

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Joint Standing Committee on Treaties

**AUSTRALIA'S
WITHDRAWAL FROM
UNIDO**

and

**TREATIES TABLED ON
11 FEBRUARY 1997**

7th Report

Australian Government Publishing Service

March 1997

© Commonwealth of Australia

ISBN

CONTENTS

COMMITTEE MEMBERS	v
EXTRACT FROM RESOLUTION OF APPOINTMENT	vii
RECOMMENDATIONS	ix
 CHAPTER 1 INTRODUCTION	 1
Withdrawal from UNIDO	1
Treaties tabled on 11 February 1997	1
Evidence	2
 CHAPTER 2 AUSTRALIA'S WITHDRAWAL FROM THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION	 3
Introduction	3
Background	4
Decision to withdraw from UNIDO	5
Views of industry and Non-Government Organisations	8
United Nations Industrial Development Organization	10
Need for additional legislation	12
The Committee's views	12
 CHAPTER 3 DOUBLE TAXATION AGREEMENT WITH VIETNAM	 15
Double taxation agreements	15
1992 Agreement with Vietnam	15
Australia-Vietnam relationship	16
Tax sparing incentives	17
Amendments proposed to the 1992 Agreement	18
Implementation	19
Consultation	20

Withdrawal	20
Views of the accounting profession	20
The Committee's views	24
CHAPTER 4 TREATIES TABLED ON 11 FEBRUARY 1997	29
Agreement between Australia and Hong Kong concerning Mutual Legal Assistance on Criminal Matters	29
Trade and Investment Agreement between Australia and Mexico	32
Terms of the Agreement	33
Denunciation of the International Convention on Civil Liability for Oil Pollution Damage (Civil Liability Convention) 1969 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) 1971	34
DISSENTING REPORT - AUSTRALIA'S WITHDRAWAL FROM UNIDO	37
Context	37
Issues of concern	39
Inappropriate international message	42
APPENDIX 1 LIST OF WITNESSES	45
Australia's Withdrawal From UNIDO	45
Treaties Tabled on 11 February 1997	46
Double Taxation Agreement with Vietnam	47
APPENDIX 2 LIST OF SUBMISSIONS	49
Australia's Withdrawal From UNIDO	49
Double Taxation Agreement With Vietnam	49
APPENDIX 3 EXHIBITS	51
Australia's Withdrawal from UNIDO	51
Double Taxation Agreement with Vietnam	51

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 (Lib, 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)
 Mr A C Smith MP (LP, QLD)
 Mr W E Truss MP (NP, QLD)
 Mr C W Tuckey MP (LP, WA)

Committee Secretary

Mr Peter Stephens

Inquiry Staff

Principal Research Officers	Lieutenant Colonel Craig Evans
	Mr Patrick Regan
	Ms Cheryl Scarlett
Research Officer	Mr Bob Morris
Assistant Research Officer	Ms Julia 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.

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.

RECOMMENDATIONS

The Joint Standing Committee on Treaties recommends that:

Savings achieved from Australia's withdrawal from the United Nations Industrial Development Organization be redirected to other areas of the aid program where they can be more effectively utilised (Paragraph 2.39).

The Department of Foreign Affairs and Trade and the Australian Taxation Office keep the exclusion of accounting and audit services from tax sparing incentives in the 1992 Double Taxation Agreement with Vietnam under review and, if Vietnamese legislation is amended, commence negotiations to remove that exclusion (Paragraph 3.63).

CHAPTER 1

INTRODUCTION

Withdrawal from UNIDO

1.1 On 11 December 1996, the Minister for Foreign Affairs tabled in both Houses of Parliament a National Interest Analysis indicating Australia's intention to withdraw from the United Nations Industrial Development Organization (UNIDO).

1.2 On 3 February 1997, a public hearing was held in Canberra to consider this decision, taking evidence from officials of the sponsoring department and agency.

1.3 A further public hearing was held in Canberra on 4 March 1997, at which additional evidence was taken from interested parties, industry representatives, and UNIDO's representatives. The sponsoring department and agency were also represented.

1.4 Australia's withdrawal from UNIDO is discussed in Chapter 2.

Treaties tabled on 11 February 1997

1.5 On 11 February 1997, the following treaties were tabled in both Houses of Parliament:

- Exchange of Notes, done at Canberra on 22 November 1996, constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the Socialist Republic of Vietnam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, of 13 April 1992.
- Trade and Investment Agreement between the Government of Australia and the Government of the United Mexican States, done at Jakarta on 13 November 1994.
- Agreement between the Government of Australia and the Government of Hong Kong concerning Mutual Legal Assistance on Criminal Matters, done at Sydney on 23 September 1996.

Denunciations:

- International Convention on Civil Liability for Oil Pollution Damage, done at Brussels on 29 November 1969.
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, done at Brussels on 18 December 1971.

1.6 On 24 February 1997, a public hearing was arranged to consider these treaties, taking evidence from officials of the sponsoring departments and agencies, and interested parties.

1.7 An additional hearing on issues arising from the review of the Double Taxation Agreement with Vietnam was held on 6 March 1997.

1.8 The Double Taxation Agreement with Vietnam is discussed in Chapter 3, and the other treaties tabled on 11 February 1997 are discussed in Chapter 4.

1.9 An additional treaty was tabled on 11 February 1997: an Agreement concerning the location of a Republic of Singapore Air Force helicopter squadron at the Army Aviation Centre at Oakey in Queensland. This treaty is the subject of our 6th Report.

Evidence

1.10 Those people who gave evidence at any of the hearings in connection with the subjects covered in this Report are listed in Appendix 1. Submissions received are listed in Appendix 2, and the exhibits incorporated are listed in Appendix 3.

CHAPTER 2

AUSTRALIA'S WITHDRAWAL FROM THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

Introduction

2.1 The United Nations Industrial Development Organization (UNIDO) was founded in 1966 and became a specialised agency of the United Nations (UN) in 1985. The text of the Constitution of UNIDO was tabled in both Houses of Parliament on 1 June 1992.

2.2 The mandate of UNIDO is the promotion of industrial development. As part of the UN common system, UNIDO is the only Organization that focuses exclusively on supporting industrial development in developing countries and economies in transition.¹ The Organization provides a global forum for addressing common obstacles to sustainable industrialisation; for developing and addressing conventions, codes, norms and regulations; for disseminating new advances, policies and experiences in sustainable industrialisation; for establishing international partnerships and networks; and for developing comparable statistics and measures.²

2.3 UNIDO views its role as providing programs in policies, skills enhancement, institution building, investment and transfer of technology to help developing countries to overcome major economic and social constraints and to achieve a greater stake in global markets.³ The Organization stressed that by strengthening national capabilities in facets of industrial development then:

UNIDO helps these countries to help themselves by promoting industry, to eradicating poverty, integrating women into the development process, and creating productive employment...while the...ultimate goal is to create a better life for people by laying the industrial foundations for long term prosperity and economic strength.⁴

1 UNIDO, Submission No 6, p. 1.

2 International Organisations, *Europe World Yearbook*, 1996, p. 88.

3 UNIDO, Submission No 6, p. 1.

4 *ibid*, pp. 1-2.

Background

2.4 Australia first joined UNIDO in 1985 but in 1987 the Government took the decision to withdraw from the organisation. Australia's decision to withdraw was taken after an assessment of the administrative and operational effectiveness of UNIDO, weighed against Australian priorities in funding multi-lateral organisations.⁵ Australia's withdrawal took effect from December 1988.

2.5 In January 1996, UNIDO had a broad membership of 169 Member States. In the last twenty years, the Organization has fielded more than 16,000 projects and generated investment for nearly 2,000 joint industrial ventures. Additionally, there are currently 1,000 on-going technical cooperation projects within 127 countries that total \$400 million; while during 1995, UNIDO completed \$200 million worth of technical cooperation projects.⁶ While 40 per cent of UNIDO's aid is directed to Africa, aid to Asia comprises more than one third of the Organization's technical cooperation expenditure and is following an upward trend.⁷

2.6 In December 1989, the Government agreed to review Australia's withdrawal from UNIDO. This review was conducted jointly by the Department of Foreign Affairs and Trade and the then Department of Industry, Technology and Commerce. As a result Australia decided to rejoin UNIDO in 1992. This decision was influenced by an assessment that organisational reform was underway and that potential procurement opportunities were available to Australian firms. Australia's subsequent accession to UNIDO occurred on 1 January 1992.

2.7 Under the UNIDO Constitution, Australia is obliged to provide an annual assessed contribution to the core budget of the organisation. This contribution is presently set at 2.06 per cent of UNIDO's general budget. At current exchange rates, Australia's annual contribution to UNIDO is approximately \$2.7m.

