from Appendix II to Appendix I;
- the transfer of six species from Appendix I to Appendix II;
- the addition of 14 species to and deletion of 12 species from Appendix II, and
- seven changes to annotations to the Appendices.

3.76 The populations of the three species transferred to Appendix I are continuing to decline, and illegal trade is known to be contributing to this decline. Additional protection will be provided by the listing in Appendix I.

3.77 The species transferred from Appendix I to Appendix II are considered to have recovered from over-exploitation and not to be endangered. Populations are considered to be sufficient to be able to support a strictly regulated level of international trade.

3.78 The species added to Appendix II are traded in significant volumes and are considered to be inadequately protected. Regulation and monitoring of trade in these species and/or their parts and products is considered to be necessary to ensure that the conservation status of wild populations is not threatened.

3.79 The deletions from Appendix II are as a consequence of an ongoing process of review by two major technical committees established under CITES, which aimed to identify species not subject to significant international trade and where listing did not assist conservation efforts. Deletions are believed to assist in the implementation of CITES.³³

3.80 The amendments proposed by Australia were developed on the basis of recommendations from a committee, following its review of the trade and biological status of a range of species.

3.81 Many of the listings in the Appendices are accompanied by annotations, interpretive notes specifying the populations and/or parts or products derived from these species which are subject to the trade controls of the Convention. The annotations covered by these amendments relate to cut flowers, timber products, medicinal plants and vicuna cloth and more accurately define those products which are subject to controls.

3.82 The effect of these amendments should be to ensure more effective global action to address the impacts of international trade on the conservation and sustainable use of the listed species.³⁴

3.83 With one exception, Australia supported the amendments proposed. It proposed the deletion from Appendix II of five native species, three marsupials and two birds, which are not subject to international trade. The amendments

³³ *ibid.*

³⁴ *ibid.*

proposed by Australia were developed on the basis of recommendations from a committee, following its review of the trade and biological status of a range of species.³⁵

- *Burramys parvus* (mountain pygmy possum);
- *Dendrolagus bennettianus* (tree kangaroo);
- *Dendrolagus lumholtzi* (tree kangaroo);
- *Turnix melanogaster* (Black-breasted button quail), and
- *Pedionomus torquatus* (Plains wanderer).

3.84 The proposal to change the listing of each of these species from Appendix I to Appendix II was based solely on the lack of any evidence that international trade poses a threat to their continued survival. There was no record of trade, or significant level of trade, in these species in the ten years prior to 1994 and they do not satisfy the requirements of Article II, paragraphs 2(a) and (b), to remain listed.³⁶

3.85 While Australia does not have significant trade in the other species involved in these amendments, the controls on sturgeon which come into force in April 1998 may have an impact in that it will be more difficult to import caviar into this country. Although there may not be a significant trade in this product, as a result of the amendment, effective programs will need to be introduced to manage this species.³⁷

3.86 The proposal presented to the Conference concerned the inclusion in Appendix II, Article II, paragraph 2 (a), of five species of sturgeon which are, or maybe, threatened by trade, and another 18 species in accordance with Article II, paragraph 2 (b). It included the three main commercial caviar species and a number of others used as substitutes. There are no sturgeon species in Australian waters.³⁸

³⁵ *ibid*, p. 2.

³⁶ *ibid*, p. 2.

³⁷ Transcript, 1 September 1997, p. 18; Submissions, p. 1.

³⁸ Submissions, p. 3.

African elephants

3.87 Australia did not support the amendments relating to the populations of African elephants but, under Article XIV, it is able to maintain its existing strict controls on elephant products. In amendments put to the COP, Botswana, Namibia and Zimbabwe each submitted a proposal to down-list their elephant populations with annotations to Appendix II. They also sought to recommence the limited commercial ivory trade, subject to conditions and verification by the Conference's Standing Committee that those conditions have been met.³⁹

3.88 The submission from the Department of the Environment, Sport and Territories (DEST) refers to the 1989 decision to list these elephants in Appendix I as 'contentious'. Several African states lodged reservations. There are different management strategies for elephants in African countries, and authorities are conscious of the need to balance elephant numbers with the capacity of the environment to sustain them. Part of the argument from the African nations in favour of the change was that, as ivory is taken from animals which die naturally, there is no impact on population numbers and trade should therefore be allowed.⁴⁰

