

The Senate

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Foreign Affairs, Defence and Trade  
Committee

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# Preface

## Introduction

1. The committee is responsible for examining annual reports of departments and agencies within two portfolios: Defence (including the Department of Veterans' Affairs), and Foreign Affairs and Trade.<sup>1</sup>

2. Under Standing Order 25(20), the committee is required to report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.

3. The standing order states:

Annual reports of departments and agencies shall stand referred to the committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- c) Investigate and report to the Senate on any lateness in the presentation of annual reports;
- d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;
- g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

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1 See Appendix 1 for a list of all departments and agencies under these portfolios.

## Role of annual reports

4. Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports continues to be an important element of accountability to Parliament. The information provided in annual reports assists Parliament in the effective examination of the performance of departments and agencies and the administration of government programs. Indeed, as noted in the *Requirements for Annual Reports*:

Annual reports serve to inform the Parliament (through the responsible Minister), other stakeholders, educational and research institutions, the media and the general public about the performance of departments in relation to services provided. Annual reports are a key reference document and a document for internal management. They form part of the historical record.<sup>2</sup>

## Assessment of annual reports

5. The annual reports are examined by the committee to determine whether they are timely and ‘apparently satisfactory’.<sup>3</sup> The committee considers whether the reports comply with the relevant requirements for the preparation of annual reports of departments and authorities.

6. The requirements are set down in the following instruments:

- for portfolio departments: *Public Service Act 1999*, subsections 63(2) and 70(2), and the *Requirements for annual reports for departments, executive agencies and FMA Act bodies*, Department of Prime Minister and Cabinet, 13 June 2007;
- for Commonwealth authorities and companies: the *Commonwealth Authorities and Companies Act 1997*; in particular, the *Commonwealth Authorities and Companies (Report of Operations) Orders 2002*; and
- for non-statutory bodies: the guidelines are contained in the Government response to the report of the Senate Standing Committee on Finance and Government Operations on Non-statutory bodies, Senate *Hansard*, 8 December 1987, vol s124, pp. 2643–45 (requirements were modified in 1987).

Excerpts of the reporting requirements are at Appendix 3.

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2 Requirements for annual reports for departments, executive agencies and FMA Act bodies, Department of Prime Minister and Cabinet, 13 June 2007, p. 3.  
Also at [www.dpmc.gov.au/guidelines/index.cfm](http://www.dpmc.gov.au/guidelines/index.cfm)

3 See Appendix 2 for a compliance table of the reports referred to the committee for scrutiny.



## **Annual reports considered**

7. The following annual reports have been examined by the committee:

### *Defence portfolio*

Judge Advocate General

### *Foreign Affairs and Trade portfolio*

Australia–China Council

Australia–Indonesia Institute

## **General comments on the annual reports**

### *Timeliness in tabling reports*

8. A table detailing the dates relating to the timeliness of presentation is at Appendix 2.

### *Comments made in the Senate*

9. The committee is obliged, under Senate Standing Order 25(20)(d) to consider any remarks made about these reports in the Senate. There were no comments in the Senate on any of these reports.

### *Matters of significance*

10. In accordance with SO25, the committee is to note any significant matters relating to the operations and performance of the bodies presenting their annual report. The committee found no matters of significance relating to the operations and performance of the bodies presenting their report.

### *Bodies not presenting annual reports to the Senate*

11. The committee is required to report to the Senate each year on whether there are any bodies that do not present annual reports to the Senate and which should present such reports. In this context, the committee in the following chapter, discusses the bilateral foundations, councils and institutes and their annual reports.

### *Standard of reports*

12. The committee found all reports to be generally of a high standard. They effectively described the function, activities and financial positions of the various departments and agencies. The committee therefore finds all of the annual reports to be ‘apparently satisfactory’.



# Chapter 1

## Annual reports of statutory and non-statutory authorities and government companies

### Defence portfolio

#### *Judge Advocate General*

1.1 The Judge Advocate General Report for the period 1 January to 31 December 2006 was tabled in the Senate on 7 August 2007.