2.8 Canada withdrew from UNIDO in 1993 and the United States announced its withdrawal in 1995. The United Kingdom has decided also to withdraw from UNIDO. UNIDO stated that they believed the main reason for the United States' withdrawal from the Organization appeared to be Congressional pressure and the

5 Senator the Hon. G Evans, *Senate Hansard*, 7 November 1991, p. 2663.

6 UNIDO, Submission No 3, p. 6.

7 UNIDO, Submission No 6, pp. 2-3.

Organization's lack of a strong constituency in Washington. The reasons for Canada's withdrawal were less clear.⁸

Decision to withdraw from UNIDO

2.9 In a letter to the Committee Chairman on 9 December 1996, the Minister for Foreign Affairs advised of binding treaty action proposed to again effect Australia's withdrawal from UNIDO.⁹ A National Interest Analysis (NIA) was tabled in both Houses of Parliament on 11 December 1996. Under Article 6 of UNIDO's Constitution, withdrawal does not take effect until the end of the year following the year in which withdrawal is notified. Therefore, a full funding obligation remains for that year. On this basis, the Government decided that withdrawal should be effected by 31 December 1996 in order to avoid a funding obligation in 1998. The Minister decided that it was in Australia's national interest that treaty action be taken before a full 15 sitting days had elapsed for Parliamentary consideration of the matter.¹⁰

2.10 The reasons given in the NIA for Australia withdrawing from UNIDO were:

- (a) UNIDO's activities were not considered to make a substantial contribution to Australia's priority development objectives;
- (b) the impact of UNIDO country-level programs remained unsatisfactory. While progress had been achieved in reforms at headquarters level, this had not been translated into adequate improvements in the effectiveness and impact of country-level programs; and
- (c) funding obligations did not represent value-for-money or an appropriate contribution to Australia's aid objectives.

2.11 The Department of Foreign Affairs and Trade (DFAT) indicated that the decision to withdraw from UNIDO resulted from the findings of a review by it into UN specialised agencies commenced in early 1996.¹¹ The review examined Australia's membership of UNIDO in terms of:

8 Transcript, 4 March 1997, p 35.

9 Minister for Foreign Affairs, Letter dated 9 December 1997, p. 1.

10 *ibid*, p. 1.

11 Transcript, 3 February 1997, p. 4.

- whether the commitment to the organisation was the best use of development funds in a tight budgetary situation;
- whether supporting the organisation was the best way to deploy resources amongst UN organisations; and
- the balance between providing assistance bilaterally, regionally and multilaterally.¹²

2.12 With the results of this review, DFAT also examined the focus of UNIDO's role. DFAT concluded that the organisation's activities were not in keeping with Australia's perceptions of the direction of funding. Whereas UNIDO was funding industry on a direct basis, DFAT felt that funding should be aimed at facilitating the private sector in general.¹³

2.13 In the context of existing budgetary constraints, the ability to fund on-going activities was considered by DFAT and the Australian Agency for International Development (AusAID) in determining priorities based on where the most value could be obtained in development terms.¹⁴ The criteria used to assist in determining these priorities included:

- assessing continuing support to UNIDO activities versus the Government's focus on providing basic, humanitarian aid;
- the level of procurement benefits to Australian firms; and
- the constraint that a fixed, annual financial contribution had on the flexible allocation of funds.¹⁵

2.14 AusAID was concerned that Australia's contribution to UNIDO was an assessed contribution that represented approximately 13 per cent of the Agency's discretionary funds expended on UN developmental organisations.¹⁶ AusAID concluded:

we can do that better by not funding UNIDO and by releasing - albeit on an opportunity cost basis... those funds for use elsewhere.¹⁷

12 *ibid*, p. 4.

13 *ibid*, p. 4-5.

14 *ibid*, p. 6.

15 *ibid*, p. 14.

16 *ibid*, p. 7.

17 *ibid*, p. 6.

2.15 Notwithstanding the justification to withdraw from the Organization, the NIA also indicated that while the level of procurement in Australia by UNIDO was relatively modest, withdrawal would mean that opportunities for increasing Australia's share of procurement activities would diminish. While DFAT indicated that Australia's withdrawal would not be helpful to Australian firms seeking future opportunities with UNIDO¹⁸, AusAID stressed that Australian firms would not become ineligible and should not be less favourably considered.¹⁹ AusAID cited the example of Canadian and US consultants still obtaining work with UNIDO, even though both countries had withdrawn from the Organization.²⁰

2.16 Both DFAT and AusAID were particularly concerned about the level of procurement opportunities for Australian firms. DFAT emphasised that one of the main reasons Australia rejoined UNIDO was that membership might offer benefits in terms of multilateral procurement opportunities for Australian firms. They indicated that to date there had only been limited opportunities for Australian firms. This situation led to the conclusion that membership of the Organisation was not bringing broader benefits to Australian firms. This conclusion, plus strong budgetary considerations, led to the decision to withdraw from the Organisation.²¹

2.17 In 1995, a total of \$50,000 worth of contracts were won by Australian companies Itronis, ACRES and McVan Instruments. During 1994-1995, Hassall and Associates Pty Ltd received disbursements totalling \$2.31 million from previously awarded contracts.²²

2.18 DFAT further explained that in conveying advice to UNIDO that Australia's withdrawal would proceed, the Government was still leaving open the possibility of future special purpose cooperation activities. These activities could include contributions to UNIDO's industrial development fund, co-financing of specific industrial development projects, or cooperation between UNIDO and state governments.²³

18 *ibid*, p. 10.

19 *ibid*, p. 10.

20 *ibid*, p. 10.

21 Transcript, 4 March 1997, p. 41.

22 UNIDO, Submission No 4, pp. 28- 29.

23 Transcript, 3 February 1997, p. 11.

Views of industry and Non-Government Organisations

2.19 Hassall and Associates Pty Ltd presented a differing view of the consequences of Australia's withdrawal from UNIDO. The firm, established in 1968, specialises in consulting and project management services and is the major Australian beneficiary of UNIDO expenditure. It has been involved with AusAID sponsored activities for twenty five years, having completed over 380 international development aid projects in fifty countries world wide.²⁴

2.20 In recent years, these projects have included a US\$3m project in Uganda to alleviate poverty through the provision of a service industry manufacturing ox-ploughs, farming implements and general engineering; and the provision of a privatisation expert to a UNIDO project in Uzbekistan.²⁵

2.21 Hassall and Associates cited a recent example of where a reduction in aid funding affected the firm's ability to win UN sponsored contracts. They claimed that a decision by the Government in 1993 to reduce funding to the United Nations Capital Development Fund (UNCDF) resulted in the company receiving no further business from the Fund.²⁶ Prior to the reduction in Government funding, Hassall and Associates were a major source of technical expertise in the design and formulation of UNCDF projects.²⁷

2.22 This firm believes that Australia's withdrawal from UNIDO will mean the elimination of opportunities, both for themselves and other Australian firms, to win UNIDO sponsored contracts. Directly, the decision will likely impact on their ability to tender successfully for a contract in Kenya, Ethiopia and the Ivory Coast.²⁸ Finally, Hassall and Associates believe that UNIDO membership, and the resulting contractual work, has resulted in increased experience and employment opportunities for Australians.²⁹

2.23 The Centre for International Economics, an Australian firm that has recently completed a UNIDO sponsored project, commented that the project helped the firm to develop other linkages and commercial opportunities.³⁰ These opportunities included areas of Vietnam and the Greater Mekong subregion. The Centre concluded:

24 Hassall and Associates Pty Ltd, Submission No. 2, p. 1.

25 *ibid*, p. 2.

26 *ibid*, p. 1.

27 *ibid*, p. 1.

28 *ibid*, p. 2.

29 *ibid*, p. 2.

30 Centre for International Economics, Submission No 5, p. 2.

the project was well conceived, well designed and represented the best sort of intervention that development assistance agencies can make in assisting capacity building for policy formulation and implementation.³¹

2.24 The Australian Council for Overseas Aid (ACFOA) commented that Australia's withdrawal from UNIDO, along with the Government's declining financial contribution to UN agencies, was sending a negative message to the international community.³² The Council believed that both of these decisions questioned Australia's level of commitment to work multilaterally with other countries in a number of key areas.³³

2.25 ACFOA also argued that UNIDO's current focus was consistent with the objectives of Australia's aid program.³⁴ The Council explained that while maintaining global coverage, UNIDO's focus was on the world's poorest nations, particularly those of Africa. In that UNIDO is giving priority to Africa and small and medium scale enterprises, ACFOA claimed the Organization was providing assistance in line with the aid program's humanitarian focus and enhanced attention to poverty reduction.³⁵

2.26 ACFOA questioned a number of the justifications for withdrawal argued in the NIA. The Council emphasised that the use of development funds to assist private sector development was an emerging trend as development agencies recognised the complementary roles played by governments, the community and the private sector.³⁶ ACFOA also raised the issue of whether alternative aid programs would be funded by the Government in lieu of UNIDO membership.³⁷ Finally, while acknowledging that UNIDO was not a significant provider of industrial development services in the Asia-Pacific region, ACFOA was aware of assistance being provided in Vietnam, Nepal and the Solomon Islands.

2.27 Overall, ACFOA concluded that it would have preferred the Government await the outcome of the Simon's Review of the aid program before making the decision to withdraw from UNIDO.³⁸

31 *ibid*, p. 2.

32 ACFOA, Submission No. 1, p. 1.

33 *ibid*, p. 1.

34 Transcript, 4 March 1997, p. 20.

35 ACFOA, Submission No 1, p. 2.

36 *ibid*, p. 2.

37 *ibid*, p. 2.

38 *ibid*, p. 3.