3.89 The effect of the COP's decision to re-list these elephants defers the resumption of the ivory trade for 18 months to enable the countries concerned to remedy the deficiencies in enforcement and control measures which have been identified. It leaves it to the Standing Committee to determine whether problems have been rectified. Australia took the view that that Committee was not empowered to take that decision and that it would be more appropriate to bring the controls to the next COP, in two and a half years time.⁴¹

3.90 Australia believed that the analysis of the proposals carried out by a panel of experts demonstrated that flaws remain in the control of the ivory trade, in both exporting and importing countries. This country was not prepared to support reopening the trade until these concerns had been met, and has decided to retain its ban on trade in ivory and elephant products. This is unlikely to have a significant effect, and the Customs Service may see tourists again seeking to bring souvenirs and small articles made from elephant hide into the country.⁴²

³⁹ Transcript, 1 September 1997, p. 16; Submissions, p. 3.

⁴⁰ Submissions, p. 2; Transcript, 1 September 1997, p. 18.

⁴¹ Transcript, 1 September 1997, p. 17.

⁴² *ibid*, p. 16.

Obligations

3.91 These amendments will not add to Australia's existing obligations but, because they change the list of species in the Appendices, particular obligations to certain species will change. As was pointed out in the summary of the provisions of the Convention above, the Appendices provide different degrees of regulation of trade under Articles III and IV.

Costs

3.92 The NIA states the amendments are not expected to impose any additional costs on Australia, nor will there be any discernible effects on our trade interests. Legislation is already in place to implement CITES' provisions, and no new domestic agencies or arrangements will be required.

Future Protocols

3.93 The Appendices are amended in accordance with the provisions of Article XV, but the Convention does not provide for any other instruments.

Implementation

3.94 The *Wildlife Protection (Regulation of Exports and Imports) Act 1982* enables this country to give effect to its obligations, and Schedules 1 and 2 will be amended to reflect the new listings. Amendments are currently being prepared.⁴³

Consultation

3.95 The amendments were developed as part of CITES' review process and were formulated with the agreement of the Australia and New Zealand Environment and Conservation Council (ANZECC).

3.96 'Extensive consultation' was undertaken with State and Territory Governments through ANZECC and the SCOT processes, industry bodies and NGOs, including specifically TRAFFIC Oceania as a member of the delegation to the COP. With the exception of those relating to the African elephants, the amendments were 'generally' supported by all Australian interest groups.

⁴³ *ibid*, p. 18.

Denunciation

3.97 CITES may be denounced at any time, with withdrawal taking effect 12 months after the depositary, the Government of the Swiss Confederation, has received written notification of that intention.

Views of HSI

3.98 Humane Society International (HSI) has a 'long history' of involvement in the operation of CITES, and was represented at the COP in Harare. It was opposed to a number of the amendments set out in the NIA.⁴⁴

3.99 It commended the Australian Government for its opposition to the down-listing of the populations of African elephants, and its decision to maintain a ban on the import of elephant products.⁴⁵

3.100 HSI has concerns about these amendments to the Convention, but fully supports its processes. It wants Australia to adhere fully to its provisions and the changes agreed at the 1997 COP.⁴⁶

Committee views

3.101 Amendments to the *Convention on the Conservation of Migratory Species of Wild Animals*, the Bonn Convention, were the subject of our Ninth Report which was tabled on 1 September 1997. It is unfortunate that the amendments to CITES were not tabled in time to be considered with those to the Bonn Convention.

3.102 There was some domestic media criticism of Australia's vote on the down-listing of elephants and the resumption, under certain conditions, of the ivory trade. It drew attention to the fact that the ban was seen to be impeding the capacity of the African nations to conserve the animals, and that governments cannot police laws which ban poaching. It does not add to Australia's credibility if we make strong statements on conservation issues when none of the animals in question are found in the wild in this country.⁴⁷

⁴⁴ Submissions, pp. 11-12.

⁴⁵ *ibid*, p. 12.

⁴⁶ *ibid*.

⁴⁷ See, for example, *The Australian*, 25 June 1997, p. 11.

