

## **SECTION 2**

### **AUSTRALIAN DEVELOPMENT AID**

## CHAPTER THREE

### AUSTRALIA'S FORMAL COMMITMENTS

#### (a) The Report of the World Commission on Environment and Development

3.1 The importance of maintaining an international climate capable of sustainable development was the theme of the WCED Report *Our Common Future*. This Report, according to the Commission's former Secretary-General, has influenced the agendas of the UN, Commonwealth Prime Ministers, the World Bank, public policy institutes, universities and national governments.

3.2 DASETT has advised the Committee that *Our Common Future* was endorsed in 1988 by the Australian Government 'in general terms'.<sup>1</sup> DASETT considered that the WCED Report was valuable in terms of confirming guidelines for environmental impact assessment, and concluded that:

AIDAB should declare a strong corporate commitment to the goal of environmentally sustainable development in line with the recommendations of the World Commission on Environment and Development.<sup>2</sup>

#### (b) World Conservation Strategy

3.3 Another formal obligation of this kind on Australia derives from the fact that this country was a participant in the consultations leading to the adoption of the *World Conservation Strategy* (WCS) in 1980. The WCS underlined the need to maintain the essential ecological process and life-support systems on which human survival depends; it advocated a reconciliation between conservation and development. AREA advised the Committee that the message of the WCS was:

that living resource conservation is essential if development and living standards are to be sustained.<sup>3</sup>

#### (c) National Conservation Strategy for Australia

3.4 The WCS forms the basis of the *National Conservation Strategy for Australia* (NCSA) which was drawn up by consensus at a National Conference and, as advised by AIDAB, formally endorsed by the Australian Government in June 1984.<sup>4</sup> AIDAB has acknowledged that the NCSA recommends that the objectives arising out of the WCS be taken fully into account in Australia's dealings with other countries (including recipients of Australian development assistance).<sup>5</sup>

3.5 In AREA's view, the following NCSA statements are 'pertinent' to this inquiry:

'The continuous growth of human populations and the scale of their impact on the global environment make it imperative that a new sense of responsibility be accepted if the earth's essential ecological processes and life support systems are not to be threatened'.

'The purpose of the NCSA is to provide nationally agreed guidelines for the use of living resources by Australians so that the reasonable needs and aspirations of society can be sustained in perpetuity'.

'Australia's important role as a reliable supplier of food and resources is also relevant. Consistent with other objectives this can afford opportunities to minimise the extent of environmental degradation around the world. Trade also provides for the distribution of other economic benefits which themselves can facilitate global strategies of sustainable development'.<sup>6</sup>

3.6 AREA further advised that:

With regard to Australia's international obligations, the Strategy recommended that objectives would be greatly assisted if Australia acted to:

- (a) Strengthen consultative arrangements and information exchange between the Commonwealth and other government and non-government bodies concerning Australia's participation in international conservation agreements and programs.
- (b) Ensure that the objectives arising out of the NCSA and the WCS are taken fully into account in Australia's dealings with other countries.
- (c) Promote international understanding of the importance of the unique physical character and ecology of Antarctica and seek appropriate forms of management for the continent.

The NCSA also recommended methods of managing natural resources for sustainable yield while protecting life support systems. This included expanding reserves and habitat protection, controlling pollution, wastes and hazardous materials, ensuring that harvested stocks of terrestrial and aquatic living resources are sustainable, and conservation of soils and water.<sup>7</sup>

3.7 AREA concluded that the NCSA and WCS are clear commitments by the Australian Government that should be reflected in the operation of Australia's development assistance program.

**(d) OECD Council Recommendations**

3.8 AIDAB has drawn attention to the fact that, since 1982, Australia has participated in the consideration of environment and development issues in the OECD. AIDAB's submission (dated October 1987) confirmed that:

The World Conservation Strategy and the OECD recommendations provide a background for recent work within AIDAB aimed at developing a set of guidelines for environmental protection and resource management in Australian development assistance.<sup>8</sup>

**(e) Environmental Screening Guidelines**

3.9 Since the preparation of its submission in 1987, AIDAB has finalised this work that it had referred to. In June 1989, AIDAB published its environmental screening guidelines for development aid; this document, part of the Activity Guidelines series, is entitled *Environmental Assessment of Official Development Assistance*.

**(f) Development Paper – Aid and the Environment**

3.10 Further, in July 1989, AIDAB published Development Paper No. 3 *Aid and the Environment*. According to the Foreword, this Paper:

reaffirms Australia's commitment to ecologically sensitive sustainable development and the effective incorporation of the commitment into all stages of the Bureau's activities.<sup>9</sup>

**(g) Environmentally-oriented Treaties**

3.11 AIDAB has advised that Australia is party to eighteen environmentally oriented international treaties, conventions, protocols and agreements. (The list provided by AIDAB<sup>10</sup> is at Appendix 3.) They range from the International Convention for the Regulation of Whaling, Washington 1946, to the Montreal Protocol on Substances that Deplete the Ozone Layer, 1988.

3.12 Further, AIDAB has listed three other conventions signed by Australia but not yet ratified. They are:

- Convention on Conservation of Nature in the South Pacific, Apia 1976;

- United Nations Convention on the Law of the Sea, Montego Bay 1982; and
- Convention for the Protection of the Natural Resources and the Environment of the South Pacific Region, Noumea 1986.

3.13 In each case (although in several different ways) these commitments restrain Australia from actions having a negative environmental consequence, or oblige Australia to take positive action. Importantly, unless other regional countries enter into, and comply with, agreements of this kind that are open to them, it remains possible for Australia to provide aid to a country that then acts against the international interest in some respect proscribed by an agreement. (For example, it is conceivable that an aid recipient having been allocated funds towards, say, a fishing vessel could purchase a vessel capable of conversion for whaling and ultimately engage in that activity.)

3.14 Of course, in the event that this transpired Australia would not be in breach of its international commitments: Australia would not have taken any proscribed action.

3.15 Ensuring that such events remain unlikely is the responsibility of AIDAB officers; it is expected that they would be sensitive to such possibilities. The prevention of such undesirable events, then, is policy dependent and relies on the professional judgement of AIDAB officers. In such contexts, of course, the substance of the international agreements entered into by Australia is particularly valuable as policy guidance: while not enforceable in a legal sense, these agreements indicate the attitude of the Australian Government to major global environment questions.

## **Conclusion**

3.16 The Committee understands that the substance of Australia's formal obligations for the environmental soundness of development aid has never been set out comprehensively and published.

3.17 Accordingly, the Committee recommends that AIDAB publish a document detailing Australia's formal aid obligations, particularly those relating to the environment.

3.18 Further, the Committee recommends that the document should include a comprehensive commitment to the Brundtland (WCED) Report. The Committee recommends that Australia's commitment to the Brundtland Report should be agreed between AIDAB, the Department of Foreign Affairs and Trade, and the Department of the Arts, Sport, the Environment, Tourism and Territories. This would precede an announcement on Australia's commitment by the Minister for Foreign Affairs and Trade, and the incorporation of the commitment into AIDAB's document.

## ENDNOTES

1. DASETT Submission (No. 42), p. 36, Transcript of Evidence, p. 857.
2. DASETT Supplementary Submission (No. 42A), p. 8, Transcript of Evidence, p. 900.
3. AREA Submission (No. 28), p. 3, Transcript of Evidence, p. 342.
4. AIDAB Submission (No. 1), p. 30, Transcript of Evidence, p. 663.
5. *ibid.*
6. AREA Submission (No. 28), p. 3, Transcript of Evidence, p. 342.
7. *ibid.*, p. 4, Transcript of Evidence, p. 343.
8. AIDAB Submission (No. 1), p. 31, Transcript of Evidence, p. 664.
9. *Aid and the Environment*, *op.cit.*, p. 3.
10. Attachment to letter from Acting ADG, AESS Branch, AIDAB, 9 December 1988.

## CHAPTER FOUR

### THE PROVISION AND MONITORING OF AUSTRALIAN AID

4.1 In its review of AIDAB and the overseas aid program, the Joint Committee on Foreign Affairs, Defence and Trade observed that the most important annual event in the shaping of Australia's aid program is the bringing down of the Budget.<sup>1</sup>

4.2 The current relevant paper, *Australia's Overseas Aid Program 1989-90* (Budget Related Paper No. 4), provides the aid budget advice on which this chapter is based.

4.3 Australia allocated \$1163.4 million in total net official development assistance (ODA) for 1989-90. The allocation specified is shown in Table 1.<sup>2</sup>

4.4 Papua New Guinea (PNG) will receive about twenty-seven per cent of Australia's 1989-90 aid program, clearly the largest share. Significantly, Australian and Papua New Guinean Prime Ministers signed the Treaty on Development Co-operation on 24 May 1989, confirming Australia's continuing commitment to PNG's development and security.