United Nations Industrial Development Organization

2.28 UNIDO, in both its written submissions and evidence given at the second public hearing, raised a number of specific concerns regarding Australia's withdrawal and the accuracy of the NIA. The Organization emphasised that, in its view, membership satisfied the two key principles of Australia's Official Development Assistance (ODA): alleviating poverty while simultaneously enhancing procurement opportunities for Australian companies and experts.³⁹ At the same time, UNIDO believed its technical cooperation program also met Australia's geopolitical interests in the Asia and African regions.⁴⁰

2.29 The Organization argued that its field level activities directly target poverty alleviation through the development of human resources and industrial skills, the generation of productive employment and the protection of the environment.⁴¹ In relation to procurement activities, UNIDO emphasised that they adhered to the UN objective of providing timely acquisition of goods and services while addressing the requirements of fairness, integrity, transparency, and the best value for money.⁴²

2.30 UNIDO acknowledged, however, that one of their main concerns over future procurement activities was that the process may be subjected to major political intervention from the Member States of the Organization.⁴³ Given their financial support for and membership of UNIDO, the Member States may exert considerable pressure on the Organization to seek procurement sources from within the Member States:

'the argument being that those countries which make it possible for UNIDO to exist should benefit, rather than those countries which have decided to withdraw their membership'.⁴⁴

The Organization concluded that, in practice, Australia's withdrawal from UNIDO may jeopardise major future procurement opportunities for Australian suppliers.

2.31 Mr Andrew Ingram, Director, Financial Services, UNIDO, also emphasised that the Organization does not provide direct assistance for specific

39 UNIDO, Submission No 6, p. 2.

40 *ibid*, p. 2.

41 *ibid*, p. 2.

42 Transcript, 4 March 1997, p. 32.

43 UNIDO, Submission No 6, p. 2.

44 *ibid*, p. 3.

industries and firms unless this assistance is provided for pilot and demonstration purposes having a broad-ranging developmental impact.⁴⁵ Additionally, UNIDO does not believe that its aid activities usurp the role of the private sector. On the contrary, the Organization stressed that in all areas, it played a bridging role in preparing the ground for profitable and beneficial private-sector involvement.⁴⁶

2.32 While AusAID initially indicated that UNIDO's budget was in the vicinity of A\$280 million, UNIDO confirmed that the total resource base was closer to US\$185 million. In a written submission to the Committee, AusAID clarified the method they adopted in arriving at their initial calculation based on 1995 data.⁴⁷

2.33 Mrs Magliani Streitenberger, Spokesperson for the Director-General, UNIDO, concluded that Australia's withdrawal from UNIDO represented a loss of opportunities for both Australia and the Organization. She emphasised that Australia has a fundamental political position in Asia, which in turn is the location of one of UNIDO's main programs. Therefore, Mrs Magliani Streitenberger concluded:

...losing Australia, which has the technologies, the expertise and the knowledge of Asia, which is one of the main target groups and target regions of UNIDO, is a loss to the Organization. But it is also, we believe, a loss to you.⁴⁸

Need for additional legislation

2.34 The Specialised Agencies (Privileges and Immunities) Regulations will need to be amended so as to remove UNIDO from the list of international organisations to which the *International Organisation (Privileges and Immunities) Act 1963* applies. This amendment will need to be made prior to the withdrawal becoming effective on 31 December 1997 as Regulations can only be made under the Act in relation to an international organisation of which Australia is a member.

45 *ibid*, p. 3.

46 *ibid*, p. 3.

47 Transcript, 3 February 1997, p. 9. and AusAID, Submission No 8, p. 1.

48 Transcript, 4 March 1997, p. 40.

The Committee's views

2.35 In our consideration of this issue, we have been conscious that binding treaty action has already been taken by the Minister for Foreign Affairs before a full 15 sitting days have elapsed for Parliamentary review. In announcing reforms to the treaty-making process, the Minister stated:

these exceptions will be used sparingly and only where necessary to safeguard Australia's national interests, be they commercial, strategic or foreign policy interests.⁴⁹

2.36 We note that, given the time constraints, it was not possible to fully consult with all interested organisations and firms before this decision was made. The Committee stresses however, that consultation with affected parties ought to have been undertaken before the decision was announced in accordance with the statement of principles announced by the Minister for Foreign Affairs on 2 May 1996. In this instance, follow-up consultation would have been essential to ensure those affected by the decision were fully aware of the rationale and reasons for the actions being taken by the Government. Given the small number of interested parties, this would have been easy to achieve.

2.37 We acknowledge the significant reforms that have taken place within UNIDO, particularly in the areas of management processes and the reduction of administrative overheads. We note particularly that the Organization has reduced its administrative overheads to 13 per cent of its operating budget and cut staffing levels by 38 per cent.⁵⁰ However, it is the assessed contribution Australia makes to UNIDO's budget, versus the procurement benefits to Australian industry, that concerns us regarding this matter.

2.38 We believe that while a firm such as Hassall and Associates Pty Ltd benefits significantly from Australia's membership of the Organization, there have been very few other tangible procurement benefits. While industry beneficiaries have been few and select, the impact on Australia's economy facilitated by membership of UNIDO has been narrow and limited. The Committee also accepts that more effective utilisation of Australia's aid budget may be obtained through the funding of other aid programs.

49 Ministerial Statement, House of Representatives, *Hansard*, 2 May 1996, p. 233.

50 UNIDO, Submission No 6, p. 4.

2.39 The Joint Standing Committee on Treaties recommends that:

Savings achieved from Australia's withdrawal from the United Nations Industrial Development Organization be redirected to other areas of the aid program where they can be more effectively utilised.

2.40 The Joint Standing Committee on Treaties notes the decision of Australia to withdraw from UNIDO.

CHAPTER 3

DOUBLE TAXATION AGREEMENT WITH VIETNAM

Double taxation agreements

3.1 Australia currently has double taxation agreements with 36 countries. These bilateral agreements seek to prevent the double taxation of income where this is received by a resident of one of the parties to the agreement from activities in the country of the other party. It is achieved by separating the parties' taxing powers and, in certain circumstances, by giving credits for the payment of tax in the other country.¹

3.2 These agreements also aim to help to minimise tax avoidance and tax evasion by the transfer of information between the taxation authorities of the parties. They deal with income from a number of specific sources such as business, dividends, interest and royalties. In addition to these benefits, they also result in increased trade and investment between the parties.²

3.3 Such agreements provide for the taxation treatment which is to apply, particularly which country may tax various income categories and limitations to the amounts which may be taxed. Sub-section 4(2) of the *Income Tax (International Agreements) Act 1953* provides that agreements are, in most cases, to overrule provisions of the *Income Tax Assessment Act 1936*, although a specific Australian law could overrule a particular agreement.

3.4 These agreements have a common format, but differ to reflect the various laws applying in the countries with which there are agreements.³

1992 Agreement with Vietnam

3.5 The Double Taxation Agreement between the Governments of Australia and Vietnam ('the 1992 Agreement') was done at Hanoi on 13 April 1992 and entered into force on 30 December 1992. Its text appears as Schedule 38 to the

¹ Transcripts: 24 February 1997, pp. 5, 8; 6 March 1997, p. 84.

² Transcript, 24 February 1997, p. 8.

³ Material in this section was drawn from *Bills Digest Service*, No 43/1995, 8 February 1995, Department of the Parliamentary Library, re the *Income Tax (International Agreements) Amendment Bill 1995*. Where there is no reference, the NIA has been used.

Income Tax (International Agreements) Act 1953. Under Article 27, the date of effect of this Agreement for Australian income tax purposes was 1 July 1993.⁴

3.6 The subject of this report is the Exchange of Notes between the Governments ('the Agreement'), done at Canberra on 22 November 1996, which amends the 1992 Agreement. The Australian Government seeks to ratify the Agreement as early as possible.⁵

3.7 At the time the 1992 Agreement was negotiated, Australia's position was to provide tax sparing as a unilateral concession at a cost to its revenue. Tax sparing would be given only to those incentives nominated by Vietnam, and limited to active business income with significant linkages to the broader Vietnamese economy. Anti-avoidance provisions were also to be included.⁶

Australia-Vietnam relationship

3.8 The Department of Foreign Affairs and Trade (DFAT) firmly supported the Agreement, in the interests of promoting trade and investment between Australia and Vietnam. The entry into force of this Agreement would constitute an important step in advancing the key foreign and trade policy objective of strengthening ties with Australia's Asian neighbours by:

- expanding commercial relations by encouraging Australian investment;
- increasing two-way trade , and
- ensuring a favourable environment for Australian joint venture partners and wholly owned investments.

3.9 Since 1988, Australia has consistently been among the top sources of foreign investment in Vietnam. In September 1996, Australia had 53 licensed foreign investment projects in Vietnam, with a total value of nearly \$A1 billion. Other projects worth a further \$A650 million await Vietnamese Government approval. These investments are in mining, banking, energy development, food processing, building and construction, and education.

3.10 Despite the impressive figures, Australia's investments in Vietnam fell from third to eleventh in recent years. One reason for this change was stronger

⁴ Transcript, 24 February 1997, p. 2.

⁵ Transcript, 6 March 1997, pp. 93, 94.

⁶ *ibid*, p. 85.

activity by Vietnam's capital-rich Asian neighbours. In the absence of tax sparing arrangements, Australian companies in Vietnam are at a disadvantage compared with those from other countries with these arrangements in place.⁷

Tax sparing incentives

3.11 Under the proposed tax sparing credit arrangements in the Agreement, for the purposes of Australia's foreign tax credit rules, an Australian investor taking advantage of specified Vietnamese tax concessions is deemed to have paid tax actually foregone by Vietnam in granting those tax incentives. Without these tax sparing credits, Vietnam's tax concessions granted to Australian residents could be negated by Australia's foreign tax credit rules which would effectively 'top up' Vietnamese taxes to the level payable on an equivalent amount of Australian domestic income.

3.12 Once in force, the Agreement will amend Article 23 of the 1992 Agreement by specifying the Vietnamese tax incentives to be tax spared, and include certain safeguards for tax sparing credits.