1.2 The office of Judge Advocate General (JAG) of the Australian Defence Force (ADF) is a statutory body created under the *Defence Force Discipline Act 1982* (DFDA). The JAG must be, or have been, a Federal Court or a Supreme Court judge. The position has a number of functions, including making procedural rules for service tribunals, providing the final legal review of proceedings within the Australian Defence Force (ADF), and, reporting upon the operation of laws relating to the discipline of the ADF. 'The JAG also has a significant role in the promotion of the jurisprudential welfare and education of the ADF'.<sup>1</sup>

1.3 Section 196A of the DFDA requires the JAG to prepare for, and provide to, the Minister for Defence a report relating to the operation of the DFDA, the regulations and rules of procedure made under it, and the operation of any other law of the Commonwealth or ACT, in so far as that law relates to the discipline of the Defence force.

#### *Overview of the JAG Report*

##### *Independence of the JAG*

1.4 The 2006 report began with an overview of the JAG's position in the military justice system and the functions of members of his office. He stated that the Office of the JAG and its functions are 'indicative of the legislation's desire for an appropriate civilian judicial oversight of the operation of the DFDA and related legislation'.<sup>2</sup> He noted further that the JAG 'necessarily also plays a significant role in the promotion of the jurisprudential welfare and education of the ADF'.<sup>3</sup> He upheld the view of previous JAGs that the JAG should 'not act as general legal adviser to the ADF, nor the government, as that would be inconsistent with judicial office'.<sup>4</sup>

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1 Judge Advocate General Annual Report 2006, pp. 1–2.

2 Judge Advocate General Annual Report 2006, paragraph 5.

3 Judge Advocate General Annual Report 2006, paragraph 7.

4 Judge Advocate General Annual Report 2006, paragraph 8.

1.5 The JAG is very aware of the importance of his office being, and being seen to be, independent. In this context, he was pleased to report in his 2004 report that his concerns about the need to have his office physically separated from the broader Defence legal office had been addressed satisfactorily.<sup>5</sup> In his current report, the JAG referred to the announcement by the Chief of the Defence Force and the Secretary of the Department that an integrated Australian Defence Headquarters was to be created. His office is to form part of this headquarters for administrative and reporting purposes. The JAG reported that this change was important and was pleased to note that 'the necessary arrangements were effected in 2007'.<sup>6</sup>

#### *Funding arrangements*

1.6 In the 2005 report, the JAG referred to the existing funding arrangements for his office which continued to be part of the Defence Legal budget and the expenditure certified by the Head, Defence Legal (HDL). He believed that this arrangement was inappropriate and would be resolved in early 2006. At that time, he explained:

During the year the then CDF, General Cosgrove, acceded to my request that financial responsibility for OJAG be removed from Defence Legal and devolved to the Office of VCDF. However, that had not occurred by the end of the reporting period.<sup>7</sup>

1.7 In the current report, the JAG drew attention to the OJAG's budget continuing to be part of the Defence Legal budget and the expenditure of the OJAG certified by the HDL.<sup>8</sup> He argued that this arrangement was 'inappropriate in terms of the OJAG's independence'.<sup>9</sup>

#### ***Defence Legislation Amendment Act 2006 and the Australian Military Court***

1.8 The committee notes that the JAG made a valuable contribution to the committee's inquiry into the Defence Legislation Amendment Bill 2006. In his submission to that inquiry, he highlighted a number of serious flaws in the proposed legislation. His evidence in part led the committee to recommend that 'the government review the bill based on evidence presented to the committee and amend or re-draft the bill accordingly before proceeding with it'.<sup>10</sup> Following this recommendation, the bill underwent significant amendment before its enactment.

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5 Judge Advocate General Annual Report 2004, p. 19.

6 Judge Advocate General Annual Report 2006, p. 4, paragraph 17.

7 Judge Advocate General Annual Report 2005, p. 4.

8 Judge Advocate General Annual Report 2006, paragraph 17.

9 Judge Advocate General Annual Report 2006, paragraph 17.

10 Senate Standing Committee on Foreign Affairs, Defence and Trade, Report on the inquiry into the provisions of the Defence Legislation Amendment Bill 2006, recommendation 1, p. 7.