#### Country Programs

4.5 Australian aid to PNG is provided under the Country Programs allocation, one of the two major categories of aid; the other major category is Global Programs. Of the Country Programs allocation, PNG received forty-two per cent for 1989-90: this is shown in Table 2.<sup>3</sup>

4.6 For the purposes of this inquiry, the significant point is that almost all of the funds provided to the major recipient of Australian ODA were provided as untied budget support; PNG is the only country to receive assistance in this way. For 1989-90 the level of this support will be \$275 million. Crucially, because this allocation is not for programmed activities and is spent at the discretion of the PNG Government, its disbursement is not subject to Australian guidance (or even monitoring). AIDAB, then, is unable to subject almost half of the Country Programs ODA allocation to scrutiny from an environmental perspective. This is of concern given the potential degradation of the environment in PNG, particularly rainforests. Only \$19.3 million of Australian ODA to PNG under Country Programs for 1989-90 is capable of being assessed for environmental impact. (The balance of the \$309.4 million allocated to PNG is \$15.1 million for Retirement Benefits for expatriate officers who served in pre-independence Administrations.)

4.7 Over the next five years, the Budget Paper indicates that the proportion of programmed aid for PNG will rise. In real terms, however, the change will be slight – budget support will drop to \$260 million and programmed activities will be expanded from \$20 million to \$35 million in 1993-94. The point remains that over that period an amount equivalent to more than Australia's annual ODA allocation (in 1989-90 terms) will have been spent in ways not subject to assessment on environmental factors.

4.8 The Committee considers that this is regrettable. The Committee appreciates the circumstances that prevailed leading to untied grants for PNG, but Australia should be able to make known to PNG its concerns about environmental degradation. While Australian budget support for PNG is confirmed by the Treaty on Development Co-operation, the Committee considers that AIDAB should utilise the appropriate forums to express to PNG Australia's concerns that its budget support not result in damage to PNG's environment. Those expressions of Australia's view should remain confidential out of respect for PNG's sovereignty; however, they could occur during talks ranging from officials-level to ministerial level, if appropriate.

4.9 PNG aside, ODA to other countries is entirely for programmed aid. Such aid, which is provided to three categories of countries, is able to be monitored. Those categories are the South Pacific, South East Asia and Other Regions (which includes China, Africa and the Middle East). In addition there are Cross Regional Programs.

4.10 South Pacific recipients of ODA have considerable opportunity to apply those funds in ways that could either enhance or damage the environment. The countries of the South Pacific are diverse, but most have small land areas and small populations with high growth rates. Many of them are elevating tourism to a priority industry. And they are susceptible to natural disasters that can result in environmental damage. This is illustrated<sup>4</sup> in Table No. 3 for the South Pacific.

4.11 Notably, this table indicates allocations to regional organisations under the Country Programs vote. Budget Paper No. 4 advises that:

Australia will continue to support important regional organisations in the South Pacific. They include the South Pacific Commission, the South Pacific Forum Secretariat (formerly the South Pacific Bureau of Economic Co-operation), the Forum Fisheries Agency (FFA), the University of the South Pacific (USP) and the Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC). Assistance through regional organisations is directed towards sectors which can be co-ordinated on a regional basis, complementing our government-to-government assistance. Areas in which Australia currently assists regional organisations



include telecommunications, trade, transport, health and energy. Assistance for the South Pacific Regional Environmental Program (SREP) will be substantially increased.<sup>5</sup>

Clearly, ODA outlays in some of these areas could entail environmental consequences. However, this is perhaps not the case for outlays under the Regional/Multicountry item of the South East Asia program. There:

The emphasis of other South-East Asian regional programs supported by Australia is on improvement of the region's capacity to meet its own training needs. The main recipients are the Asian Institute of Technology, the South-East Asian Ministers of Education Centres and International Atomic Energy Agency projects. In addition in 1989-90 around \$2m will be provided for health initiative activities in the region.<sup>6</sup>

4.12 The disbursement of Australian ODA through multilateral organisations was the subject of comment noticed by the Joint Committee Report on AIDAB. That Report advised that Australian aid is no longer easily described in terms of its bilateral or multilateral expenditure:

For example, multilateral channels may be used to achieve Australian country program objectives.<sup>7</sup>

4.13 The Committee notes that Australian ODA may be spent through multilateral agencies for country program purposes and that it may be difficult for Australia to monitor the environmental impact of such aid. Nevertheless the Committee considers that official Australian representatives on those agencies have a responsibility to pursue the policies of the Australian Government concerning aid and the environment.

4.14 This principle should also apply to Australian involvement in multilateral aid agencies assisting countries in South East Asia. Australia has allocated \$28.6 million for such aid in 1989-90. Budget Paper No. 4 presents the figures for South East Asia as shown in Table No. 4.<sup>8</sup> Again, there is considerable scope for this aid to have an environmental consequence. The Budget Paper advises that agricultural or rural development (or both) are part of Australia's aid program for Indonesia, the Philippines, Thailand and Malaysia. Land use and conservation programs also feature, as does irrigation and livestock farming for Laos.<sup>9</sup>

4.15 Similarly, Australian ODA with China, which occurs under the Other Regions category, includes agriculture, energy, forestry, minerals and urban development. The Budget Paper table is shown as Table 5.<sup>10</sup>

4.16 The remainder of Australia's Country Program ODA disbursements occur as Cross Regional Programs.<sup>11</sup> This is shown in Table 6.

## **Global Programs**

4.17 While Country Programs are based on aid strategies for individual countries, through Global Programs Australia contributes to development activities not planned on a country-by-country basis.

4.18 The Emergency and Refugee Assistance category is of significance for this inquiry in that funds available under this category can be used to repair damage from natural disasters. The islands of the South Pacific, for example, are particularly vulnerable to cyclone damage. The Budget Paper table for this category is shown in Table 7.<sup>12</sup> While some international organisations appear in this table, the major such organisations are listed in a separate table in the Budget Paper, shown in Table 8.<sup>13</sup>

4.19 Further, under Global Programs the Australian Government encourages the involvement of a wide range of Australian interests in development activities. Among other programs, non-government organisations (NGOs) are funded under this category.<sup>14</sup> This is shown in Table No. 9. Notably, NGOs provide development assistance from funds raised directly in the community on a much larger scale than the subsidies they receive from the Government.

## **Corporate Services**

4.20 A third category of allocated aid expenditure is to maintain the AIDAB organisation and manage the ODA program. This is shown in Table No. 10.<sup>15</sup>

## **Recommendations**

4.21 **The Committee recommends that AIDAB should use the appropriate forums as regularly as necessary to express to PNG Australia's concern that the untied budget support not contribute to environmentally damaging projects; the degradation of rainforests in PNG is a particular concern. The Committee considers that such expressions of concern should remain confidential, but notes that they could be made up to ministerial level, if appropriate.**

4.22 **The Committee has noted the disbursement of Australian ODA through multilateral organisations in the South Pacific and South East Asia. The Committee recommends that, where represented on those agencies, Australian officials:**

- **monitor projects from an environmental perspective;**
- **advise the multilateral organisations, where appropriate, of Australia's environmental concerns;**

- **report regularly to AIDAB on the environmental monitoring and advising role being pursued.**

**4.23 The Committee further recommends that AIDAB should provide regular (say, every six months) reports to the Minister for Foreign Affairs and Trade and the Minister for the Arts, Sport, the Environment, Tourism and Territories. These reports, based on the advice received by AIDAB management, would inform the Ministers of environmental aspects of projects pursued by multilateral organisations using Australian ODA funds; they would also advise projected action, where necessary.**

## **BUDGET PAPERS**

**Table 1: The Australian Aid Program 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure <sup>1</sup>				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
<b>COUNTRY PROGRAMS</b>					
Papua New Guinea	319.3	325.3	299.3	303.9	309.4
South Pacific	53.4	71.9	70.6	89.1	85.3
South East Asia	120.4	112.6	129.1	129.8	137.6
Other regions	70.6	64.4	72.9	106.0	124.7
Cross Regional Programs	107.9	93.8	92.3	87.7	76.0
Total Country Programs <sup>2</sup>	671.6	668.0	664.3	716.5	733.0
<b>GLOBAL PROGRAMS</b>					
Emergencies and Refugees	47.1	36.1	41.4	48.5	55.2
International Organisations	190.7	154.7	166.1	268.2	158.5
Community and Commercial <sup>3</sup>	48.9	46.3	67.8	85.4	141.2
<b>CORPORATE SERVICES</b>	16.6	19.5	22.4	23.9	30.4
Expenditure by other Government Bodies, <sup>4</sup>					
Miscellaneous Items, Revenue and ODA adjustments	56.1	51.0	57.4	52.1	45.1
<b>TOTAL NET ODA</b>	<b>1 031.0</b>	<b>975.6</b>	<b>1 019.6</b>	<b>1 194.6</b>	<b>1 163.4</b>
<b>Total net ODA at constant prices</b>	<b>1 190.8</b>	<b>1 048.5</b>	<b>1 019.6</b>	<b>1 094.9</b>	<b>1 003.2</b>
Real change over previous year (%)	-4.8	-11.9	-2.8	7.4	-8.4
ODAGNP ratio (%)	0.45	0.39	0.36	0.37	0.33

<sup>1</sup>Since it was necessary to redistribute expenditure to a new program structure in 1987-88, completely accurate expenditure figures for earlier years have not always been possible.