3.13 It is Vietnamese tax treaty policy to propose the tax sparing of certain tax incentives under its double taxation agreements. The 1992 Agreement was the first taxation treaty negotiated by Vietnam and, while tax sparing was proposed, it was agreed during negotiations to defer consideration of these incentives. In amending Article 23 of the 1992 Agreement, the Agreement gives effect to the 1992 understanding that Australia would consider tax sparing development incentives nominated by Vietnam.⁸

3.14 The Australian Taxation Office (ATO) advised that, in December 1996, the Treasurer proposed changes to the taxation of income from foreign sources. Tax sparing will become largely redundant to income from listed countries which have broadly comparable tax regimes to Australia's, on the basis that there is no need to provide tax sparing to these countries if income earned in them will not be taxed.⁹

3.15 As indicated in the National Interest Analysis (NIA), from 1 July 1997, Vietnam will be placed on one of two lists of foreign jurisdictions and dividends and branch profits will be exempt from Australian taxation. These exemptions

⁷ *ibid*, pp. 92-93.

⁸ *ibid*, p. 85.

⁹ Transcript, 24 February 1997, pp. 13-14, 19.

will mean that tax sparing will not be necessary, and that existing provisions will not be renewed.¹⁰

Amendments proposed to the 1992 Agreement

3.16 Broadly, the amendments proposed in the Agreement:

- list the Vietnamese tax incentives to be tax spared;
- provide the tax sparing benefit to Australian residents for ten years from the date of effect, for income tax, of the 1992 Agreement: 1 July 1993, and
- include development projects in Vietnam for tax sparing, but exclude the services sector because credits for this area are more susceptible to tax avoidance. Shipping and aircraft operations are only tax spared to a limited extent.

3.17 The incentives listed in the Agreement seek to foster genuine economic development and relate to active business income. Provision is also made for new or additional incentives to be tax spared after evaluation and acceptance by Australia.

3.18 Because future investments and profits cannot be forecast, it was not possible to quantify the amount of tax which will be foregone by Australia in providing tax sparing credits for Vietnamese tax incentives. An annual cost to revenue of \$A10 million to \$A15 million was estimated. From 1 July 1997, Vietnam's listing as a foreign jurisdiction where some tax credits will not be required will reduce the direct cost of tax sparing to Australian revenue.¹¹

3.19 The ATO advised that, in the last two years, it had encountered tax avoidance schemes which had used tax sparing mechanisms. Provisions found in the Agreement had not been included in earlier double taxation agreements because the ATO was not then aware of the misuse of tax sparing.¹²

3.20 Under paragraph 7(a), 'banking, insurance, consulting, accounting, auditing and commercial services' are excluded from the Agreement. Australia did not

¹⁰ Transcript, 6 March 1997, p. 85. See Exhibit No 2, Chapter 4.

¹¹ Transcript, 24 February 1997, pp. 8-9, 19. See paragraph 3.15 above.

¹² Transcripts: 24 February 1997 p. 6; 6 March 1997, p. 94.

propose these exclusions, as they are consistent with Vietnamese law in which tax incentives are not available for the auditing and accounting sector.¹³

3.21 Double taxation agreements are specifically excluded from the Most Favoured Nation (MFN) requirements in the General Agreement on Trade in Services (GATS). DFAT gave evidence that the proposed tax sparing arrangements 'appear consistent with' Australia's current obligations under the GATS, providing certain conditions are met:

- under Article XIV(e), Australia is able to maintain measures which are consistent with the MFN principle, so that a tax sparing agreement which is not consistent with MFN must be subsumed in a double taxation agreement to be consistent with MFN obligations;
- Australia has national treatment obligations to certain sectors, depending on its commitments and, providing all companies and individuals benefiting from tax sparing and paying Australian taxation are treated in the same way, there will be no violation, and
- tax sparing provisions could be considered a subsidy in terms of revenue foregone, but the proposal is consistent with the current limited obligations in GATS which deal with subsidies.¹⁴

Implementation

3.22 To give effect to the amendments to the 1992 Agreement, enabling legislation will be required. This will be done by incorporating the text of the Agreement as a schedule to the *Income Tax (International Agreements) Act 1953*.¹⁵

3.23 No action to implement the Agreement is required by the States or Territories, and there will not be any changes to the role of the Commonwealth, States or Territories as a consequence of implementing the Agreement.

Consultation

3.24 Information on the Agreement was provided to the States and Territories through the Standing Committee on Treaties (SCOT) process. The NIA for the

¹³ Submissions, p. 7; Transcript, 6 March 1997, p. 86.

¹⁴ Transcript, 6 March 1997, pp. 84-85, 93-94.

¹⁵ Transcript, 24 February 1997, p. 2.

Agreement advised that: 'Some limited consultation with major Australian investors was undertaken'. There was no 'direct' consultation with the accounting profession and the consultation which did occur was 'very broad brush'.¹⁶

3.25 The ATO stated that, two years ago, it held its last international tax forum, at which the accounting and legal professional bodies were represented. This body has since lapsed because of a lack of interest. It was considering re-instituting this body's six-monthly meetings to consider pending treaty negotiations. The Agreement was put to the ATO's corporate consultative committee, but few comments were received.¹⁷

3.26 Both professional accounting bodies commented about consultation by the ATO on the Agreement.¹⁸

Withdrawal

3.27 While the Agreement amends Article 23 of the 1992 Agreement and does not contain denunciation provisions, the latter provides for termination by either of the Parties on or before 30 June in any calendar year, beginning five years after the 1992 Agreement came into force. If notice is given under Article 28, the 1992 Agreement would cease to have effect in Australia for the income year beginning on or after 1 July in the calendar year after the year in which notice had been given.

Views of the accounting profession

3.28 The Australian Society of Certified Practising Accountants (the Society) raised a number of concerns about the Agreement in a submission.

3.29 Paragraph 4 of the Agreement refers to a tax sparing limit of 20 per cent of Vietnamese taxable income, but it was not clear to the Society why this figure was used and it believed the corporate tax rate should be included. The current default tax rate is 25 per cent and will increase to 33 per cent under the new draft corporate tax law. Both rates are under the Australian rate of 36 per cent, and the

¹⁶ Transcripts: 24 February 1997, p. 4; 6 March 1997, p. 86.

¹⁷ Transcripts: 24 February 1997, pp. 4-5; 6 March 1997, p. 89.

¹⁸ Transcript, 24 February 1997, p. 18; Submissions, pp. 16 and 19.

Society argues that the Vietnamese corporate tax rate should be used as the tax sparing percentage limit.¹⁹

3.30 As there are few business cooperation ventures in operation in Vietnam, paragraph 6(h)(iv) was seen as unduly restrictive. Because most investment or contract activity is carried out under joint venture or 'build, operate, transfer' arrangements, the Society believed these should be included.

3.31 Paragraph 6(j) of the Agreement provides that a project which passes assets to the Vietnamese Government without compensation would be eligible for tax sparing. The Society asked why a project which received compensation should be excluded, because this is not normal procedure or commercially viable, and suggested that this restriction be removed.²⁰

3.32 It did not agree with the decision to eliminate accounting and audit services from the tax sparing provisions in Paragraph 7(a) of the Agreement. It believed that any avoidance activity, the reason given in the Agreement for excluding these areas, would be dealt with by the provisions of paragraph 7(c) of the Agreement and in Australian legislation. In addition, as part of its professional ethics, the Society has a rule which deals with tax avoidance and it is active in dealing with members for breaches of the ethics.²¹

3.33 It also drew attention to the words 'these sectors are more susceptible to tax avoidance' in the NIA. It did not believe that these words go far enough to protect the interests of Australian professionals in the accounting or audit sector. It submitted that the Vietnamese Government be informed that the Australian Government did not agree with this exclusion. It said its members were not involved in tax avoidance and would add significant value to the business process in Vietnam. They should not be penalised and disadvantaged by comparison with other (Australian) professionals working in Vietnam.²²

3.34 Paragraph 7(a) of the Agreement referred to 'commercial services' but, the Society pointed out, the term was not defined there or in the 1992 Agreement. It believed that the term should be defined in the interests of clarity and to avoid disputes in the future.²³

¹⁹ Transcript, 24 February 1997, p. 18.

²⁰ *ibid*, p. 18.

²¹ *ibid*, pp. 17, 21; Submissions, pp. 17-18.

²² Submissions, p. 17.

²³ Transcript, 24 February 1997, p. 18; Submissions, p. 18.

3.35 The Society also believed that consideration had not been given to enlarging the scope of tax credits to include contractors' tax, thus placing Australian contractors at a disadvantage compared with contractors from other countries which allow such credits. It recommended that consideration be given to making such tax creditable.²⁴

3.36 The ATO advised that, at the time negotiations for the Agreement were under way, Vietnam was changing the basis for contractors' tax. Because of the subsequent change to Vietnamese law, it would now be a creditable tax for the purposes of Australian law.²⁵

3.37 While it is common for Vietnam to grant concessions on remittance taxes, they are not included in the taxes for tax sparing. While the Society recommended that remittance taxes be included for this purpose, the ATO pointed out that Australia's policy was not to provide tax sparing for passive income. The Society accepted this view.²⁶

3.38 The Institute of Chartered Accountants (the Institute) also referred to consultation with the ATO, stating there probably were structures where it could take place effectively. It acknowledged that tax sparing could be manipulated, and that it was proper to limit it to income-producing activities which took place legitimately within the jurisdiction of the other party to a double taxation agreement. Infrastructure projects were obvious and worthy examples of what could be seen as an indirect form of foreign aid, but they also provided assistance to Australian companies competing in the world market.²⁷

3.39 The Institute believed that tax sparing was to be preferred to the regime outlined by the Treasurer in December 1996 and that it should be considered on a case-by-case basis. Australian companies have often negotiated some form of tax relief in an overseas country because, if it is not extended by Australia, the local jurisdiction will levy its taxes anyway and Australia will have no alternative but to allow the foreign tax paid as credits. If tax sparing were not to be allowed, companies would absorb the foreign tax paid and be at a competitive disadvantage in that country.²⁸

3.40 The Institute stated that the activities which were eligible for tax sparing were based on a narrow definition of infrastructure which was limited to types of

²⁴ Submissions, p. 1.