3.103 There is no significant Australian trade in any of these species and the effect on our trade will be minimal.⁴⁸

3.104 The Joint Standing Committee on Treaties notes the information it has received, and supports amendments to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* as proposed.

Project Agreements: Over-the-Horizon Radar

Background to these Agreements

3.105 These two Project Agreements (PAs), on Data Fusion and on Tracking of Targets in Clutter, have been made pursuant to the terms of the 3 March 1992 Agreement with the US concerning Cooperation in Radar Activities (the Head Agreement). This Agreement provides for bilateral cooperation in a wide range of radar-related activities, including research and development, testing and evaluation, operational analysis, radar network operations and operational use of radar. It has a ten year life.⁴⁹

3.106 These PAs are documents of treaty status which provide for cooperation on a range of Over-the-Horizon Radar-related (OTHR) activities which are to be pursued under separate PAs. At the request of the US, these PAs will only be signed at the completion of all processes, including this Committee's.

Other Parliamentary considerations

3.107 In 1990, the project was examined and recommended to proceed by the Public Works Committee (PWC). Some of the contractual aspects of the OTHR project are currently being examined by the Joint Committee of Public Accounts (JCPA).⁵⁰

⁴⁸ Submissions, p. 1.

⁴⁹ Transcript, 1 September 1997, pp. 19, 28; Submission, p. 1..

⁵⁰ PWC, Twelfth Report of 1990, tabled 4 December 1990. Transcript, 1 September 1997, p. 25: see *The Weekend Australian*, 30-31 August 1997, p. 3.

The OTHR concept

3.108 A steerable beam of High Frequency (HF) radio waves is directed at an ionised region of the earth's atmosphere at altitudes between 100 and 300-plus kilometres above the earth's surface. That beam is refracted forward to the earth's surface, illuminating a region, usually known as the footprint, at ranges in the order of 1000 to 3000 kilometres. A small portion of the energy is reflected from the ground and objects within that footprint are detected by a sensitive receiver which has a narrow, electrically-steerable beam synchronised to the transmit footprint. Diagrams 1 and 2 demonstrate the operation of the OTHR.⁵¹

3.109 The location of the footprint can be controlled by changing the radar's operating frequency as required. Because the radar works via the ionosphere, it is highly variable and day-by-day, seasonal and solar cycles can affect its range. Any targets in the region are detected and their position and speed are measured. The radar must revisit each footprint at periodic intervals to permit automated tracking of a target as it moves. An OTHR only measures the radial component of a target's velocity, so that targets which fly at a tangent to the radar are not detectable as they are masked by the ground clutter.⁵²

Diagram 1

⁵¹ Transcript, 1 September 1997, p. 20.

⁵² *ibid*; Submission, p. 2.

Diagram 2

Diagram 3

3.110 OTHR is suited to wide-area surveillance of Australia's northern approaches, as it can cover a much greater area than other sensors (see Diagram 3). The use of long wavelength radio-waves means, however, that the resolution and accuracy of an OTHR is much lower than that of microwave radars. The performance of OTHRs is also much more variable than that of microwave systems.⁵³

Rationale for these Agreements

3.111 The Head Agreement with the US provides the legal framework for collaboration, with specific work programs being undertaken as PAs. Because Australia's Defence Science and Technology Organisation (DSTO) does not receive any additional funding for this work, one of the conditions for agreement to a new PA includes the requirement that the work be of priority to Australia's research and development program.⁵⁴

3.112 The proposed PAs are the second set developed under the Head Agreement. The first two, on spread clutter and radar synoptic performance modelling, were approved when that Agreement was signed and are now complete. Both provided insights and information which would not have been possible for either country acting in isolation.⁵⁵

3.113 Three other PAs will be negotiated under the Deutch-Ayers Agreement, named after the Secretaries to the US and Australian Departments of Defense/Defence. This Agreement will be used for administrative and accounting convenience, given the amount of effort involved in finalising documents of treaty status.⁵⁶

3.114 PAs enable the US Air Force (USAF)/US Navy (USN) and the Australian DSTO to develop jointly, test and evaluate methods of integrating data, also called data fusion, from a variety of sources, particularly a network of OTHRs. They also enable the joint development, testing and evaluation of a network of OTHRs to overlap in their coverage, and to enable the associated enhancement of the radars' ability to track targets within their coverage.⁵⁷

⁵³ Submission, p. 2.