<sup>2</sup>The amounts shown for the regional allocations are not total aid flows to the regions. They represent only those forms of aid which are jointly programmed by Australia and the recipient as 'country programs'. They include, for example, technical assistance and project aid, training, commodity and co-financing. They do not include other aid flows, such as the student subsidy, expenditure by departments or agencies other than AIDAB, emergency relief, aid through non-government organisations, or support under the Women in Development Fund.

<sup>3</sup>Includes the Australian Centre for International Agricultural Research (ACIAR).

<sup>4</sup>The amount included as the estimate for expenditure by other Government bodies covers activities undertaken by Commonwealth agencies other than AIDAB and by State governments. This expenditure is classified as ODA but is not funded from AIDAB's appropriations. Included in this amount for example are contributions to some international financial institutions (IFIs), which are carried in Treasury appropriations. Also included is expenditure on development related activities undertaken by the Department of Defence as part of Australia's Defence Co-operation Program.

**Table 2: Country Program to Papua New Guinea 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
Budget Support	302.8	304.5	275.0	275.0	275.0
Programmed Activities <sup>1</sup>	4.1	7.7	9.9	14.4	19.3
Retirement Benefits	12.4	13.1	14.4	14.5	15.1
<b>Total<sup>2</sup></b>	<b>319.3</b>	<b>325.3</b>	<b>299.3</b>	<b>303.9</b>	<b>309.4</b>

<sup>1</sup>Does not include the PNG component of the student subsidy, estimated at \$0.9m in 1985-86, 1986-87 and 1987-88 and \$0.7m in 1988-89 and 1989-90.

<sup>2</sup>Does not include some minor AIDAB expenditure items or expenditure by departments other than the Department of Foreign Affairs and Trade

**Table 3: Country Program to the South Pacific to 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
Country					
Fiji	12.1	12.7	13.4	16.8	12.8
Vanuatu	5.4	8.7	7.8	14.1	9.5
Solomon Islands	5.5	6.6	9.1	8.6	9.5
Western Samoa	5.3	5.7	9.1	7.8	8.2
Tonga	5.1	5.8	7.6	7.5	7.5
Kiribati	2.4	2.8	2.7	3.1	3.3
Tuvalu	1.2	9.0	1.4	1.3	1.4
Cook Islands	0.4	1.0	1.3	0.9	1.0
Regional/Multicountry					
Micronesia	4.6	6.0	3.5	3.0	3.6
SPC <sup>1</sup>	2.7	2.7	3.0	2.5	3.1
ACPAC	3.4	3.8	2.4	1.9	2.6
Forum Secretariat <sup>2</sup>	1.6	1.5	2.1	1.7	2.1
FFA	0.6	0.7	0.4	0.9	0.9
CCOP/SOPAC	0.5	0.4	0.5	0.7	0.8
World Bank Co-operation	-	0.4	0.4	0.7	1.0
Other Regional and Multicountry Programs <sup>3</sup>	2.2	3.4	5.0	16.4	16.1
<b>Total</b>	<b>53.4</b>	<b>71.9</b>	<b>70.6</b>	<b>89.1</b>	<b>85.3</b>

<sup>1</sup>Expenditure includes core and extra-budgetary contributions and project subsidies (including South Pacific Regional Environment Program).

<sup>2</sup>Previously called SPEC. Expenditure includes core and extra-budgetary contributions and project subsidies.

<sup>3</sup>For 1988-89 and 1989-90 includes \$3.3m and \$2.2m respectively for the payment of the Overseas Student Charge for private South Pacific students studying in Australia. For previous years, those costs have been attributed to individual recipient countries.

**Table 4: Country Program to South East Asia 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
Country					
Indonesia	42.0	40.4	43.1	45.4	48.3
Philippines	13.5	21.4	25.1	26.7	28.2
Thailand	23.3	18.0	19.2	20.5	21.6
Laos	3.8	5.8	6.1	6.4	6.8
Myanmar (Burma)	11.6	9.5	11.1	5.5	2.0
Malaysia	1.2	1.7	0.9	0.4	2.0
Singapore,	1.4	0.4	0.4	0.2	0.1
Regional/Multicountry					
Indo-China	8.5	7.0	9.1	12.3	13.8
AAECP	11.1	6.2	6.3	6.4	6.0
Other SEA Regional	4.1	2.2	8.0	6.0	8.8
<b>Total</b>	<b>120.4</b>	<b>112.6</b>	<b>129.1</b>	<b>129.8</b>	<b>137.6</b>



**Table 5: Country Program to Other Regions 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
China	15.7	15.1	18.3	18.4	21.1
South Asia	17.7	15.2	16.0	25.8	22.7
Indian Ocean	5.4	4.8	5.5	7.7	9.6
Southern Africa	11.4	9.1	15.0	35.9	49.1
<b>Total</b>	<b>70.6</b>	<b>64.4</b>	<b>72.9</b>	<b>106.0</b>	<b>124.7</b>

**Table 6: Cross Regional Programs 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
Training Support	4.0	2.8	2.8	1.4	1.8
WID Fund	0.5	0.5	0.7	0.7	0.7
Direct Aid Program	1.9	1.6	2.4	2.6	2.5
World Bank Co-operation	-	0.4	1.0	1.9	2.1
Program Coordination/Review	0.7	0.5	0.3	0.7	1.4
Student Subsidy	100.8	88.0	85.2	80.2	56.7
Equity and Merit Scholarship Scheme	-	-	-	-	3.9
Fees to institutions	-	-	-	-	6.0
Other costs	-	-	-	0.1	0.8
Pilot Equity Scholarship Scheme	-	-	-	0.1	
<b>Total</b>	<b>7.1</b>	<b>93.8</b>	<b>92.3</b>	<b>87.7</b>	<b>76.0</b>

**Table 7: Emergency and Refugee Assistance 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
Emergency Aid	4.5	2.8	8.4	9.1 <sup>1</sup>	9.5
Relief and Refugees	36.3	28.7	26.7	29.4	39.5
Relief Programs	4.7	4.0	4.7	7.0 <sup>2</sup>	0.5
UNHCR <sup>2</sup>					
<b>Total</b>	<b>47.1</b>	<b>36.1</b>	<b>41.4</b>	<b>48.5</b>	<b>55.2</b>

<sup>1</sup>In addition to the 1988-89 Emergency Aid expenditure of \$9.1m, a \$500 000 contribution to the Armenian earthquake appeal was funded from the emergency appropriation. This contribution was not reportable as ODA because the USSR is not classified as a developing country.

<sup>2</sup>Expenditure represents Contributions mainly to core/general programs.

<sup>3</sup>Includes \$2.1m advance payment for UNHCR to help alleviate cashflow problems.

**Table 8: Contributions to International Organisations 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
International Financial Institutions					
ADF	23.0	21.6	11.7	52.5	21/3
IDA	62.5	65.6	70.6	126.8	43.0
IFAD	2.8	1.7	2.5	1.0	1.0
United Nations					
WFP	61.5	33.6	41.5	44.0	44.0
UNDP	16.0	14.0	15.0	15.8	16.8
UNICEF	2.5	2.5	3.1	3.3	3.5
UNFPA	1.1	0.2	0.6	0.7	1.2
UN Women's Fund	0.1	-	0.3	0.3	0.4
IAEA	1.1	0.6	0.6	0.6	1.0
UNCDF	-	-	-	0.4	0.4
UNEP	0.5	-	0.3	0.3	0.3
UNFDAC	0.2	0.1	0.4	0.4	0.7
Other UN	-	-	0.1	0.2	0.8
Commonwealth	9.0	7.8	10.3	10.8	11.9
International Agricultural Research	7.5	4.7	5.5	6.1	6.6
International Health Programs	1.6	1.3	2.4	3.6	4.0
International NGOs	1.4	1.1	1.3	1.4	1.6
<b>Total</b>	<b>190.7</b>	<b>154.7</b>	<b>166.1</b>	<b>268.1</b>	<b>158.5</b>

**Table 9 - Community and Commercial Program 1985-86 to 1989-90 (\$m)**

Program Element	Expenditure				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
NGOs	7.1	5.1	7.7	8.7	10.4
Volunteer Programs	2.0	2.0	2.6	3.3	3.8
ACFOA	0.2	0.2	0.3	0.3	0.3
Development Education/Public Information	0.3	0.2	0.4	0.5	0.5
ACIAR	11.7	12.9	14.8	15.6	17.4
IDP	7.2	6.2	7.1	7.6	8.5
Academic Research/Seminar Support	1.4	1.5	2.1	2.2	2.7
DIFF	16.4	15.6	30.0	42.9	93.3
International Trade Development	2.6	2.6	2.9	4.2	4.3
<b>Total</b>	<b>48.9</b>	<b>46.3</b>	<b>67.8</b>	<b>77.8</b>	<b>141.2</b>

**Table 10: AIDAB's Corporate Services 1985-86 to 1989-90<sup>1</sup>**

Program Element	Expenditure (\$m)				Estimate 1989-90
	1985-86	1986-87	1987-88	1988-89	
<b>Running Costs</b>					
Salaries and Allowances	14.5	16.3	16.3	18.8	19.5
Administrative Expenses	1.8	2.7	5.4	4.3	6.9
ADP Equipment	0.3	0.4	0.7	0.8	3.5
Property Operating Expenses <sup>2</sup>	-	-	-	-	3.5
<b>Total</b>	<b>16.6</b>	<b>19.4</b>	<b>22.4</b>	<b>32.9</b>	<b>30.4</b>
Average Staffing Level (No.)	437	475	482	477	542

<sup>1</sup>In some other budget documentation, figures for AIDAB's corporate services have been disaggregated and attributed to the three sub-programs: country programs, global programs and corporate services.