²⁵ Transcript, 6 March 1997, p. 87.

²⁶ Submissions, pp. 1-2; Transcript, 6 March 1997, p. 88.

²⁷ Transcript, 24 February 1997, p. 18.

²⁸ *ibid*, pp. 18-19.

construction and geographic location. Tourist developments, it believed, would not be eligible. Negotiations would still be required to provide tax sparing for specific projects.²⁹

3.41 It also took issue with the exclusion of banking, insurance, consulting, accounting, auditing and commercial services. Mention was made of Australian professional involvement in the reform of Vietnam's legal system, and the point was made that to exclude professional services from potential tax sparing might be short sighted. This would exclude export revenue opportunities in our region in all these areas.³⁰

3.42 The Institute noted that contractor's tax was causing problems with at least one country. Because it was often levied in breach of any double taxation agreement, the Institute believed that it was probably not appropriate that it was the objective of tax sparing. If it was levied at source, it was in breach of the agreement in the first place and probably best negotiated separately with the other country.³¹

3.43 The Institute's representative also observed that the Agreement was the ATO's first attempt to address the abuse of tax sparing, and it remained to be seen whether the most effective means had been chosen, whether the exclusions were appropriate or whether it sought to go too far.³²

3.44 Both professional bodies agreed that a potential investor could voluntarily approach the ATO for a ruling about an overseas investment proposal and the tax sparing arrangements which might apply.³³

3.45 There were a number of discussions between the ATO and the professional bodies about the Agreement and submissions from the latter show that most issues were resolved.³⁴

The Committee's views

3.46 The Agreement with Vietnam was the first Double Taxation Agreement to be tabled since the reform of the treaty-making process in 1996. It was also the

²⁹ *ibid*, p. 19.

³⁰ *ibid*, p. 20; Submissions, p. 16.

³¹ *ibid*, pp. 20-22. See paragraphs 3.35 and 3.36 above.

³² Transcript, 24 February 1997, p. 23.

³³ *ibid*, p. 22.

³⁴ Transcript, 6 March 1997, pp. 85, 86.

ATO's first encounter with that reformed process, as well as its first attempt to deal with abuses of tax sparing in other agreements. Taxation, especially international taxation, is complex because there is a large amount of legislation, rulings and case law which can impinge on particular issues. While these facts must be borne in mind, they do not counteract some weaknesses in the process of arriving at this Agreement.

3.47 NIAs are crucial to the new treaty-making process: they '...facilitate Parliamentary and committee scrutiny of treaties, and demonstrate the reasons for the Government's decision that Australia should enter into legally binding obligations under the treaty'.³⁵

3.48 In our *First Report*, we commented that they were 'an important mechanism for the Committee to be able to assess, in the first instance, the implications of a proposed obligation and whether or not sufficient support exists for the proposed action. Clearly, a more comprehensive NIA will ensure that both the Committee and the general public are better informed'.³⁶

3.49 The NIA submitted with the Agreement conformed technically to the guidelines for the preparation of such documents, addressed in our first report: it included material under each of the headings. It did not, however, provide the information which was needed to enable us to assess the Agreement. Some of the evidence at the first public hearing did not provide the information on which an assessment of the Agreement could be made.

3.50 This information was provided, but only by means of a detailed submission prepared after the first hearing for, and the information given at, a second public hearing. Neither the submission nor the second hearing would have been necessary had the ATO included all relevant material in the NIA and/or provided it at the first hearing.

3.51 Apart from its omissions, we found the NIA to be unduly complex, making it difficult readily to understand the issues which it did include. Many other NIAs have been written with greater clarity and assisted the understanding of equally complex issues. The ATO's submission and evidence at the second hearing did provide the necessary information, and in a more appropriate way. This happened largely because of detailed queries about the NIA and the ATO evidence raised by the professional accounting bodies.

³⁵ Ministerial Statement, House of Representatives, *Hansard*, 2 May 1996, p. 233.

³⁶ *First Report*, paragraph 1.15, p. 3.

3.52 In particular, the NIA did not address the costs of/benefits from the other double taxation agreements into which Australia has already entered. Nor was it able to quantify the amount of revenue which would be foregone in providing tax sparing credits for Vietnamese tax incentives: it was only possible to provide the broadest estimate of the cost of this measure. There was no mention in the NIA of any costs of, or any benefits from, the 1992 Agreement itself.³⁷

3.53 The NIA also noted that, if proposals for listing Vietnam for dividend repatriation purposes from 1 July 1997 were adopted, 'the direct cost of tax sparing will be significantly reduced'. No estimate was provided of possible savings by this means, nor of any other likely means of reducing the costs which could be incurred by the Agreement. It was pointed out, in support of the NIA, that it was difficult to estimate future benefits from investments and incentives. We believe, however, that the ATO itself would have rejected a submission which included the weaknesses in this crucial area of the NIA.³⁸

3.54 Consultation was at the heart of the 1996 reforms to the treaty-making process: with State/Territory Governments, and with 'every Australian individual and interest group with a concern about treaty issues'. According to the Minister's statement on 2 May 1996, consultation was to be the key word, 'and the Government will not act to ratify a treaty unless it is able to assure itself that the treaty action proposed is supported by national interest considerations'.³⁹

3.55 In our first report, we recommended that:

National Interest Analyses include specific details of organisations and individuals consulted and how such consultation occurred...⁴⁰

3.56 The NIA covering the Agreement obviously failed to meet this requirement. It was, therefore, hardly surprising that the ATO was unaware of the Society's reservations about the Agreement. Both professional bodies commented on the ATO's consultation, and it was clear that the process which was in place ceased to be used about two years ago. This is quite unsatisfactory, but it was reassuring to be told during the inquiry that the ATO intends to resume consultation with the professional bodies.⁴¹

³⁷ See paragraph 3.18 above.

³⁸ *ibid.*

³⁹ Ministerial Statement, *op cit*, p. 231.

⁴⁰ Paragraph 1.17, p. 4.

⁴¹ Transcripts: 24 February 1997, p. 4; 6 March 1997, p. 86. See paragraph 3.25 above.

3.57 It was salutary that the discussions involving the three organisations which took place between our hearings were able to resolve most of the difficulties. The point has already been made that, had there been effective consultation before this inquiry, a considerable amount of effort would not have been necessary.⁴²

3.58 Our fourth report referred to DFAT's coordinating role in consulting with 'all interested parties' on the treaties to be tabled. That report stated that this role would 'receive particular attention in future'. This inquiry showed the need for sponsoring departments and agencies to be responsive to the lead given by DFAT. All sponsors of treaties would also be advised as a matter of course to consult the community and relevant interest groups as widely, and as early in the process, as practicable.⁴³

3.59 Both professional accounting bodies objected to the exclusion of the accounting and audit area from tax incentives in Vietnam. The point made by the Institute, that this action could potentially reduce Australian revenue from the work of Australians in Vietnam, is relevant in the wider field of the export of services by this country.

3.60 The first annual *Trade Outcomes and Objectives Statement* observed that:

Services have provided an increasing share of Australia's exports in recent years and continued to perform strongly in 1996...

- In the first 11 months of 1996, service exports were up by more than 10 per cent over the same period in 1995 - an increase which represents an extra \$2.0 billion in foreign exchange earnings.⁴⁴

3.61 Professional bodies such as the Institute and the Society seem to be reacting well to calls to sell our best products, things such as the provision of services at which Australia excels, to our Asian neighbours. In that context, it is unfortunate that this provision was included, albeit at the request of the Vietnamese Government and in accordance with their law. At the same time, it is easy to accept the point the Institute made and to note the Society's statements about professional ethics.

3.62 Given that this bilateral agreement has been signed and that Vietnamese law is reflected in the exclusion, there is no immediate prospect for change. This

⁴² See paragraph 3.45 above.

⁴³ *Treaties Tabled on 15 & 29 October 1996: Fourth Report*, paragraph 3.10, p. 32.

⁴⁴ Exhibit No 1, p. 5.

matter should be kept under review and, if Vietnam changes its approach and amends its law, there should be negotiations to remove the exclusion of accounting and audit services from tax incentives under the 1992 Agreement.

3.63 The Joint Standing Committee on Treaties recommends that:

The Department of Foreign Affairs and Trade and the Australian Taxation Office keep the exclusion of accounting and audit services from tax sparing incentives in the 1992 Double Taxation Agreement with Vietnam under review and, if Vietnamese legislation is amended, commence negotiations to remove that exclusion.

3.64 The Committee notes the information it has received about the amendments to the 1992 Double Taxation Agreement with Vietnam, and supports early ratification as proposed.

CHAPTER 4

TREATIES TABLED ON 11 FEBRUARY 1997

Agreement between Australia and Hong Kong concerning Mutual Legal Assistance on Criminal Matters

4.1 Mutual assistance in criminal matters treaties are a recent development in international efforts to combat serious crimes which cross international boundaries, such as drug trafficking and money laundering. Such treaties are part of a broader framework of international agreements designed to facilitate cooperation in criminal matters. In this context, the Committee in its 4th Report, supported ratification of the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime*.