⁵⁴ *ibid*, p. 4.

⁵⁵ Transcript, 1 September 1997, p. 20; Submission, p. 6.

⁵⁶ *ibid*.

⁵⁷ Submission, p. 4.

3.115 These PAs have the potential to reduce technical difficulties in using networked OTHRs, such as the effects of clutter, fading and multipath, which detract from the ability to track small targets with low velocity. That ability will greatly enhance the use of OTHRs in coastal interdiction and inland surveillance. Based on the results of the Project, new data fusion hardware and software to improve the tracking of such targets by networked OTHRs.

Objectives of the PAs

3.116 Data Fusion is the combination of data from multiple sensors to provide more information than could be obtained from any sensor in isolation. The objectives of this PA are to develop, test and evaluate data fusion techniques for a network of OTHR sensors with overlapping coverage. Based on the results of this effort, the Parties may implement new data fusion hardware and software.⁵⁸

3.117 There are a number of potential approaches to automated tracking systems and a number of measures of performance of such systems, so that a system tuned for manoeuvring targets may generate a large number of false tracks. The PA on Tracking of Targets in Clutter proposes to use comparison methodology developed by Australia to compare the performances of several tracking systems, using data recorded on Australian and US OTHRs.⁵⁹

3.118 The objectives of this PA are to enhance the development and evaluation of target detection and tracking techniques through sharing of databases and the exchange of technical information. Based on results, the Parties may introduce new target detection and tracking hardware and software.

Obligations

3.119 Under the PA on Data Fusion, the Parties are jointly obligated:

- to exchange information and share collected data using US and Australian OTHRs;
- to formulate suitable data fusion approaches, including algorithms capable of exploiting a network of OTHRs with overlapping coverage;

⁵⁸ *ibid*, p. 5.

⁵⁹ *ibid*.

- to devise and conduct experiments based on data collection and analysis procedures to test and evaluate these algorithms, and
- prepare a final report documenting the data fusion approaches, and in particular the relative strengths/weaknesses of algorithms in exploiting the overlapping OTHRs with overlapping coverage.

3.120 Under the PA on Tracking of Targets in Clutter, the Parties are obligated jointly:

- to exchange information, design documentation and test data on algorithms suitable for the detection and tracking of targets in clutter;
- to devise metrics for evaluating the performance of these algorithms;
- to formulate suitable alternative design approaches for algorithms capable of detecting and tracking surface and air targets in clutter;
- to devise experiments and data collection and analysis procedures to test and evaluate these algorithms, and
- to prepare a final report documenting design approaches for algorithms and their relative strengths /weaknesses in detecting and tracking surface and air targets in clutter.

3.121 Australia's interest in both PAs is the development of the algorithms. The US has an algorithm, inherent in the design of the original radar, which was modified to provide overlapping coverage. Australia has been working on developing 'more robust' algorithms, and the US is interested in methodologies for quantifying their performance. As the US has two overlapping radars in place from which data can be obtained, Australia does not have to rely on modelling.⁶⁰

Costs

3.122 Each party will bear its own costs in carrying out these PAs, and it is not anticipated that there will be any jointly incurred costs or exchanges of funds between them. Each Party will pay half the estimated cost of these PAs, and Australia's shares have been included in the Defence budget.

⁶⁰ Transcript, 1 September 1997, p. 27; Submission, p. 5.

3.123 Over four years of these agreements, the total estimated cost of the Data Fusion PA is \$US7.10 million, and \$US6.5 million for the PA on Tracking of Targets in Clutter.⁶¹

Future Protocols and Implementation

3.124 No further, related binding instruments are required, and no legislation is required to give effect to these PAs. Nor will they make any change to existing State/Territory relationships with the Commonwealth.

Consultation

3.125 Information on these Agreements was provided to the States/Territories through the SCOT process.

Denunciation

3.126 These PAs remain in force for four years from the date of signature, but may be terminated on 60 days notice by either Party. They may be extended by written agreement, but shall not extend beyond the end of the Head Agreement after its life of ten years: 3 March 2002.⁶²

Committee views

3.127 OTHR is an area requiring great technical expertise in a number of fields, not generally ones which many people ever encounter. The content and scope of the NIAs for these PAs were, therefore, of greater importance than usual in the process of Parliamentary scrutiny. It was reassuring that such an amount of information could be given, in the course of this process, without the intrusion of security issues.