1.9 The JAG, however, still holds reservations about some aspects of the legislation. In his annual report, the JAG wrote in detail on the Defence Legislation Amendment Act (DLAA 2006) and the Australian Military Court. He wrote:

As finally enacted, DLAA 2006 does not fully address the concerns that I have raised in my Annual Report for 2005 and my submissions to the Senate Foreign Affairs, Defence and Trade Legislation Committee. This is disappointing. In my view, the legislation does not achieve 'world's best practice' for the AMC, and in some instances, significantly adds to the risk involved in moving from the current arrangements to the new. The intention is that CMJ and the military judges will enjoy appropriate independence from the chain of command. I do not believe that this has been achieved.<sup>11</sup>

1.10 He identified three main areas of concern:

- Failure to provide for the automatic transition of the existing CJA and JAs and DFMs to the new Court for the duration of their current terms of appointment. He explained that the failure to do so 'has the real prospect of weakening the integrity of trials conducted under the existing arrangements pending the establishment of the AMC and it greatly increases the risk so far as the move from the existing arrangements to establishment of the AMC is concerned'.<sup>12</sup>
- The provisions for the removal of CMJ and the military judges effectively by the Executive. The legislation provides for the termination of appointment by the Governor-General on the recommendation of the Minister. In the JAG's view this is 'effectively termination by the Executive' which he regarded as 'regrettable'. According to the JAG, this provision does not provide proper independence to the member of the AMC. He stated further that the appointment and removal provisions appear 'to equate the AMC with a tribunal rather than a court exercising a quasi-criminal jurisdiction' and that the approach taken 'is certainly not world class practice'.<sup>13</sup>
- The decision to appoint CMJ and the military judges for a term of years rather than until compulsory retirement age.<sup>14</sup> The JAG noted the decision by Canada to move to appointments to compulsory retirement age for their military judges on the recommendation of a former Chief Justice of Canada. He suggested that this move must bring into question the decision to appoint the judges of the AMC merely for a term of years. He noted further that it would be 'appreciated that...being civilian judges, the judge advocates in the United Kingdom are appointed until retirement age'.<sup>15</sup>

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11 Judge Advocate General Annual Report 2006, paragraph 29.

12 Judge Advocate General Annual Report 2006, paragraph 37.

13 Judge Advocate General Annual Report 2006, paragraphs 43 and 44.

14 Judge Advocate General Annual Report 2006, paragraphs 29 and 30.

15 Judge Advocate General Annual Report 2006, paragraph 92.

1.11 The JAG also noted that the current legislative scheme does not provide any safeguards for military jurors being subject to command influence concerning the performance of their military duties nor protection from reporting on their performance as a military juror.<sup>16</sup> He noted for the government's consideration the desirability of incorporating provisions similar to those in the *Jury Act 1977* NSW sections 68, 68A, 68B, 68C and 69.<sup>17</sup>

1.12 He concluded his remarks on the DLAA 2006 by recognising that while the legislation introduces desirable reform, 'it has proceeded on the basis of according the bare minimum so far as issues of fundamental importance are concerned such as the guarantees of independence'.<sup>18</sup>

### ***Statistics on summary trials***

1.13 The JAG commented on the recording of statistics on summary trials. He observed:

...responsibility for the Discipline Tracking and Case Flow Management System was transferred to the Inspector-General, Australian Defence Force (IG-ADF). Accordingly, IG-ADF has provided the statistics for the summary trials for this report drawing upon the electronic system. The responsible officer within the Office of IG-ADF has invited to my attention the marked decline in the number of summary trials when compared to previous years. The possibility that the figures have been distorted as a result of a failure to enter all relevant data cannot be discounted. This requires further investigation and, if necessary, remedial action to maintain the integrity of the data base.<sup>19</sup>

### ***Future of the JAG***

1.14 In his report, the JAG stated, as far as he was aware, that no decision had been made as to whether or not the position of the JAG should continue. He referred to his observation in his 2005 report that his reports to Parliament 'have been an important part of the self-regulating process that was put in place for military discipline with the introduction of the DFDA'.