4.2 Mutual assistance treaties provide benefits to Australia by enabling Commonwealth, State and Territory law enforcement agencies to obtain information and evidence from the other party needed for investigations and prosecutions in Australia. They also enable Australia's law enforcement agencies to seek assistance in locating, restraining and forfeiting in the other party's jurisdiction the fruits of criminal activity that took place in Australia.

4.3 This Agreement expands the relationship between Australia and Hong Kong in areas of cooperation in criminal matters and supersedes an earlier agreement signed in 1991, which terminates in June 1997, covering matters concerning drug trafficking.

4.4 The existing Mutual Assistance in Criminal Matters (Hong Kong) Regulations will be repealed. New regulations will be made to provide that the *Mutual Assistance in Criminal Matters Act 1987* applies to Hong Kong and the text of this Agreement will be incorporated into the regulations.

4.5 This new treaty enables Australia and Hong Kong to assist each other in the investigation and prosecution of serious crime and sets out processes for mutual assistance in all criminal matters. As it will operate beyond 1 July 1997 when Hong Kong reverts to Chinese sovereignty, the Chinese Government has consented to the negotiation and recognition of this treaty by Hong Kong.

4.6 The Agreement imposes a range of obligations on both parties to assist each other in:

- identifying and locating persons;
- serving of documents;

- obtaining of evidence, articles or documents;
- executing requests for search and seizure;
- facilitating the personal appearance of witnesses;
- obtaining or production of judicial or official records;
- tracing, restraining, forfeiting and confiscating proceeds of crime;
- providing information, documents and records;
- delivering exhibits and other property; and
- other lawful assistance.

4.7 The provision of assistance is qualified under the treaty and is subject to certain internationally accepted exclusions including situations :

- where punishment is related to political or military offences;
- where punishment is refused on the grounds of a person's sex, race, religion, nationality, or political opinions;
- in relation to offences where the death penalty may be imposed or carried out unless the requesting party undertakes that the death penalty will not be imposed or, if imposed, will not be carried out; and
- where a request impairs the sovereignty, security or public order of the requested party.

4.8 The Agreement sets up a Central Authority in each country which will handle all requests. In Australia is the Central Authority is the Commonwealth Attorney-General's Department. Under Article XX of the Agreement, disputes will be resolved through diplomatic channels if the central authorities are unable to reach agreement.

4.9 The Committee sought information on the potential impact on the application of this treaty of Hong Kong's change of sovereignty after July 1997. The Department of Foreign Affairs and Trade noted that Australia's policy in approaching the transition of Hong Kong to the resumption of sovereignty by China is the undertaking made by China and the United Kingdom under the 1984 Declaration, a document of treaty status, and the Basic Law, which entered into the domestic law of China in 1991 to implement undertakings of the Joint Declaration. In summary:

The whole approach of the Australian Government is that China will fulfil the commitments it has made under the two agreements.¹

¹ Transcript, 24 February 1997, p. 29.

4.10 DFAT added that it had recently carried out a review of some 200 agreements. In addition to taking legal advice, it had reviewed agreements, arrangements and memoranda of understanding negotiated with China. The Department indicated that it was satisfied the agreements made protecting Australian interests in Hong Kong will be adhered to after 1 July 1997.²

4.11 Evidence provided by the Attorney-General's Department also confirmed that undertakings had been provided:

.. that [the] separate status [of Hong Kong] will continue sufficient to have a separate treaty with them that will not be impinged upon by Beijing rule.³

4.12 The Committee questioned the Department of Foreign Affairs and Trade on the search and seizure aspects of the treaty. It sought clarification on the processes adopted by the other party in either responding to a request or making a request of Australia under the Agreement. DFAT stated an agreement would not be entered into unless Australia is assured that the treaty partner has comparable standards. Furthermore, the Department noted that:

... if we think there is something going on among local police or other authorities [which] might lead to corrupt process of treaties like this one then we [DFAT] would certainly report so and draw it to the attention of the other authorities in Australia who would need to know that for the purpose of implementation of their own law.⁴

4.13 DFAT also commented that Australia concluded this Agreement to ensure that the interests of between 30,000 and 50,000 Australians living in Hong Kong would be protected.⁵ The Attorney-General's Department noted the importance of Hong Kong as a financial centre which has been favoured by criminal elements as a place to put their money. This has meant that requests for assistance under this type of arrangement are overwhelmingly in favour of Australia.⁶ This cooperation has lead to substantial recoveries and convictions.

4.14 The Agreement may be terminated at any time by either Party providing a written notice of termination. The Agreement will cease to have effect three months after receipt of that notice.

² *ibid*, p. 29.

³ *ibid*, p. 35.

⁴ *ibid*, p. 34.

⁵ *ibid*, p. 35.

⁶ *ibid*, p. 36.

4.15 The Committee acknowledges the benefits of this type of treaty and supports the implementation of the Agreement, as proposed.

Trade and Investment Agreement between Australia and Mexico.

4.16 Mexico is Australia's fourth largest export market in Latin America. Over the last decade Mexico has undergone an extensive liberalisation and restructuring of its economy. With its large population of some 93 million people, its low labour costs, the links it offers as a member of the North American Free Trade Association (NAFTA), in combination with our resource expertise, Mexico provides a range of opportunities for Australian exporters and investors.

4.17 Australia's trade with Mexico has expanded over the last decade although the peso crisis in 1995 affected the trade balance. Between 1991 and 1994 Australia had a merchandise trade surplus which peaked at \$A88 million. However, the trade deficit for the calendar year 1996 was \$43 million in favour of Mexico.⁷ At 30 June 1994 the estimated level of Australian investment in Mexico was \$A134 million. Mexican investment in Australia was recorded at \$A9 million.⁸

4.18 Austrade maintains a small post in Mexico City to facilitate the operations of Australian exporters and its focus has been in the areas of dairy produce, wool and livestock.⁹

4.19 In its 1992 report entitled *Australia and Latin America*¹⁰, the Senate Standing Committee on Foreign Affairs, Defence and Trade recommended the development of stronger links with the countries in Latin and South America. In its *4th Report* the Committee reviewed agreements with Chile and Peru which, unlike this trade agreement, were investment protection and promotion agreements whose purpose was to bring some safeguards into place for our investors by providing dispute resolution mechanisms and recourse to international courts processes. Treaties of this type represent an example of the growing bilateral relationships recommended in the Senate Standing Committee's Report.

⁷ *ibid*, p. 28.

⁸ Department of Foreign Affairs and Trade, *Country Economic Brief*, Mexico, April 1996, p. 23.

⁹ Austrade Brochure, *Mexico City*.

¹⁰ *Australia and Latin America*, Report of the Senate Standing Committee on Foreign Affairs, Defence and Trade, June 1992, p. 7.

4.20 The Committee also notes that negotiations are underway with Mexico for a double taxation agreement which will further enhance the close ties between the two countries.¹¹

Terms of the Agreement

4.21 The Agreement provides a framework for Australia and Mexico to consult on matters of mutual economic concern. It establishes the Australia-Mexico Commission on Trade and Investment which provides a ministerial level consultative forum to discuss bilateral, regional and multilateral trade issues with its primary aim to increase trade and investment between the two countries. To date there have been two meetings of the Commission.¹²

4.22 The Commission has provided a useful framework for achieving tangible outcomes to date. Following discussions under the Commission's framework, Mexico agreed to reduce its 10 per cent tariff on wool tops, scoured and carbonised wool and later on wool noils. DFAT noted that the change resulted in a reduction of our exports of raw wool to Mexico and increasing exports of partially processed wool products. Following this decision Australian exports of wool to Mexico increased 60 per cent in volume and 75 per cent in value. On current projections industry sources estimate that the growth potential for wool processing in Mexico will increase by nearly 40 per cent to 8 million kilograms by 2000.¹³ It is estimated that wool exports will surpass \$A20 million per annum as a result of wool tariff cuts. There is potential for a further boost to exports as the US tariffs on wool are eliminated under NAFTA.

4.23 The Committee was advised that the processing of Australian commodities in Mexico could provide an avenue into the wider NAFTA market by satisfying NAFTA rules of origin. Mexico's preferential access to the US and Canadian markets through NAFTA make it a potentially attractive base for investment in a range of industry sectors, particularly in textiles and the broader manufacturing sector. In this context, the Committee was informed that the Australian Wool Secretariat has established a joint venture agreement with its counterpart in Mexico with a view to gaining access to NAFTA.

4.24 The Agreement also includes an "Immediate Action Agenda" which covers bilateral issues such as market access, standards, sanitary and phytosanitary issues, services and investment, as well as multilateral issues. If

¹¹ Department of Foreign Affairs and Trade, *Country Economic Brief, Mexico*, April 1996, p. 25.

¹² Transcript, 24 February 1997, p. 26.

¹³ Trade Outcomes and Objectives Statement, February 1997, p. 7.

the parties consider it appropriate, further provisions governing trade and investment may be added to the Agreement in the future.

4.25 Under Article 6 both parties may decide by mutual consent to amend the Agreement while under Article 8 the Agreement will remain in force for a period of five years from its entry into force. Thereafter, it shall continue in force until the expiration of 180 days from the date on which one Party informs the other in writing of its intention to terminate the Agreement.