<sup>2</sup>Prior to 1989-90 expenditure was carried in appropriations of the Department of Administrative Services.

## ENDNOTES

1. *A Review of the Australian International Development Assistance Bureau and Australia's Overseas Aid Program (AIDAB Review)*, AGPS, 1989, p. 50.
2. *Australia's Overseas Aid Program 1989-90*, Budget Related Paper No. 4, p. 5.
3. *ibid.*, p. 10.
4. *ibid.*, p. 12.
5. *ibid.*, pp. 12-13.
6. *ibid.*, pp 16-17.
7. *AIDAB Review*, op.cit., p. 66.
8. 1989-90 Budget Related Paper No. 4, p. 14.
9. *ibid.*, pp. 15-16.
10. *ibid.*, p. 17.
11. *ibid.*, p. 19.
12. *ibid.*, p. 22.
13. *ibid.*, p. 23.
14. *ibid.*, p. 25.
15. *ibid.*, p. 29.

## **CHAPTER FIVE**

### **AUSTRALIAN AID AND THE ATTITUDE OF RECIPIENTS**

5.1 In 1987 the Report of the World Commission on Environment and Development observed that bilateral aid agencies had given more attention to the environmental dimensions of their programs over the previous decade.<sup>1</sup> AIDAB's submission advises that this is true for Australia.<sup>2</sup> Recent Australian action in this regard has included the following.

#### **Bilateral Aid**

5.2 Proposed projects for Australian funding are assessed in social, cultural, economic, environmental, institutional and technical terms. In June 1989, AIDAB issued *Environmental Assessment of Official Development Assistance* (see paragraph 3.9). The Committee understands that these guidelines were agreed with the Department of the Arts, Sport, the Environment, Tourism and Territories, and will be part of the Memorandum of Understanding (MOU) concerning the *Environmental Protection (Impact of Proposals) Act, 1974 (Cth)* that is being negotiated between DASETT and AIDAB (see paragraph 6.30).

#### **Education and Training**

5.3 AIDAB supports training which can lead to awareness of environmental protection. The training can take place both in-country and within the Australian tertiary education system.

5.4 According to AIDAB's figures there were 1496 AIDAB-funded students trained in Australia in 1986-87.<sup>3</sup> While only two of those took the formal subject 'Environmental Protection', some 616 pursued environmentally relevant studies. These courses vary from three months to one or more years and include agronomy, soil science, forestry, demography and public health.

5.5 Further, AIDAB advised that through the International Training Institute (ITI) it funds a number of training programs for middle and senior level public servants from developing countries. Some of these programs contain environmental components.<sup>4</sup>

5.6 AIDAB also confirmed that there is an environmental studies component in the International Development Program of Australian Universities and Colleges (IDP). The IDP is funded predominantly through AIDAB (\$6.2 million in 1986-87) and has assisted studies in a number of environmentally related disciplines.<sup>5</sup>



5.7 AIDAB also provides financial and institutional support for a wide range of seminars, symposia and workshops. Of the 72 meetings supported by AIDAB in 1986-87, at a cost of \$416 000, seven were directly concerned with environmental management and a further 12 related to environmentally significant sectors such as agriculture, forestry, fisheries and urban development. It has also been pointed out by DASETT that bilateral environmental agreements have a role to play in training:

For example, the agreement between Australia and China on mutual co-operation in environmental protection has led to increased communication and co-operation on such issues as dryland management, and to exchanges between institutions in science, technology and other fields.<sup>6</sup>

### **Food Aid**

5.8 AIDAB advised that in 1986-87 food aid was valued at \$70 million.<sup>7</sup> AIDAB noted that food aid can be used to improve environmental conditions. It can release the population from the need to continue destructive land use and permit land rehabilitation measures that will increase long-term food security. According to AIDAB this can be achieved either through food-for-work activities or by investing funds (derived from the sale, in-country, of food aid) in environmentally oriented projects. AIDAB quotes the Land Rehabilitation and Reforestation Project in Ethiopia as a good example.

5.9 World Vision of Australia cautioned, however, that the greatest role of food aid should be in drought relief and rehabilitation. Handled in the wrong way, food aid may reduce the local people's ability to control their own lives and, by leading to in-migration, can prevent environmental recovery.

### **Assistance to Non-Government Organisations (NGOs)**

5.10 AIDAB has advised that, through its NGO cooperation program, it assists NGOs involved in developing countries.<sup>8</sup> The objective is to strengthen the links between economic development, poverty alleviation and sound environmental protection. Further, AIDAB has, on occasion, drawn on the expertise of the NGO community in promoting sustainable development at the local level. Funds may be provided to assist NGOs implement their own proposals; about 120 NGOs are eligible for project subsidies.

5.11 The Committee was presented with a varied picture on NGOs. Some witnesses suggested that funding priority should be given to non-government groups concerned with the environment and indigenous peoples.<sup>9</sup> Others went so far as to recommend that Australia cut its funding of development banks and instead fund AIDAB to develop 'close liaisons with NGOs'.<sup>10</sup> World Vision suggested that AIDAB:

should look to the NGOs who operate at the grass-roots level and who have a sensitivity to the impacts on both people and the environment which any project must bring.<sup>11</sup>

This view was directly contradicted by AREA, itself an NGO; AREA stated:

It is our opinion that NGOs (and ACFOA) are almost totally lacking in environmental expertise and do not perform even the most cursory of environmental assessments.<sup>12</sup>

5.12 This Committee accepts, as did the Joint Committee on Foreign Affairs, Defence and Trade, that the capacity of NGOs varies enormously, from the larger, development-dedicated NGOs to much smaller organisations. Nevertheless, the Joint Committee pointed out that:

Since the *Jackson Report*, AIDAB and NGOs have worked together to improve the quality of NGO projects receiving government subsidies. The funding criteria have been revised, and their development focus sharpened.<sup>13</sup>

5.13 While NGOs receive around only one per cent of the development aid allocation (\$14 million in 1989-90), the Committee is concerned to ensure the environmental competence of all recipients of the aid funding that is capable of being monitored by AIDAB. Of the funding for NGOs in 1989-90, \$0.4 million is set aside for environmental activities. However, significantly more than that will flow to projects with an environmental significance. Accordingly, the Committee considers that in relation to NGOs and environmental matters, there should be careful monitoring of their activities. The Committee is of the view that one useful manner in which this can be effected is for environmental experts from AIDAB to serve on both of the bodies that facilitate AIDAB/NGO cooperation. Those bodies are the AIDAB-NGO Committee for Development Co-operation and the NGO Development Projects Appraisal Panel which examines proposals seeking AIDAB support.

### **The Attitude of Aid Recipients**

5.14 An important premise behind the terms of reference of this inquiry is that, if Australian aid disbursements can be monitored properly, then Australia can have a significant influence on the ways in which such funds are spent. That is, developing states will either readily agree, or be persuaded, to use Australian development in ways not deleterious to the environment.