3.128 The NIAs for these documents did not provide all the information which would have clarified what the PAs were seeking to achieve. This information was given at the briefing and the public hearing which followed it.⁶³

⁶¹ Transcript, 1 September 1997, p. 25.

⁶² *ibid*, p. 28.

⁶³ See paragraph 1.10 above.

3.129 The Joint Standing Committee on Treaties notes the information it has received, and supports signature of Project Agreements with the US Government on Data Fusion and on Tracking of Targets in Clutter as proposed.

Mutual Legal Assistance in Criminal Matters with the USA

Provisions

3.130 The Treaty between the Government of Australia and the Government of the United States of America on Mutual Assistance in Criminal Matters, and Exchange of Notes constituting an Agreement on the Interpretation and Application of the Treaty on Mutual Assistance in Criminal Matters (the Agreement) was signed in Washington on 30 April 1997.

3.131 The Agreement will be implemented by making new regulations under the *Mutual Assistance in Criminal Matters Act 1987*. The text of the Agreement and the Exchange of Notes of 30 April 1997 will be incorporated into those regulations. The Agreement constituted by the Exchange of Notes on the interpretation and application of the Treaty will enter into force simultaneously.

3.132 As is the case with other agreements on mutual assistance in criminal matters which we have already reviewed, the Agreement will assist both Parties to provide assistance in the investigation and prosecution of serious crime. It will provide benefits to Australia by enabling Commonwealth, State and Territory law enforcement agencies to obtain information and evidence from the USA needed for investigations and prosecutions in Australia. It will also enable Australia's law enforcement agencies to seek assistance in locating, restraining and forfeiting in United States' jurisdictions the fruits of criminal activity which had taken place in Australia.⁶⁴

3.133 Obligations to provide assistance under these agreements are qualified by internationally accepted exceptions. Assistance shall not be granted for political or military offences, or if the execution of the request would prejudice the security or essential interests of the Requested State.

⁶⁴ For our *First Report* (August 1996), we considered but did not make specific comments on mutual assistance treaties with Hungary, Indonesia and Ecuador. Our 7th Report (March 1997), at pp. 29-32, included comments on such a treaty with Hong Kong.

3.134 Prior to this Agreement, a non-treaty arrangement had been in place which did not have the force of international law and under which no commitments were formally laid out, as they are under this Agreement. Since 1989, requests for assistance have been handled under the *Mutual Assistance in Criminal Matters Act 1987* and, in March 1997, changes to that Act enabled assistance to be provided to any country on a discretionary basis.

3.135 In replacing the non-treaty arrangement, a lengthy negotiation process has allowed for greater detail to be included in this Treaty because each side has examined and understood the other's legal system. For the purposes of its domestic law, with this Agreement in place, the US is able to provide a wider range of assistance than would be possible with a non-treaty arrangement.⁶⁵

3.136 In our 7th Report, we highlighted the obligations imposed on Parties to provide assistance in its review of the mutual assistance in criminal matters treaty with Hong Kong. In the Agreement under review, each Party is obliged to assist the other in:

- identifying and locating persons;
- serving of documents;
- obtaining statements and testimony;
- providing evidence, documents and information, including copies of official records;
- executing requests for search and seizure and for restitution;
- immobilising instrumentalities and proceeds of crime;
- obtaining or production of judicial or official records;
- tracing, restraining, forfeiting and confiscating proceeds of crime;
- assistance in proceedings relating to forfeiture, and
- other lawful assistance.⁶⁶

3.137 The NIA noted other instances where assistance can be refused. These can include where there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, sex, religion, nationality or political opinions. If the person has previously been acquitted or pardoned, or has undergone lawful punishment, in respect of the offence in relation to which assistance is sought (or of substantially the same offence) in the Requesting State, assistance can be refused.

⁶⁵ Transcript, 1 September 1997, p. 35.

⁶⁶ Joint Standing Committee on Treaties, *Australia's Withdrawal from UNIDO & Treaties Tabled on 11 February 1997, 7th Report*, March 1997, p. 30.