1.15 He stated that 'if the decision is taken to abolish the position, it is important that some mechanism replace the role of the JAG's annual report in inviting to Parliament's attention, the jurisprudential currency of the military justice system'.<sup>20</sup>

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16 Judge Advocate General Annual Report 2006, paragraph 75.

17 Judge Advocate General Annual Report 2006, paragraph 75.

18 Judge Advocate General Annual Report 2006, paragraph 104.

19 Judge Advocate General Annual Report 2006, paragraph 88.

20 Judge Advocate General Annual Report 2006, paragraph 108.

***Committee view***

1.16 In reviewing the JAG's 2005 annual report, the committee considered that the JAG's report was an invaluable tool for providing independent and expert systemic insight into the operation of the military justice system. It believed that the JAG's statutory independence provides an effective mechanism for making the types of frank and critical observations and recommendations contained in the JAG's report. The committee cited his report as an example of how independence and impartiality in the reporting regime can improve the overall function and accountability of the military justice system. The committee welcomed and endorsed the JAG's proactive stance in using his annual report to identify problems in the military justice system, suggest improvements to the system, and also his initiative in providing public information regarding the operation of particular aspects of the military justice system.

1.17 The JAG's 2006 annual report again demonstrates the value of having such a strong independent civilian judicial oversight of the operation of the DFDA and related legislation.

## Foreign Affairs and Trade portfolio

### *Bilateral councils*

1.18 There are nine bilateral foundations, councils and institutes (FCI). The first FCI, the Australia–Japan Foundation, was created as a statutory body under the *Australia–Japan Foundation Act 1976*. Since then, the following FCIs have been established: Australia–China Council, Australia–India Council, Australia–Indonesia Institute, Australia–Korea Foundation, Council on Australia–Latin America Relations, Council for Australian–Arab Relations, Australia–Malaysia Institute and Australia–Thailand Institute.

1.19 The FCIs 'promote people-to-people links and accurate, contemporary images of Australia in support of the government's foreign and trade policy goals'.<sup>21</sup> They operate both in Australia and abroad to shape perceptions of Australia held by individuals and organisations overseas. As DFAT explained:

FCI projects are expected to foster perceptions of contemporary Australia as scientifically, technologically and educationally advanced, economically enterprising and culturally diverse. FCI activities are required to build networks and contacts, influence opinion-makers and facilitate exchange of knowledge.<sup>22</sup>

1.20 As part of its inquiry into Australia's public diplomacy, the committee considered the FCIs. The following table was provided to the committee. It lists government funded expenditures by the nine FCIs from 2002–2003 to 2005–2006.<sup>23</sup> The Australia–Japan Foundation spent \$2.5 million in government funds for the financial year; the next highest was the Australia–China Council with \$745,731.

*Table 14.3: Expenditure by the nine foundations, councils and institutes*

FCI Expenditure	2002–2003	2003–2004	2004–2005	2005–2006
Australia China Council	\$732,851	\$752,596	\$752,132	\$745,731
Australia India Council	\$738,172	\$749,900	\$749,390	\$739,419
Australia Indonesia Institute	\$848,583	\$785,104	\$784,390	\$729,275

21 *Submission 18* to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into Australia's public diplomacy, p. 40.

22 *Submission 18* to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into Australia's public diplomacy, p. 40.

23 DFAT answer to written question on notice, received 1 May 2007, p. 8. See Senate Standing Committee on Foreign Affairs, Defence and Trade Report on Australia's public diplomacy: building our image, August 2007, p. 190.



FCI Expenditure	2002–2003	2003–2004	2004–2005	2005–2006
Australia Malaysia Institute*				\$288,216
Australia Thailand Institute**				\$297,668
Australia Korea Foundation	\$719,731	\$743,229	\$746,190	\$737,854
Australia Japan Foundation***	\$3,413,093	\$3,322,763	\$3,159,338	\$2,500,000
Council for Australian–Arab Relations	\$149,583	\$399,899	\$492,030	\$470,528
Council on Australia Latin America Relations				\$414,493
<b>Total</b>	<b>\$5,869,162</b>	<b>\$6,000,895</b>	<b>\$5,931,338</b>	<b>\$6,177,453</b>

\* The AMI was established in April 2005. Its first budget was for 2005–06.