5.15 The Acting Director-General of AIDAB supported this premise albeit with qualification. Dr McCawley advised the Committee that, in AIDAB's view, Australia's bilateral aid program can contribute to better environmental management in recipient countries.<sup>14</sup> He qualified this view:

I should say we can contribute because it is an enormous problem and there really is no way that Australia can really do much more than make a marginal contribution to tackling these enormous problems in the region.<sup>15</sup>

The point remains; the belief is widespread (and shared by AIDAB) that if Australia can monitor its aid adequately, it can influence the environmental impact of aid in developing countries. Dr Warford from the World Bank provided support for this view by suggesting that:

Because of the increasing coincidence between economic and environmental objectives and policies designed to address them, developing countries see at first-hand that it is not a question for them of environment or development; they see soils and tropical forests eroding, and the fairly short run consequences of environmental degradation.<sup>16</sup>

5.16 It could be expected, then, that aid recipients, realising the important link between economic and environmental success, would have devised laws and established procedures to ensure the environmental acceptability of economic development. Dr McCawley advised the Committee that:

most developing countries and all of Australia's major aid recipients now have some type of environmental legislation, although I must say it is of varying effectiveness.<sup>17</sup>

And the AIDAB Submission confirmed:

By 1985, one hundred and ten countries had some type of environmental legislation compared to only ten in 1972. Australia's major aid recipients are among these countries.<sup>18</sup>

Further, Mr Terrell from AIDAB noted that:

where there is legislation relating to the environment in a country with which we are dealing, the recipient government would be required, of course, to comply with its own legislation. So there is no question of exemption from existing legislation because something is being funded through the aid program.<sup>19</sup>

5.17 This claim could be misleading. Recipient countries are required to observe their own laws, but not by Australia. Dr McCawley clarified the position by advising that AIDAB's 'country papers' cover environmental issues, where appropriate, but do not detail legal obligations:

The presumption that we operate under in the aid program is the observance of the laws of any particular country; we work closely with the recipient nations. The presumption is that if we are likely to break the law, we presume that we are likely to be told about it pretty quickly.<sup>20</sup>

5.18 The Committee regards this situation as unsatisfactory. While in almost all cases a recipient country would, perhaps, advise Australia if an aid project ran the risk of breaching domestic legislation, Australia needs to demonstrate that it is properly concerned not to be in breach, albeit unknowingly. At some stage, however unlikely, there remains the possibility that a recipient country would overlook its own environmental legislation in order to secure aid funds.

5.19 Accordingly, the Committee considers that, as a matter of course, AIDAB should enquire of recipient countries whether proposed projects would comply with all domestic environmental legislation. Australia's credentials on this matter need to be above relying on the initiative of recipient states to draw such matters to Australian attention.

5.20 Further, even where recipient countries have environmental legislation, some may not have an adequate capability to apply it. In its submission, AREA claimed that:

There is an urgent need for the implementation of bilateral and multilateral programs that are based on developing the environmental planning capabilities of Third World countries.<sup>21</sup>

DASETT advised that developing countries have varying mechanisms for environmental assessment and varying approaches and attitudes to the implementation of those mechanisms.

In broad terms, South-east Asian countries are the most advanced in terms of environmental awareness in implementing development programs; next comes Latin America, followed by the Middle East and finally Africa.<sup>22</sup>

It is significant that it is Australia's adjacent region, South East Asia, which is most advanced in considering the environmental impact of developing programs. Indeed, DASETT observed that:

As much of Australia's aid is directed to countries in the South-east Asian region, it is important that the environmental quality of our assistance fulfils the expectations of the recipients.<sup>23</sup>

5.21 In its Supplementary Submission, DASETT recommended that recipient country implementation of environmental awareness could be assisted by:

increased provisions for training and expanding in other ways the EIA capability of aid receiving countries.<sup>24</sup>

Dr Pfanner had a similar recommendation:

Governments in the Third World need to know the environmental costs of development projects in order to weigh alternative courses of action. Australia should seriously consider how it could help these governments with environmental impact studies early in the planning stages of such projects.<sup>25</sup>

On this point the Committee notes that the World Bank requires its aid recipients to prepare an environmental assessment for some projects. Dr Warford confirmed that:

What we are attempting to do is to make sure that the environment is treated in the same way as we treat the economic, financial, managerial and technical feasibility approaches, that is, to build it into the project process.<sup>26</sup>

5.22 Australia's experience in this regard has not been straightforward; it would be very difficult for Australia to require the preparation of environmental impact assessments by client governments in the way practised by the World Bank; significant resistance could be anticipated if that course were followed.

5.23 The reason for this judgement stems from the fact that AIDAB has advised that the Australian policy has met with some resistance when advocated in World Bank forums:

Our Executive Director at the World Bank, who is at present a New Zealander, is quite clear on what the policies of the Australian Government are. In an area such as the environmental area, I think he really does push quite a tough line, to the extent that executive directors from developing countries, it is clear, reading between the lines, do not particularly appreciate some of this. It is clear in their responses, replies and statements that there is an issue of sovereignty here and they are indicating that they think that some of these discussions are getting close to what they would regard as issues of sovereignty.<sup>27</sup>

In its submission, AREA noted a similar concern in that objections raised to upgrading the environmental sectors of development assistance include that recipient nations regard requirements for environmental safeguards as a form of 'environmental imperialism'.<sup>28</sup>

5.24 The Committee accepts the concern of some recipients of Australian development assistance that there is a potential for aid to be provided in ways that could be regarded as patronising if not an infringement of the sovereign right of nations to determine how to conduct their affairs. This could be the case even if some development projects are entirely dependent on aid for funding.

5.25 That said, there are two valid responses to this possible concern. First, the aid provided by Australia is determined as a consequence of a two-way process. Recipient nations identify their requirements and Australia assesses its ability to meet them. Where the two coincide a project can be explored for feasibility. ACFOA suggested that because this is the way that Australian development aid is allocated the term 'development co-operation' is to be preferred to 'aid'.<sup>29</sup> The point is that there is no necessity for Australian aid to be regarded as being provided under conditions of 'environmental imperialism' given that it is dispensed under a process of development cooperation. Presumably AIDAB will always present offers of Australian development assistance in that way.

5.26 Second, the notion of development cooperation, by the same token, does not preclude the proper partnership and contribution of Australia on a range of issues connected with the circumstances around which the development aid is provided. As a country with the kind of national integrity that views development aid as a necessary part of its international role, Australia should maintain its standards in this regard. And one of those standards concerns the environmental viability of projects that are sponsored. AREA put the same point, albeit somewhat more bluntly, when it suggested that AIDAB:

has a responsibility to ensure that Australia's development assistance is provided in a framework that is consistent with the views of the Australian community to the conduct of activities within Australia.<sup>30</sup>

5.27 Of course, it always remains possible for developing states to seek funding elsewhere for projects that Australia will not support because these projects do not comply with the standards that Australia has adopted on issues including the environment. Other aid providers may cooperate under those circumstances in order to obtain the strategic and political advantages that can accompany such assistance.

5.28 There is an argument based on this fact which suggests that Australia under such circumstances should modify its environmental scruples because the (environmentally-suspect) projects will be funded anyway, and perhaps by a country whose political influence Australia would not welcome in the region. The Committee, however, regards such an argument as morally bankrupt. That another country will perform a questionable service in the absence of Australia doing so is no reason for Australia to compromise its standards. Indeed, the fact that Australia

adheres to its standards could influence a number of other countries to adopt the same standards. There even remains the possibility that the potential recipient could come to agree with the position that Australia had adopted.

5.29 Australia then, must maintain its standards, including those with regard to potential environmental damage, and yet preserve scope to seek the agreement of aid recipients to the devising of environmental impact assessments by Australian officials for projects that could have a significant effect on the environment. The next chapter pursues questions about Australian legislation on this point.

## **Recommendations**

5.30 **The Committee recommends that AIDAB environmental experts serve on both the**

- **AIDAB-NGO Committee for Development Co-operation; and**
- **NGO Development Projects Appraisal Panel.**

**This should provide AIDAB with a better capability to monitor for environmental soundness disbursements that are made through NGOs.**

5.31 **The Committee recommends that AIDAB seek from potential recipient countries:**

- **advice whether there is domestic environmental legislation relevant to the project; and**
- **for any proposed project, confirmation that it is unlikely to breach such legislation.**

5.32 **Further, the Committee recommends that, where such legislation exists, this advice be written into AIDAB's country papers for future reference.**

5.33 **Where such legislation does not exist, the Committee recommends that AIDAB offer Australian assistance in drafting environmental legislation for countries that would welcome external advice.**

## ENDNOTES

1. *Our Common Future*, op.cit., p. 340.
2. AIDAB Submission (No. 1), p. 7, Transcript of Evidence, p. 640.
3. *ibid.*, Appendix 4, p. 41, Transcript of Evidence, p. 713.
4. *ibid.*, p. 11, Transcript of Evidence, p. 644.
5. *id.*
6. Submission (No. 42), p. 34, Transcript of Evidence, p. 854.
7. AIDAB Submission (No. 1), p. 11, Transcript of Evidence, p. 644.
8. *ibid.*, p. 12, Transcript of Evidence, p. 645.
9. University of NSW Wilderness Society Submission (No. 7).
10. Rainforest Information Centre Submission (No. 20), p. 14, Transcript of Evidence, p. 951.
11. World Vision of Australia Submission (No. 17), p. 28, Transcript of Evidence, p. 294.
12. AREA Submission (No. 28), p. 20, Transcript of Evidence, p. 359.
13. AIDAB Review, op.cit., p. 86.
14. Dr P McCawley, Transcript of Evidence, p. 766.
15. *id.*
16. Dr J Warford, Transcript of Evidence, p. 8.
17. Dr P McCawley, Transcript of Evidence, p. 766.
18. AIDAB Submission (No. 1), p. 5, Transcript of Evidence, p. 638.
19. Mr C Terrell, Transcript of Evidence, p. 787.
20. Dr P McCawley, Transcript of Evidence, p. 788.
21. AREA Submission (No. 28), p. 23, Transcript of Evidence, p. 362.
22. DASETT Submission (No. 42), p. 14, Transcript of Evidence, p. 834.
23. *id.*
24. DASETT Supplementary Submission (No. 42A), p. 9, Transcript of Evidence, p. 901.
25. Dr D Pfanner Submission (No. 5), p. 7, Transcript of Evidence, p. 616.
26. Dr J Warford, Transcript of Evidence, p. 9.
27. Dr P McCawley, Transcript of Evidence, p. 784.
28. AREA Submission (No. 28), p. 25, Transcript of Evidence, p. 364.