3.138 Assistance will not be normally be granted unless the Requesting State gives an assurance that the death penalty, if imposed, will not be carried out. As the USA reintroduced the death penalty for certain Federal offences early in the Clinton Administration and Australian law required such an assurance, the Agreement must reflect the needs of both Parties.⁶⁷

3.139 Therefore, a position had to be reached which would ensure that the Agreement would allow Australia to meet its own legislative requirements reflecting its opposition to the death penalty. At the same time, we need to be able to negotiate effective and similar treaties with our northern neighbours, who will want to know about our arrangements with the US. These could incorporate refusal of assistance if the death penalty was likely to be invoked, while not directly referring to the death penalty in the text of the document.⁶⁸

3.140 Australia therefore negotiated the Exchange of Notes associated with this Treaty, which, while not specifically mentioning the death penalty, clearly spelled out the Australian Government's policy on this issue and provided specific references to the provisions in *Mutual Assistance in Criminal Matters Act 1987* and the *Mutual Assistance in Criminal Matters Legislation Amendment Act 1996*.

3.141 Section 8 of the latter Act provides that mutual assistance must, except in special circumstances, be refused where a person has been charged with an offence which carries the death penalty. It may be refused also in any other case where assistance may result in the imposition on a person of the death penalty. 'Special circumstances' would exist, for example, where evidence tending to clear the accused is sought, or the requesting State undertakes that the death penalty will not be imposed, or if imposed, will not be carried out.

3.142 In the same context, the Attorney-General's Department indicated that, where the death penalty is a consideration, no assistance would be given unless specifically authorised by the Attorney-General. All such cases would be decided by the Attorney-General on a case-by-case basis.⁶⁹

⁶⁷ Parliament of the Commonwealth of Australia, Senate, *Mutual Assistance in Criminal Matters Legislation Amendment Bill, 1996 Explanatory Memorandum*, p. 15; Transcript, 1 September 1997, p. 35.

⁶⁸ The text of the Exchange of Notes clarifies this where it states:
Article 3(1)(c) of the Treaty states that " The Central Authority of the requested State may deny assistance if the execution of the request would prejudice the security or essential interests of the Requested State." The Parties agree that the term "essential interests" in this provision shall include the limitations set forth in Section 8 of Australia's *Mutual Assistance in Criminal Matters Act 1987*, including Sections 8(1A) and 8(1B), as amended by the *Mutual Assistance in Criminal Matters Legislation Amendment Act 1996*, so long as this law is in effect.' Transcript, 1 September 1997, p. 36.

⁶⁹ Transcript, 1 September 1997, p. 36.

Costs and consultation

3.143 The NIA indicates that no additional direct costs will be incurred as a result entering into the Agreement and that current legislation will give effect to the treaty by the inclusion of new regulations. Information on the proposed agreement was provided to the States and Territories through the SCOT process.

Denunciation

3.144 The Treaty provides that either Party may terminate the Treaty by notice in writing at any time. The Treaty shall cease to have effect six months after the day on which notice is given.

Committee view

3.145 The Joint Standing Committee on Treaties notes the material presented to it about the Treaty with the USA on Mutual Assistance in Criminal Matters, and supports implementation as proposed.

Extradition Treaties with Uruguay and Turkey

3.146 We have reviewed and reported on a number of these treaties and noted the importance of the model treaty used by Australia as the basis for the negotiation of new extradition agreements. The texts of the treaties with Uruguay and with Turkey follow this model treaty, while accommodating nuances to allow for the differences between the legal systems of the respective countries.⁷⁰

3.147 Obligations are common to all extradition agreements negotiated since the passage of Australia's *Extradition Act 1988*, which provides the legislative framework for the negotiation of so-called 'modern' extradition treaties.

⁷⁰ See our *First Report* (August 1996), p. 10, for a general consideration of extradition treaties with South Africa, Hungary and Brazil.

Treaty with Uruguay

3.148 Article 19.1 of this Treaty provides it shall enter into force 30 days after the date on which each country has notified the other in writing that their respective requirements for entry into force have been completed. Before this can be done for Australia, regulations need to be made under the *Extradition Act 1988* to implement this Treaty. Once Uruguay's note has been received, these regulations will be made and Australia's note will be passed back on a date which ensures the Treaty comes into force simultaneously with those regulations.