4.26 The NIA notes that no legislation is necessary to give effect to the Agreement in Australia and that no foreseeable costs will be incurred as a result of entering into this treaty.

4.27 **The Committee notes the evidence presented to it and supports the entry into force of this Agreement.**

Denunciation of the International Convention on Civil Liability for Oil Pollution Damage (Civil Liability Convention) 1969 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) 1971

4.28 In 1995 Australia acceded to the *IMO Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage 1969* (Civil Liability Protocol 1992), and the *IMO Protocol of 1992 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971* (Fund Protocol 1992). These Protocols replace the earlier Civil Liability Convention 1969 and the Fund Convention 1971.

4.29 The Civil Liability Convention 1969 established a system of liability for oil pollution damage from oil tankers done to the territory of a contracting State. Liability rested with ship owners who were required to hold adequate insurance or financial security. The Civil Liability Protocol 1992 extended the scope of the earlier convention by including the Exclusive Economic Zone (EEZ) under its coverage.

4.30 The Fund Convention 1971 supplemented the shipowners' liability to victims of oil pollution, in certain circumstances, where compensation under the Civil Liability Convention was inadequate.¹⁴ The Fund Protocol 1992

¹⁴ Transcript, 24 February 1997, p. 38.

maintained the International Oil Pollution Compensation (IOPC) Fund, included coverage of the EEZ of contracting Parties, covers incidents involving tankers on ballast legs and the costs of preventative measures where no spill occurs.¹⁵ The Protocol increases the compensation payable and simplifies the process of increasing compensation limits.¹⁶

4.31 Parties to the Civil Liability Convention 1969 and Civil Liability Protocol 1992 are required to register for international inspection ships carrying more than 2000 tons of oil in bulk as cargo and to inspect foreign flag tankers to ensure they hold the required certificate.¹⁷ The Committee notes that the 'flags of convenience' countries, Panama and Liberia, which register a substantial proportion of the world's tanker fleet, are parties to the Civil Liability Convention 1969 and the Protocol 1992 respectively.¹⁸

4.32 There were concerns that oil tankers entering Australian waters were not checked for insurance until they entered an Australian port. If ships do not have the appropriate insurance cover they are detained.¹⁹ The Department of Transport explained that it would be very rare for a ship engaged in international trade not to have insurance.²⁰

4.33 Notwithstanding the limited possibility that an uninsured oil tanker may enter Australian waters, the Committee would like to see a system in place where oil tankers intending to enter Australian territorial waters be required to submit their particulars of insurance before entry.

4.34 Costs for the Fund and liability insurance are borne by oil importers and ship owners.

4.35 The Protocols may be denounced by the deposit of an instrument with the Secretary-General. The Fund Protocol 1992 provided a mechanism for the compulsory denunciation of the Fund Convention 1971 when at least eight states had become Parties to the Fund Protocol 1992 and when the total quantity of contributing oil received by importers in those States reached 750 million tons.²¹ These criteria were met on 15 November 1996. Australia must

¹⁵ *ibid*, p. 38.

¹⁶ *ibid*, p. 38.

¹⁷ National Interest Analysis, International Convention on Civil Liability for Oil Pollution Damage, p. 2.

¹⁸ Letter to the Secretariat from the Department of Transport and Regional Development, 26 February 1997, p. 2.

¹⁹ Transcript, 24 February 1997, p. 39.

²⁰ *ibid*, p. 39.

²¹ National Interest Analysis, International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, p. 2.

denounce the earlier Conventions by 15 May 1997 to gain the improvements built into the 1992 protocols.²²

4.36 Australia's failure to denounce the Civil Liability Convention 1969 and the Fund Convention 1971 by 15 May 1997 would mean Australia would forego the potential benefits of higher compensation levels and the additional scope of application provided by the 1992 protocols. The NIA suggested that in this case:

Australia would belong to a scheme whose ability to meet large claims would be in serious doubt, with the major oil importers no longer contributing.²³

4.37 The Committee notes the information provided and supports the denunciation of both the Civil Liability Convention 1969 and the Fund Convention 1971.

W L Taylor MP

Chairman

²² National Interest Analysis, International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, p. 1; National Interest Analysis, International Convention on Civil Liability for Oil Pollution Damage, p. 1.

²³ National Interest Analysis, International Convention on Civil Liability for Oil Pollution Damage, pp. 1-2.

AUSTRALIA'S WITHDRAWAL FROM UNIDO

DISSENTING REPORT

Context

1.1 The background to the decision to withdraw from UNIDO is contained in paragraphs 2.4 to 2.7 of the majority report. The notification of the intention to withdraw from UNIDO was communicated to the Committee Chairman by the Minister for Foreign Affairs in a letter dated 9 December 1996 as noted in paragraph 2.8 of the majority report.

1.2 It is clear that the reasoning of the Department of Foreign Affairs and Trade (DFAT) and AusAID to recommend withdrawal from UNIDO was influenced by budgetary constraints. The issue was described by Mr O'Leary Assistant Secretary, International Organisations Branch, DFAT as follows:

'We were looking at UNIDO as a totality in the following terms: Is it the best use of our development funds at a time when resources have become tighter with the tighter budget situation: Is it the best way to deploy our resources amongst UN organisations: And also the balance between providing assistance bilaterally, regionally and multilaterally.'

1.3 The substantial difficulty we have with the Department's recommendation and the Minister's decision is that it pre-empted a major independent review of Australia's overseas aid program by a 3 person committee chaired by Mr Paul Simons A.M. The terms of reference of that review were announced by the Minister on 28 May 1996 and relevantly included the following terms of reference:

- The appropriate role for the aid program, particularly in the Asia-Pacific region;
- How the aid program should respond to economic globalisation and the opportunities and challenges that trend provides for developing countries.
- Consider the scope for Australian assistance outside the Asian-Pacific region, in particular in Africa and in the Central Asian republics.
- The appropriate balance of sectoral activities between, for example, education, health, agriculture, and infrastructure.

- The appropriate focus on cross-cutting issues such as gender and the environment.

1.4 Importantly the review process of the Simon's committee was to include extensive consultation. Specifically the terms of reference stated that:

'It will be important for the review to take account of the views of those involved in Australia's development cooperation, including:

- Recipient governments
- Australian firms
- Australian tertiary and research institutions
- Government departments
- Non government organisations'.

1.5 Importantly the timetable set of the Simons' Review was to be within six months of the Committee's establishment. While the report is still outstanding it is understood that it is likely to be released in one month's time.

1.6 An investigation of Australia's role in UNIDO was undertaken by DFAT in consultation with AusAID before the decision to withdraw from UNIDO was made. However, it is regrettable that the decision to withdraw from UNIDO was taken before the report of the Simon's committee was handed down. Clearly the terms of reference of the Simon's committee indicate that its Review will be much more extensive than that which has been undertaken prior to the Minister announcing the Government's decision to withdraw from UNIDO.

Issues of concern

2.1 The pre-empting of the Simon's review is significant given differing opinions as to relevant fact by officers of DFAT on the one hand and other witnesses who gave evidence to Treaties Committee.

2.2 For instance, a significant reason for recommending withdrawal from UNIDO was limited procurement opportunities for Australian companies.¹

2.3 On the other hand evidence provided by UNIDO was that there was substantial procurement opportunities for Australian firms.²

2.4 While it appears that the Australian company Hassall and Associates Pty Ltd has been the most successful company in supplying services to UNIDO, having approximately \$4.5 million dollars worth of business over the last 4 years³ there was evidence presented that there were substantial unfulfilled opportunities for other Australian companies.

2.5 There was a substantial difference of opinion as to whether Australian firms had utilised procurement opportunities offered by UNIDO. In terms of those opportunities for other Australian companies Mr Ingram on behalf of UNIDO gave evidence how in the year 1996 UNIDO invited 29 Australian organisations to tender for UNIDO's CFC reduction program. Mr Ingram described how 14 companies did not respond despite reminders by telefax and by telephone.⁴ Mr Ingram also gave evidence of the desire by UNIDO to increase Australian procurement.⁵ There was some recognition of untaken opportunities by Australian companies in the evidence given by Mr O'Leary on behalf of DFAT where he noted that DFAT and Austrade have in the last couple of years played a more proactive role in trying to encourage Australian firms to tender for contracts in international organisations. Mr O'Leary's evidence was that "there have been relatively few firms doing that"⁶.

1 See for instance transcript, 3 February 1997 page 10 and transcript of 4 March 1997 page 41.

2 Transcript, 4 March 1997, p. 34; UNIDO submission, 28 February 1997, p. 3

3 Transcript, 4 March 1997, p. 25.

4 *ibid*, p. 36.

5 *ibid*, p. 36.

6 Transcript, 3 February 1997, p. 5.

2.6 There was also a significant difference of opinion as to the extent of UNIDO's budget as noted in paragraph 2.30 of the majority report.

2.7 The evidence is, however, that despite past concerns regarding the administrative efficiency of UNIDO that UNIDO is now functioning appropriately with relatively small administrative overheads as noted in paragraph 2.37 of the majority report.

2.8 In light of evidence that unfulfilled procurement benefits to Australian industries may, at least in part, be due to inaction by Australian companies there is a substantial risk that the decision to withdraw from UNIDO has been made for an incorrect reason. If it is the case that the lack of procurement has been the fault of Australian industry it is in our opinion short sighted and indeed unjust to penalise UNIDO so dramatically by withdrawing our membership. This is, in our opinion, an issue which required much greater analysis than occurred before the decision to withdraw from UNIDO was made.