29. Mr R Rollason, Transcript of Evidence, p. 1216.
30. AREA Submission (No. 28), p. 25, Transcript of Evidence, p. 364.

## **CHAPTER SIX**

### **AUSTRALIAN ENVIRONMENTAL LEGISLATION**

6.1 Two issues have arisen before the Committee concerning the application of Australian law to development aid. The first concerns whether Australian aid projects should conform with the standards endorsed by Australian legislation. Second, the question has arisen whether Australian legislation in fact applies to the projects funded by Australian development aid.

#### **The Environmental Standards for Australian Development Aid**

6.2 Australia has both Commonwealth and State environmental legislation governing matters such as land-use planning, pollution, waste disposal, hazardous substances, the conservation of natural and cultural resources, resource allocation and development.<sup>1</sup>

6.3 Several organisations and authorities argued that Australian environmental standards should apply to the disbursement of Australian development aid. The Working Group on the Environmental Effect of Overseas Aid advised that:

At the very least relevant Australian environmental codes and standards should apply to all projects; preferably adapted to the particular geographic area and supplemented with UNEP, WHO and specific regional standards.<sup>2</sup>

Further, the Conservation Council of South Australia recommended that:

The details of the development projects being assisted should conform with Australian policy and legislation. Where details would be subject to State or Territory rather than Commonwealth policy or legislation, the standard applied should be the most environmentally protective and stringent applicable in any Australian State or Territory.<sup>3</sup>

And DASETT confirmed that:

Australia should be seen to be applying in its aid programs the same tests of environmental responsibility that it applies in Australia. The policies underlying consideration of aid proposals by AIDAB should be those enunciated in the World Conservation Strategy of 1980, which is the basis of the National Conservation Strategy of Australia adopted in 1983 by the Government, and of

the World Commission on the Environment publication 'Our Common Future', endorsed this year in general terms by the Government.<sup>4</sup>

At Chapter 3, this Report has already noted that the National Conservation Strategy for Australia recommended as a 'priority national action' that Australia ensure that the objectives arising out of the NCSA and the WCS are taken fully into account in Australia's dealings with other countries.<sup>5</sup>

6.4 Australia's focus for the provision of development aid is humanitarian. As a first priority this means that such aid should be directed to the provision of food, shelter, energy, water supply, sanitation and health care. A sensible question, however, concerns the extent to which environmental factors should be considered in the provision of aid. That question, of course, applies more directly to development aid than to emergency aid. Questions also remain about whether Australian environmental standards should apply.

6.5 One answer lies in the acknowledged connection between the environment and basic human well-being. *Our Common Future* pointed out that deficiencies in the provision of basic needs are often visible manifestations of environmental stress.<sup>6</sup> The WCED confirmed that, in the Third World, the failure to meet these key needs is one of the major causes of many communicable diseases such as malaria, cholera and typhoid.

6.6 There is, then, considerable scope for various environmental criteria to be applied to development aid that is provided on a humanitarian rationale.

6.7 That said, the question remains which environmental criteria should be applied. The most demanding criteria suggested to the Committee were those applying in Australia. That view, however, was not shared by all submissions. Treasury advised that while promoting growth, alleviating poverty and protecting the environment are mutually supporting objectives in the long run, these three are not always compatible in the short term; decision makers often confront difficult choices in pursuing them simultaneously:

That makes it important to consider the implications of competing claims, and to determine which approaches can best help achieve the most appropriate balance.<sup>7</sup>

6.8 The Committee accepts the view that the imperative to meet a range of human needs over a short timeframe in some developing countries can render inevitable some compromises with environmental standards. Without that scope to compromise, the essential humanitarian focus could suffer. While the Committee acknowledges the link between basic human well-being and the environment, the preservation of human life must always take priority. That principle, however, must never be taken as an excuse for ignoring or minimising environmental considerations.

6.9 Further, many environmental costs may be acceptable because of the offsetting environmental benefits. The Treasury submission suggested that:

Irrigation and hydropower projects may lead to environmental costs through forest submergence, but by creating more productive agricultural areas and employment opportunities the projects have offsetting environmental benefits through reducing population pressure which would otherwise eliminate the remaining forests.<sup>8</sup>

Importantly, the point underlying this view applies to the environmental effects of development in any country: some environmental costs may be necessary in order to achieve a more general environmental benefit.

6.10 With regard to development aid, however, the more relevant question concerns whether, over and above the kinds of conventional environment/development compromises that are accepted by developed countries, there may be a class of more radical compromises required in developing countries. The essential needs of some countries may necessitate more significant compromises.

6.11 Taking this issue further, Treasury also concluded that, with regard to the activities of the World Bank:

The policy judgement on tradeoffs involving growth, poverty and the environment, and income distribution policies, are essentially matters for developing country governments rather than the Bank to determine.<sup>9</sup>

The Committee does not concur with this approach. While there can be acceptable compromises on the environment to ensure that basic human needs are met (and often with urgency), it would be irresponsible of donor states to abdicate their responsibility to monitor environmental effects and seek to minimise them. This is the case for two reasons. First, the concern of donor countries for the environmental effects of development aid in recipient countries is quite proper. Second, it is accepted that environmental consequences in one country often can be shared by other countries, if not commonly across the world. The Brundtland Report advised that:

Many of the risks stemming from our productive activity and the technologies we use cross national boundaries; many are global. Though activities that give rise to these dangers tend to be concentrated in a few countries, the risks are shared by all, rich and poor, those who benefit from them and those who do not. Most who share in the risks have little influence on the decision processes that regulate these activities.<sup>10</sup>

6.12 No individual country, for example, has the right to behave in ways that seriously damage the Earth's ozone layer; or expect the global community not to raise its concern and seek ways to prevent such damage. Nor can any aid provider deny the responsibility of ensuring that development aid is used in ways that have adequate regard to environmental effects.

6.13 Essentially this is the view expressed by Australia's Prime Minister, Mr Hawke, during the October 1989 Commonwealth Heads of Government Meeting in Kuala Lumpur. There, in speaking to journalists, Mr Hawke confirmed of recipient states:

I do think that they would regard it as appropriate that those of us who are in the relatively fortunate position to be giving economic assistance should be pointing out our concern with environmental matters and that they should also have a concern with this. Provided that we are prepared to do the sorts of things for instance that I've talked about, to share our technologies which are environmentally relevant, then I think it's appropriate in discussions with them to say to them, well this particular sort of development may need to have this sort of qualification attached to it or this sort of process attached to it.<sup>11</sup>

6.14 However, the Committee is concerned that this view was not represented in the Langkawi Declaration on Environment issued by Commonwealth Heads of Government on 21 October 1989. There, in paragraph 6, Commonwealth Heads agreed that:

Environmental concerns should not be used to introduce a new form of conditionality in aid and development financing, nor as a pretext for creating unjustified barriers to trade.

The Committee considers that the Prime Minister's view supports environmental considerations as a condition of development aid. That position has the Committee's endorsement.

### **Australian Legislation and Development Aid**

6.15 Having established broadly that environmental standards should apply to Australian development aid projects, the question can be put as to whether Australian legislation requiring environmental assessment does apply to such projects.

6.16 DASETT answered this question in the affirmative by arguing at length that the Impact of Proposals Act 1974 applies to Australian aid proposals. DASETT advised that:

The Department recognises that difficulties may arise in trying to rigidly apply the provisions of the Act to overseas aid projects set in social and political contexts significantly different to the Australian situation. Nevertheless, the Department believes that the application of the principles of environmental impact assessment contained within the Act should be applied in selecting, planning and implementing aid projects.<sup>12</sup>

6.17 The object of the *Environment Protection (Impact of Proposals) Act 1974* is to ensure to the greatest extent that is practicable, that matters significantly affecting the environment are fully examined and taken into account in relation to actions, proposals and decisions taken by or on behalf of the Commonwealth Government. The Act places a duty on all Commonwealth Ministers to ensure that environmental factors are taken into account in the administration of their portfolios, but only the Minister responsible for the Environment can determine that an Environmental Impact Statement is required in any particular case.<sup>13</sup>

6.18 AREA suggested that the fact that the Minister for Foreign Affairs and Trade had never enquired of the Minister responsible for the Environment concerning the need for an environmental impact assessment of an aid project was 'a blatant disregard of the Act'. AREA pointed out that aid projects are funded by the Commonwealth Government and that the development and planning of such projects is carried out within Australia. AREA argued that AIDAB should be requested to carry out environmental impact assessments for all projects deemed to have a significant impact.<sup>14</sup>

### **View of the Attorney-General's Department**

6.19 The question of the application of the Impact of Proposals Act to development assistance projects was examined by the Attorney-General's Department which advised that the 'environment' the Act seeks to protect is defined in s.3 to include 'all aspects of the surroundings of human beings', and in its view:

is not limited geographically to Australia. Rather the Act relates to all aspects of the surroundings of human beings whether inside or outside Australia.<sup>15</sup>

The advice noted that the Act, in s.5(1), is concerned with the enumerated activities:

by, or on behalf of, the Australian Government and authorities of Australia ...<sup>16</sup>

and considered that it is only concerned with those activities that could affect 'the environment to a significant extent'.