3.149 The Treaty with Uruguay replaces an earlier extradition Treaty which has been in place since 1884 and was negotiated on behalf of the then Australian Colonies by Great Britain. This inherited Treaty differs in several important respects from modern extradition treaties because it provided a specific list of extraditable offences and permitted extradition only where evidence sufficient to justify the fugitive's committal (or, in Uruguay, proofs to sustain the charge) were provided by the Requesting Party.

3.150 To overcome these limitations, the newly negotiated treaty treats any act as extraditable if it constitutes an offence in both countries and is subject to a maximum penalty of at least a specified level (usually one to two years of imprisonment). This Treaty also provides for the Parties to give mutual assistance in criminal matters in accordance with their laws, subject to any further treaty between them.⁷¹

Consultation

3.151 Information on the Treaty was provided to the States and Territories through the SCOT process. In accordance with international custom that bilateral negotiations are confidential, the NIA stated that the fact of the negotiations had not otherwise been disclosed.

Implementation, costs and denunciation

3.152 No additional legislation is required for implementation of this Treaty and no direct financial costs will be incurred in complying with it. Either Party

⁷¹ For Australia, 'modern' extradition treaties date from the passage of the *Extradition Act 1988*

may terminate the Treaty by notice in writing at any time, and it shall cease to be in force on the 180th day after the day on which notice was given.

Agreement with Turkey

3.153 As in the case of the Treaty with Uruguay, to give effect to this Treaty with Turkey, regulations need to be made under the *Extradition Act 1988* to implement it. Once Turkey's notification has been received, Australia will make its regulations and pass its note back to Turkey on a date which ensures that the Treaty comes into force with those regulations. The Agreement constituted by the 1995 Exchange of Notes will enter into force simultaneously with the Treaty.

3.154 This Treaty with Turkey has no predecessor, although it too follows the model extradition treaty. It is subject to the full range of human rights safeguards and provides the same range of obligations and exemptions provided by other modern extradition agreements.

3.155 The large number of Turkish immigrants in Australia and the proximity of Turkey to narcotic production and distribution areas in the Middle East and Europe means that this agreement will fill a significant gap in the pattern of such agreements. The NIA also noted the common extradition links Australia and Turkey already have as Parties to the Council of Europe's Convention on Extradition.

3.156 Article 2 specifies extraditable offences and noted that they are punishable by imprisonment for a maximum period of at least one year, or by a more severe deprivation of liberty under the laws of both Parties.

3.157 The NIA recorded that an Exchange of Notes was agreed to by both Parties to overcome a possible misinterpretation of Article 2 which, if left uncorrected, could have meant that a fine, a bond or a community service order may not have been included extraditable offences, or that Australia might not have been able to ask for the extradition of an offender from Turkey if the offence for which the extradition was requested was punishable by death in Turkey.⁷²

⁷² Transcript, 1 September 1997, p. 37.

Consultation

3.158 Information on the Treaty was provided to the States and Territories through the SCOT process. In accordance with international custom that bilateral negotiations are confidential, the NIA noted that the fact of the negotiations had not otherwise been disclosed.

Implementation, costs and denunciation

3.159 No additional legislation is required for implementation of this Treaty and no direct financial costs will be incurred in complying with it. Either Party may terminate the Treaty by notice in writing at any time, and it shall cease to be in force on the 180th day after the day on which notice was given. The Agreement makes no express provisions for termination, but it exists solely to amend and interpret the Treaty. By implication, the Agreement would expire with the Treaty.

Committee view

3.160 The Joint Standing Committee on Treaties notes the information it has received about the Extradition Treaties with Uruguay and Turkey, and supports their entry into force as proposed.