\*\* The ATI was established in June 2005. Its first budget was for 2005–06.

\*\*\* The AJF was an independent statutory authority until 2006. AJF expenditure includes staffing and administrative costs.

1.21 With regard to annual reports, the committee notes that during the current reporting period three CFIs tabled reports in Parliament: Australia–Japan Foundation (see Report on Annual Reports, No 1 of 2007), Australia–Indonesia Institute and Australia–China Council. In its report on Australia's public diplomacy, *Australia's public diplomacy: building our image*, the committee observed that accountability is an important aspect of government funding. It stated further:

The committee notes that DFAT's annual report contains a section on the FCIs but conveys very little information especially on expenditure. Some FCIs produce an annual report that is presented to Parliament and some do not. The annual reports of the Australia–China Council, the Australia–Indonesia Institute and the Australia–Japan Foundation are tabled. Some FCIs, such as the Australia–Korea Foundation, have in the past had their annual report tabled in Parliament but now do not. The most recent annual report for the Australia–India Council available on DFAT's website is for financial year 2001–2002 and for the Australia–Korea Foundation is financial year 2003–2004.<sup>24</sup>

1.22 The committee noted that not all FCIs are required to table an annual report. It recommended, however, that each FCI produce an annual report to be tabled in

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24 Senate Standing Committee on Foreign Affairs, Defence and Trade, Report on Australia's public diplomacy: building our image, August 2007, p. 192. Tabling dates quoted as at 10 August 2007.

Parliament. It noted that this requirement would not alter the current arrangement of DFAT'S annual report containing a summary of the FCI reports.<sup>25</sup>

1.23 The following table sets out the reporting pattern of FCIs over recent years.

<b>Foundation/council /institute (FCI)</b>	<b>Annual report tabling requirements</b>	<b>History of reports tabled in Parliament</b>
Australia–China Council	Established by Executive Council Order in 1978. The Council reports to the Minister for Foreign Affairs. As soon as practicable after 30 June each year, the Council shall provide the Minister with an annual report on Council activities during the period of 12 months ending on 30 June.	Report 94–97: 02 Dec 98 Report 97–98: 02 Dec 98 Report 98–99: 07 Dec 99 Report 99–00: 25 Sep 02 Report 00–01: 25 Sep 02 Report 01–02: 25 Sep 02 Report 02–03: 10 Feb 04 Report 03–04: 30 Nov 04 Report 04–05: 29 Nov 05 Report 05–06: 20 Mar 07
Australia–India Council	Established by Order-in-Council in 1992, reporting to the Minister for Foreign Affairs. Although not formally required to do so, the council regularly submits an annual report on its activities to the Minister and the Australian Parliament	Report 92–93: 13 Dec 93 Report 93–94: not received Report 94–95: 25 Oct 95 Report 95–96: 13 May 97 Report 96–97: 13 May 98 Report 97–98: not received Report 98–99: 06 Jun 00 Report 99–00: 20 Jun 01 Report 00–01: 25 Jun 02 Report 01–02: not received Report 02–03: not received Report 03–04: not received Report 04–05: not received Report 05–06: not received
Australia–Indonesia Institute	Although not required to do so, the Institute submits an annual report to the Minister for Foreign Affairs and the Parliament. No specific date prescribed for tabling.	Report 99–00: 06 Dec 00 Report 00–01: 12 Mar 02 Report 01–02: 12 Nov 02 Report 02–03: 14 Oct 03 Report 03–04: 17 Nov 04 Report 04–05: 09 May 06 Report 05–06: 09 May 07

25 See Senate Standing Committee on Foreign Affairs, Defence and Trade, Report on Australia's public diplomacy: building our image, August 2007, Recommendation 20, p. 193.