6.20 The Attorney-General's Department confirmed that:

In this Department's view, the Act would apply to a Commonwealth activity such as the making of a decision in relation to a particular project if it could be established that the project probably would not proceed without the particular Commonwealth decision.<sup>17</sup>

According to that Department, it is necessary that the relationship between the Commonwealth activity and the particular project be sufficiently direct, and the environmental consequences and effects of the Commonwealth activity be sufficiently proximate. In the Department's view, this enables 'matters affecting the environment to a significant extent' to be taken into account '*at the time that the Commonwealth activity is to be undertaken*'.<sup>18</sup>

6.21 This view took into account the proviso in s.5(1) that the Act is to be applicable in relation to the matters enumerated in that section only 'to the greatest extent that is practicable', and interpreted 'practicable' in a factual sense:

The test in each case is whether the object of the Act is 'capable of being put into practice, carried out in action, effected, accomplished or done ...'<sup>19</sup>

6.22 According to the Attorney-General's Department some of the paragraphs of s.5(1) of the Act might from time to time be relevant to the activities of AIDAB:

Where Commonwealth activities within s.5(1) are sufficiently directed to and identified with a particular project and are of a kind without which the project probably would not proceed ... then those activities would generally involve matters 'affecting the environment to a significant extent' if the execution of the project would so affect the environment.

And the opinion concluded that the Act generally:

would apply to a Commonwealth grant directly in respect of a particular project that would affect the environment in the recipient country to a significant extent where the recipient country is obliged, or otherwise expected by the Commonwealth, to apply the funds to that project and where the funds are essential for the purpose of financing the project [but that it would] not apply when the Commonwealth funds are not tied to particular projects and it is left to the recipient country to decide upon the application of the funds to particular projects, or where it could not be shown that the project probably would not proceed without the funds.<sup>20</sup>

## View of the Department of Foreign Affairs and Trade

6.23 It has been noted that, under the Impact of Proposals Act, the responsibility for determining whether any particular proposal is environmentally significant rests with the relevant Minister; for development aid proposals, that is the Minister for Foreign Affairs and Trade. However Dr Dominic De Stoop, Assistant Secretary, International and General Legal Branch of the Department of Foreign Affairs and Trade (DFAT), told the Committee that his Department is of the opinion that the Act does not apply extra-territorially. He commented that there is a difference of opinion as to whether 'environment' as defined in s.3 is meant to apply to the environment outside Australia or is geographically limited to the environment in Australia.

6.24 DFAT supports the common law presumptions about the applicability of legislation overseas – the principle that legislation is presumed not to have an extraterritorial effect. Dr De Stoop explained that:

Section 21 of the *Acts Interpretation Act* provides that in any Commonwealth Act references to such matters and things should usually be construed as references to such matters and things 'in and of the Commonwealth', in other words, Australia and its external territories ... There is also [a] presumption in common law, in Australian law, that legislation conforms with international law. For domestic legislation to apply in a foreign territory would impair the sovereignty of that particular country and therefore, unless it is clearly stated in the Act that the legislation is to apply extra-territorially, the common law presumption that domestic legislation is consistent with international law would apply in this case.<sup>21</sup>

And in an earlier memorandum to AIDAB dated 8 December 1987, DFAT examined the Second Reading speech on the Bill, and expressed the view that, as there was no reference in the speech to the environment outside Australia:

the policy of the Act ... [indicates] that it was only ever contemplated that the Act apply to the environment within the Commonwealth of Australia.<sup>22</sup>

6.25 It is notable that, in that memorandum, DFAT also referred to a 1976 article by Mr G Kelly entitled 'Commonwealth Legislation Relating to Environmental Impact Statements'. There Mr Kelly refers to the presumption against extra-territorial application as embodied in s.21 of the *Acts Interpretation Act 1901*, and notes that the definition of 'environment' in s.3 of the Environmental Protection Act includes 'all aspects of surroundings of man' which he submits 'provides a contrary intention for the purpose of s.21 of the Acts Interpretation Act.'<sup>23</sup> However, the concluding view of the Department is:



that it was never contemplated that the Act required the submission of environmental impact statements or the approval of the Minister responsible for the environment for every AIDAB project with a possible environmental impact.<sup>24</sup>

6.26 Importantly, the issue of, and the effect of, decisions being made in Australia by (or on behalf of) the Australian Government and authorities of Australia was not canvassed in the 1987 memorandum.

### **DASETT's View**

6.27 Following the advice received from the Attorney General's Department, DASETT is of the opinion that the Act applies to decisions by the Australian Government, rather than whatever might follow from these decisions overseas.<sup>25</sup> That is, although the Act does not apply to the decisions of other countries with regard to their environments, it does apply to decision-making by the Australian Government and by Australian agencies.<sup>26</sup> DASETT informed the Committee that:

The Act does not apply to the environment at all. What the Act applies to is decision making by the Australian government and by Australian agencies. So if any activity is caught by that then it is within the scope of the Act. A sensible test, which I think has been mentioned by Attorney-General's, is the extent to which the activity or project or whatever could go ahead in the absence of a decision by the Commonwealth in some form or other. So that is the issue. I would believe quite strongly that it is of little moment where the impact of that decision is in the end, because we are not saying, and neither does the Act say, that it applies to the building of schools or the mitigation of floods or anything like that. It applies to the decisions that the Australian Government or its agencies take.<sup>27</sup>

### **AIDAB's View**

6.28 Despite the assertion by Dr De Stoop of DFAT that (with regard to the Impact of Proposals Act) 'We cannot and do not conform with the spirit of it overseas',<sup>28</sup> the Acting Director-General of AIDAB advised the Committee that AIDAB was abiding by the spirit of the Australian legislation. He claimed that this was in some ways more effective than attempting to impose hard and fast laws on developing countries.<sup>29</sup> And AIDAB's Deputy Director-General confirmed that:

There have been situations when there has been need to stop further discussion and negotiation on project activities because, for a number of reasons – I am not talking only about environment, there also can be policy reasons – it has not been appropriate to pursue that project further. So that does happen,

and environmental issues could certainly be in the category of issues which would cause the development of a project to be stopped dead because we were not able to reach an appropriate arrangement for the handling of the environmental issues.<sup>30</sup>

6.29 While claiming to be observing 'the spirit' of Australian environmental legislation the Director-General of AIDAB suggested that, were AIDAB required to adhere to the letter of the law, AIDAB's operations would be slowed and complicated. Further, according to Dr McCawley, additional resources would be required in AIDAB.<sup>31</sup> The Deputy Director-General added that:

it could result in a situation where there were fewer environmentally relevant activities in the program ... I am saying that there might be a tendency to select projects which clearly did not require going through the environmental assessment process.<sup>32</sup>

Nevertheless, AIDAB advised that it would conform with 'the instructions of the Australian Parliament' on this matter.<sup>33</sup>

### **The Relationship Between DASETT and AIDAB**

6.30 In 1986 the Australian Government decided that memoranda of understanding (MOU) should be negotiated between DASETT and action authorities. The intention was to ensure that environmentally significant projects received attention under the Impact of Proposals Act. According to DASETT:

This coincided with a growing awareness within our own Department that AIDAB was showing no sign of keeping pace with developments in the rest of the world about environmental accountability in aid programs ...<sup>34</sup>

DASETT recognises that difficulties may arise in trying to rigidly apply the provisions of the Act to overseas aid projects set in social and political contexts significantly different from the Australian situation.<sup>35</sup> Nevertheless, DASETT believes that the application of the principles of environmental impact assessment contained within the Act should be applied in selecting, planning and implementing aid projects:

The formula we have adopted is that the Act exists, our Minister has obligations under the Act, AIDAB has obligations under other responsibilities and the principles enshrined in the Act will guide AIDAB's work.<sup>36</sup>

6.31 The memorandum of understanding between DASETT and AIDAB, which has yet to be negotiated, is to confirm the intentions of AIDAB as an action authority to comply with the principles of the Impact of Proposals Act.<sup>37</sup>

6.32 It is important to be clear about the changes that would be entailed for AIDAB once the memorandum of understanding is agreed with DASETT. The Acting Director-General of AIDAB envisaged that aid recipients would be told that they need to 'follow certain rules'.<sup>38</sup> This does not appear to be a view fully shared by DASETT. DASETT envisages that the environmental assessment would be undertaken in Australia and that DASETT (in consultation with AIDAB) would determine whether further documentation was required and, if so, who should prepare it.<sup>39</sup> That is, it would not be a case so much of a recipient country complying with Australian legislation but of Australian authorities complying with Australian requirements. The Committee considers this a reasonable approach to take. The Impact of Proposals Act does not have extra-territorial effect in that it cannot, through AIDAB, require or enforce implementation by the aid recipient within its own territorial areas. As Dr De Stoop noted, to do so would entail domestic legislation applying in a foreign territory. It would impair the sovereignty of that country.