W L Taylor MP
Chairman

APPENDIX 1

WITNESSES AT PUBLIC HEARINGS

Tuesday, 24 June 1997, Canberra

Agreement on Economic, Trade and Technical Cooperation with Lebanon

Attorney-General's Department

Dr R Balkin, Acting Assistant Secretary, Office of International Law

Department of Foreign Affairs and Trade

Mr B Bennett, Executive Officer, Middle East and Africa Section

Mr I Biggs, Executive Director, Treaties Secretariat

Mr R Feakes, Desk Officer, Lebanon

Ms V Owen, Director, Middle East and North

Australian Trade Commission

Mr J Enright, Manager, Indian Ocean Office

Convention on the Elimination of all Forms of Discrimination against Women

Department of Foreign Affairs and Trade

Ms S Lithgow, Executive Officer, Human Rights and Indigenous Issues Section

Ms R Stern, Executive Officer, Human Rights and Social Law Unit

Department of the Prime Minister and Cabinet

Ms C Nairn, Assistant Secretary, Office of the Status of Women

Monday, 1 September 1997, Canberra

Fourth Protocol, General Agreement on Trade in Services

Attorney-General's Department

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

Mr M Lennard, Senior Government Lawyer, Office of International Law

Department of Communications and the Arts

Ms N Martiniello, Trade and Development Branch

Department of Foreign Affairs and Trade

Ms F Adamson, Director, Services Trade Section

Mr I Biggs, Executive Director, Treaties Secretariat

Mr R Moretta, Executive Officer, Services Trade Section

Nuclear Re-Transfer Agreement with the Republic of Korea and Regional Nuclear Cooperation Agreement

Department of Foreign Affairs and Trade

Mr J Carlson, Australian Safeguards Office

Dr P Howarth, Director, Nuclear Non-Proliferation Policy Section

Ms R Jackson, Desk Officer, Nuclear Safeguards Section

Mr L Luck, Assistant Secretary, Nuclear Policy Branch

Mr D McGrath, Director, Nuclear Safeguards Section

Mr J Nachipo, Desk Officer, Nuclear Non-Proliferation Policy Section

Australian Nuclear Science and Technology Organisation

Mr J Rolland, Director, Government and Public Affairs

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Department of Environment, Sport and Territories

Dr D Kay, Assistant Secretary, Wildlife Australia

Mr R Moore, Assistant Director, Invasive Species Program

Project Agreements with the US: Over-the Horizon Radar

Department of Defence

Mr P Bleakley, Director of Agreements

Mr R Bonighton, Head of Systems Acquisition (Electronics Systems)

GPCAPT M Cottrell, JORN Product Team Manager

AIRCDRE R Hedges, Director-General, Strategic High Level Systems

Dr D Lloyd, Legal Officer, Directorate of Agreements

Dr B Ward, Acting Chief, Wide Area Surveillance Division, DSTO

Agreement on Economic and Commercial Cooperation with Kazakhstan

Department of Foreign Affairs and Trade

Mr A Barnes, Desk Officer, Russia, CIS and South-Eastern Europe Section

Agreement with the US: Mutual Legal Assistance on Criminal Matters, Extradition Treaties with Turkey and with Uruguay

Attorney-General's Department

Mr M Jennings, Acting Assistant Secretary, International Branch

Mr M Manning, Government Lawyer, International Branch

Mr C Meaney, Acting First Assistant Secretary, Criminal Law Division

Department of Foreign Affairs and Trade

Mr P Smith, Director, Consular Policy Section

Mr A Tansley, Executive Officer, Russia, CIS and South-Eastern Europe
Section

APPENDIX 2

LIST OF SUBMISSIONS

Convention on the Elimination of all Forms of Discrimination Against Women

1. Department of the Prime Minister and Cabinet

CITES

1. Department of Environment, Sport and Territories
2. Humane Society International

Project Arrangements with the US: Over-the-Horizon Radar

1. Department of Defence

APPENDIX 3

LIST OF EXHIBITS

Agreement on Economic, Trade and Technical Cooperation with Lebanon

1. Australia's Trade with Lebanon.
2. Lebanon's Building Material Imports in 1995.

Fourth Protocol, General Agreement on Trade in Services

1. 'Advancing Services Negotiations' by Richard H Snape and Malcolm Bosworth in *The World Trading System: Challenges Ahead*, ed. by J J Schott (Institute for International Economics, Washington, 1996), pp. 185-203.

CITES

1. 'CITES Digest', Volume 1, Issue 3, prepared by the Species Survival Network (supplied by Humane Society International).

Project Arrangements with the US: Over-the-Horizon Radar

1. Diagrams demonstrating the operation of Over-the-Horizon Radar.