2.9 While it is true that Hassall & Associates gave a subjective analysis of the benefit of remaining in UNIDO their presentation was in our opinion rational and balanced. For instance, Mr Ingram said of the work undertaken by Hassall's the following:

"Hassall's, ...will not tell you themselves but their project in Uganda was one of the highest profile projects that UNIDO ever had the pleasure in participating in and is regarded in Ugandan aid circles as being the most successful job ever".⁷

2.10 There was further evidence that aside from procurement opportunities there were other business opportunities which spin off from UNIDO projects.⁸

2.11 Indeed the role of UNIDO is very much one of attempting to foster economic growth in the countries they are assisting. That growth in itself must necessarily produce some business opportunities. UNIDO described its role in that respect as follows:

"Industry is the driving force of economic growth. No country has developed without industrialising. As part of the United Nations common system, UNIDO is the only organisation that focuses exclusively in supporting industrial development in developing countries and economies in transition."⁹

7 Transcript, 4 March 1997.

8 See for instance evidence of Mr Ingram transcript 4 March 1997 at page 36.

9 UNIDO submission, 6 March 1997, p. 2.

2.12 Arguably the approach of focusing on developing industry is much more sophisticated and beneficial than providing short term band aid solutions to immediate humanitarian crises. For instance, Ms Hunt on behalf of the Australian Council for Overseas Aid said that Australia's aid program "must be about reducing poverty in a long term sustained way".¹⁰

2.13 The fact that UNIDO's activities do foster industry and that 35% of their activity is in Asia¹¹ is something which we believe has not received sufficient thought prior to the Government's decision to withdraw from UNIDO. As Ms Hunt said there are also obvious security implications for appropriate long term aid.¹²

10 Transcript, 4 March 1997, p. 20.

11 UNIDO submission, 6 March 1997, p. 3.

12 Transcript, 4 March 1997, p. 3.

Inappropriate international message

3.1 For the reasons we have outlined we believe that the Government acted with undue haste in withdrawing from UNIDO. While we appreciate the decision was substantially motivated by a desire to avoid another year's funding, there is much merit in the submission of 'The Group of 77' which represents 132 developing countries, dated 10 March 1997 where the group submitted:

'Australia is an important partner of the developing countries in multilateral developing cooperation. She played a prominent and positive role in promoting international economic cooperation. The cost of Australia's membership in UNIDO, we believe, pales in comparison with the goodwill she has earned and the leading role she has played as a respected voice in the organisation'.

3.2 A similar point was made by The Australian Council for Overseas Aid where in their submission dated 10 February 1997 the Council indicated that a major concern they had about Australia's withdrawal from UNIDO was what appears to be a declining commitment by Australia to multilateralism. See also the evidence of Ms Hunt in the transcript of 4 March 1997 at page 18 where she expressed the Council's concern about Australia's commitment to UN organisations.¹

3.3 We believe that Australia's withdrawal from UNIDO in order to save the sum of \$2.7 million without having the benefit of the Simon's review was extremely short sighted. We believe the message given by the withdrawal is that Australia has a declining commitment to UN organisations whereas, even if the same decision was made after the Simon's review it could be explained to the rest of the world in the context of an overall restructuring of Australia's overseas aid program rather than a simple cost cutting exercise.

3.4 For the reasons outlined herein we cannot agree with the conclusions reached in the majority report nor can we endorse the decision by the Australian Government to withdraw from UNIDO.

1 Transcript, 4 March 1997, p. 18.

Mr Robert McClelland MP
Deputy Chairman
Member for Barton

Senator Belinda Neal
Labor Senator for New South Wales

Senator Shayne Murphy
Labor Senator for Tasmania

Senator Barney Cooney
Labor Senator for Victoria

Senator Vicki Bourne
Australian Democrat Senator for
New South Wales

The Hon Dick Adams MP
Member for Lyons

Mr Laurie Ferguson MP
Member for Reid

APPENDIX 1

LIST OF WITNESSES

AUSTRALIA'S WITHDRAWAL FROM UNIDO

Monday, 3 February 1997, Canberra

Department of Foreign Affairs and Trade

Mr I Biggs, Executive Director, Treaties Secretariat

Mr J Brown, Director, UN Economic and Social Section

Mr C Lamb, Legal Adviser

Mr D O'Leary, Assistant Secretary, International Organisations Branch

Australian Agency for International Development

Mr R McKinnon, Acting Director, United Nations and International Programs Section

Mr G Nicholls, Acting Assistant Director General, International Organisations and Public Affairs Branch

Tuesday, 4 March 1997, Canberra

Department of Foreign Affairs and Trade

Mr I Biggs, Executive Director, Treaties Secretariat

Mr D O'Leary, Assistant Secretary, International Organisations Branch

Australian Agency for International Development

Mr R McKinnon, Acting Director, United Nations and International Programs Section

Mr G Nicholls, Acting Assistant Director General, International Organisations and Public Affairs Branch

Australian Council for Overseas Aid

Ms J Hunt, Executive Director

Ms P Lee, Director, Research and Information

United Nations Industrial Development Organization

Mr A Ingram, Director, Financial Services, Officer-in-Charge, Division of Administration

Mrs D Magliani Streitenberger, Chief, Public Information Section, Spokesperson for the Director-General

Hassall and Associates Pty Ltd

Mr J Wurcker, Managing Director

Mr J Deas, Regional Manager, Africa and Asia

TREATIES TABLED ON 11 FEBRUARY 1997

Monday, 24 February 1997, Canberra

Department of Foreign Affairs and Trade

Mr I Biggs, Executive Director Treaties Secretariat

Mr C Lamb, Legal Adviser

Dr D Engel, Executive Officer Vietnam, Cambodia, Laos Section

Mr R Ryan, Director Canada/Caribbean, Latin American Section

Mrs D Fisher, Acting Assistant Secretary East Asia Branch

Australian Tax Office

Mr K Allen, Assistant Commissioner, International Tax Division

Mr M Nugent, Senior Advising Officer International Tax Division

Mr N Motteram, Manager, Treaties Unit

Institute of Chartered Accountants

Mr T Cooper, General Manager National Tax, Ernst & Young Chartered Accountants

Australian Society of Certified Practising Accountants

Mr C Tate, Senior Tax Counsel

Austrade

Mr A Olah, Manager, Americas Regional Office

Attorney-General's Department

Mr B Campbell, Acting Principal International Law Counsel

Mr M Lennard, Counsel, Office of International Law

Ms A Willing, Senior Government Lawyer, International Branch, Criminal Law Division

Mr C Meaney, Assistant Secretary, Criminal Law Division

Mr M Manning, Senior Government Lawyer, International Branch, Criminal Law Division

Department of Transport and Regional Development

Dr N Ada, Director, Maritime Safety Team

Mr C Harris, Maritime Safety Team

Ms Morton-Radovsky, Maritime Safety Team

Australian Maritime Safety Authority

Mr M Julian, Manager, Marine Environment Protection Services

DOUBLE TAXATION AGREEMENT WITH VIETNAM

Thursday, 6 March 1997, at Canberra

Australian Tax Office

Mr K Allen, Assistant Commissioner, International Tax Division

Mr N Motteram, Manager, Treaties Unit

Attorney-General's Department

Mr M Lennard, Counsel, Office of International Law

Department of Foreign Affairs and Trade

Mr I Biggs, Executive Director, Treaties Secretariat

Mr C Lamb, Legal Adviser

Mr D Nethery, Acting Director, Thailand, Vietnam, Cambodia, Laos Section

APPENDIX 2

LIST OF SUBMISSIONS

AUSTRALIA'S WITHDRAWAL FROM UNIDO

Submission Number	Organisation
1.	Australian Council for Overseas Aid
2.	Hassall and Associates Pty Ltd
3.	United Nations Industrial Development Organisation
4.	United Nations Industrial Development Organisation
5.	Centre for International Economics
6.	United Nations Industrial Development Organisation
7.	Australian Council for Overseas Aid
8.	Australian Agency for International Development
9.	Department of Foreign Affairs and Trade
10.	Department of Foreign Affairs and Trade
11.	Australian Agency for International Development
12.	The Group of 77

DOUBLE TAXATION AGREEMENT WITH VIETNAM

Submission Number	Organisation
1.	Australian Society of Certified Practising Accountants
2.	Australian Taxation Office
3.	Institute of Chartered Accountants in Australia
4.	Australian Society of Certified Practising Accountants

APPENDIX 3

EXHIBITS

AUSTRALIA'S WITHDRAWAL FROM UNIDO

Exhibit Number

1. Minister for Foreign Affairs, *Letter dated 9 December 1997*
2. The Australian Council for Overseas Aid, *Australia's Overseas Development Assistance 1997-1998 - Pre-Budget Submission*
3. The Australian Council for Overseas Aid, *Submission to the Review of Australia's Aid Program*, Canberra, December 1996
4. The Australian Council for Overseas Aid, *Extract from ACFOA Budget Analysis 1996-1997*.
5. The Australian Council for Overseas Aid, *Australia's Overseas Aid Program 1996-1997 [Budget-Related Paper]*
6. Centre for International Economics, *A study for a medium term industrial strategy for Viet Nam*, December 1996.
7. UNIDO - *Information Package*

TREATIES TABLED ON 11 FEBRUARY 1997

DOUBLE TAXATION AGREEMENT WITH VIETNAM

Exhibit Number

- 1 Extract from *Trade Outcomes and Objectives Statement*, Minister for Trade, February 1997
- 2 *Proposed Changes to the Taxation of Foreign Source Income: An Information Paper*, The Treasurer, December 1996