6.33 However, under s.5(1)(a) the Act governs activities 'by, or on behalf of, the Australian Government and authorities of Australia'. Activities carried out by AIDAB are 'by and on behalf of, the Australian Government ...' and it has a responsibility under the Act to ensure to 'the greatest extent that is practicable, ... matters affecting the environment to a significant extent are fully examined and taken into account'. The Committee is of the opinion that it is for responsible Ministers or particular Commonwealth agencies to determine whether or not a project is environmentally significant. As decisions which will affect the environments of developing countries are made by Australian authorities and are funded by Australia, the Committee believes that the *Environment Protection (Impact of Proposals) Act 1974* is applicable to Australian decision-making about overseas aid projects. The Impact of Proposals Act, then, while not applying to foreign governments, may entail extra-territorial consequences.

6.34 The Committee considers that the most useful way forward on this issue is the finalising of the MOU between DASETT and AIDAB as an urgent priority. This recommendation is made in the knowledge that the MOU with AIDAB is now to be included in that for DFAT. The Committee, however, is also mindful of the fact that on 30 October 1988 DASETT advised that the draft MOU was in preparation.

6.35 Importantly, the MOU should contain guidelines (for the environmental significance of projects) that are workable for the development aid context. The Committee understands that the Environmental Screening Guidelines, published in June 1989 as *Environmental Assessment of Official Development Assistance* are the Guidelines to be included in the MOU for AIDAB. The Committee has examined these Guidelines and has found them generally acceptable given that they are for *screening* purposes; and the function of screening, as specified in the Guidelines, is to determine whether environmental assessment is necessary and which issues

should be addressed. The Committee notes, however, that there is considerable latitude for applying the Guidelines. In the Committee's view, the Guidelines should be employed in a manner that is workable for the development aid context.

6.36 Should the Guidelines reveal that an environmental assessment is necessary, AIDAB and DASETT would determine the requirements of further documentation and which authority should prepare it. Presumably the MOU will specify principles for this process. Essentially, however, the Committee endorses such an approach with its potential to lead to an environmental assessment.

6.37 In adopting this view the Committee has not overlooked the concern expressed by Dr McCawley<sup>40</sup> that this approach would slow down the project approval process. There are, however, several points to be made in mitigation of Dr McCawley's concern.

6.38 First, such an arrangement need not add significant complications to the in-country negotiations concerning even that aid which could be environmentally sensitive. The reason for this is that, as a rule, any environmental impact assessment would be prepared by Australia, in Australia. The demand on Australian staff abroad would be for information, much of which may be available from sources that include the client government. The preparation of an environmental assessment is not an automatic requirement of development projects.

6.39 Second, this Report recommends a significant increase in AIDAB's staffing to handle environmental assessment questions.

6.40 Third, the proper and realistic use of the Environmental Guidelines, as this Report recommends, should facilitate AIDAB's responsibilities in this regard.

6.41 Fourth, as DASETT has indicated, once the proponent of a proposal (usually AIDAB in these circumstances) has provided DASETT's Environment Assessment Branch with preliminary information, it is possible for the matter to be processed without further formal documentation.<sup>41</sup>

6.42 Fifth, in the July 1989 AIDAB Development Paper *Aid and the Environment*, AIDAB has adopted a policy of undertaking 'as required' environmental impact assessment.<sup>42</sup> While legal debate may continue concerning extraterritorial application of Australian law, the fact remains that AIDAB has formally accepted a role for environmental assessment in its bilateral development aid program.

6.43 Sixth, AIDAB is at present integrating the environmental analysis function into all operational areas of the organisation. An integral part of this process will be the training of relevant staff in appropriate techniques for environmental analysis and the environmental education of all staff. AIDAB's task has already

become more complicated and demanding. The task, however, is necessary. Given the policy position adopted by AIDAB during 1989, AIDAB could soon share the experience of the World Bank:

The difference between the new arrangement and the old is that we are consciously pushing environmental considerations into the mainstream of our activities. The number of people now who are working on what by any definition could be classified as environmental work goes well beyond the number of people working in the environmental units in the Bank. In fact, we are the tip of the iceberg - as, in fact, we should be. Our intention is, and it appears to be working, to elevate the status of environment in our normal day-to-day not only project work but also, more importantly, our country policy work, elevating that status and making sure that it is built into our concerns about growth, economic development and macropolicies. In fact, I would even go a little further. As I just said to the Senator, it would seem to me that our efforts are designed almost to preclude the use of the word 'environment' any more, but rather to say that economic growth depends upon sensible and efficient and equitable use of various resources - land, air and water - and to be seen to be building this into our country economic work is the name of the game.<sup>43</sup>

## **Recommendations**

**6.44 The Committee considers that Australia, to uphold its standards concerning aid and the environment, must preserve the scope to review development aid projects for environmental effects. The Committee accordingly recommends that AIDAB adhere closely to its policy of requiring environmental impact assessments for aid projects as necessary.**

**6.45 The Committee recommends that DASETT and AIDAB finalise as an urgent priority the MOU between them concerning the Impact of Proposals Act. The MOU will confirm the intentions of AIDAB as an action authority to comply with the principles of the Impact of Proposals Act.**

## ENDNOTES

1. An introduction and guide to this legislation is given in the Australian Environment Council Report No. 18, *Guide to environmental legislation and administrative arrangements in Australia* (2nd ed), AGPS, 1986.
2. Working Group on the Environmental Effect of Overseas Aid Submission (No. 41), p. 13, Transcript of Evidence, p. 439.
3. Conservation Council of South Australia Submission (No. 25).
4. DASETT Submission (No. 42), p. 35, Transcript of Evidence, pp. 855-56.
5. *A National Conservation Strategy for Australia*, AGPS, Canberra, 1983, p. 11.
6. *Our Common Future*, op.cit., p. 55.
7. Treasury Submission (No. 37), p. 6, Transcript of Evidence, p. 52.
8. id.
9. ibid., p. 53.
10. *Our Common Future*, op.cit., p. 35.
11. The Hon. R J L Hawke, *Transcript of News Conference*, Pan Pacific Hotel, 20 October 1989.
12. DASETT Submission (No. 42), p. 13, Transcript of Evidence, p. 833.
13. Australian Environment Council Report No. 18, *Guide to environmental legislation and administration arrangements in Australia*, p. 40.
14. AREA Submission (No. 28), p. 22, Transcript of Evidence, p. 361.
15. DASETT Submission (No. 42), Appendix B, Transcript of Evidence, p. 865.
16. id.
17. ibid., p. 866.
18. id.
19. id.
20. ibid., p. 867
21. Dr D De Stoop, Transcript of Evidence, p. 778.
22. Incorporated document, Transcript of Evidence, p. 811.
23. ibid., Transcript of Evidence, p. 812.
24. ibid., Transcript of Evidence, p. 813.
25. Mr N Quinn, Transcript of Evidence, p. 917.
26. ibid., p. 920.

27. *ibid.*, pp. 920-21.
28. Dr D De Stoop, Transcript of Evidence, p. 786.
29. Dr P McCawley, Transcript of Evidence, p. 795.
30. Mr C Terrell, Transcript of Evidence, p. 795.
31. Dr P McCawley, Transcript of Evidence, p. 796.
32. Mr C Terrell, Transcript of Evidence, p. 797.
33. Dr P McCawley, Transcript of Evidence, p. 797.
34. Mr B Odgers, Transcript of Evidence, p. 923.
35. DASETT Submission (No. 42), p. 13, Transcript of Evidence, p. 833.
36. Mr B Odgers, Transcript of Evidence, p. 924.
37. *id.*
38. Dr P McCawley, Transcript of Evidence, p. 797.
39. Submission (No. 42), p. 30, Transcript of Evidence, p. 850.
40. Dr P McCawley, Transcript of Evidence, p. 796.
41. DASETT Submission (No. 42), p. 29, Transcript of Evidence, p. 849.
42. *Aid and the Environment*, *op.cit.*, p. 12.
43. Dr J Warford, Transcript of Evidence, p. 20.