Foundation/council /institute (FCI)	Annual report tabling requirements	History of reports tabled in Parliament
Australia–Japan Foundation	<i>Australia–Japan Foundation Act 1976 and Commonwealth Authorities and Companies Act 1997, s9.</i> Minister to table within 15 days of receiving report (by 31 Oct).	Report 98–99: 19 Oct 99 Report 99–00: 28 Oct 00 Report 00–01: 12 Feb 01 Report 01–02: 25 Mar 03 Report 02–03: 03 Dec 03 Report 03–04: 08 Dec 04 Report 04–05: 06 Dec 05 Report 05–06: 18 Oct 06
Australia–Korea Foundation	Established May 1992 by Order-in-Council. The Australian–Korea Foundation (AKF) is a non-statutory body established by the Australian Government in May 1992. It is not required to submit an annual report but follows the practice of other bilateral foundations with secretariats in the Department of Foreign Affairs and Trade. Usually tables a report in the early part of the year.	Report 94–95: 25 Jun 96 Report 95–96: 26 Mar 97 Report 96–97: 11 Nov 98 Report 97–98: 12 Oct 99 Report 98–99: 19 Jun 01 Report 99–00: 19 Jun 01 Report 00–01: 04 Mar 03 Report 01–02: 24 Jun 03 Report 02–03: 16 Jun 04 Report 03–04: 11 May 05 Report 04–05: not received Report 05–06: not received
Australia–Malaysia Institute	Established March 2006 by the Minister for Foreign Affairs.	Report 2005–2006 posted on DFAT website. Not tabled in Parliament.
Australia–Thailand Institute	Established June 2005 by the Minister for Foreign Affairs.	Report 05–06 posted on DFAT website. Not tabled in Parliament.
Council for Australia Arab Relations (CAAR)	Establishment of CAAR announced December 2002 by the Minister for Foreign Affairs. First meeting 14 March 2003.	Mentioned in DFAT annual report 2002–2003. Annual report 2004–2005 on DFAT website. Not tabled in Parliament.
Council for Australia–Latin America Relations (CLR)	Established 1 July 2001 by the Minister for Foreign Affairs.	Annual report 2001–2002 Annual report 2002–2003 Annual report 2003–2004 Annual report 2004–2005 Annual report 2005–2006 All above reports on FADT website. Not tabled in Parliament.

1.24 The committee now considers the two annual reports that were tabled after 31 October 2006.

### *Australia–China Council (ACC)*

1.25 The *Australia–China Council Annual Report 2005–2006* was tabled in the Senate on 20 March 2007. The Council was established by an Executive Council Order in 1978 and reports to the Minister for Foreign Affairs. Although not required to do so, the Australia–China Council (ACC) has published annual reports since its establishment. The requirement for annual reporting was formalised in an amendment to the Council's *Orders in Council* in 2004.<sup>26</sup>

1.26 The mission of the Council is to foster in Australia and China a greater awareness and understanding of each others' countries; and, to develop and expand the areas of contact and exchange between Australia and China and their people.<sup>27</sup>

1.27 The ACC secretariat is part of the East Asia Branch of the Department of Foreign Affairs and Trade. The secretariat implements Council decisions and administers Council programs, funding and activities. It liaises closely with other parts of DFAT; the Australian Embassy in Beijing; the Consulates–General in Shanghai, Guangzhou and Hong Kong; and the Australian Commerce and Industry in Taipei.<sup>28</sup>

1.28 The committee notes that in his report, the outgoing Chair, Dr John Yu, commented on the strengthening of Australia's relationship with China through various visits and activities during 2005–2006.

Australia's relationship with China was strengthened further in 2005–2006 by Premier Wen Jiabao's visit in April 2006 and by Prime Minister Howard's visit to China in June. During Premier Wen's visit, government-to-government agreements and memoranda of understanding were signed across a wide range of fields including technology, the service industries, occupational health and safety, agricultural technical cooperation and agricultural market access.

In addition to trade, bilateral exchanges in education, the arts, human rights and academic scholarship have also expanded, including the continuation of the Human Rights Dialogue between Australia and China. These areas, which deepen mutual understanding and trust between our countries, are the primary focus for the Council.<sup>29</sup>

1.29 The ACC reports on its performance through one outcome and three outputs. Across the three outputs, the report describes programs such as the Australian studies

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26 Australia–China Council Annual Report 2005–2006, pp. 3, 7.

27 Australia–China Council Annual Report 2005–2006, p. 3.

28 Australia–China Council Annual Report 2005–2006, p. 6.

29 Australia–China Council Annual Report 2005–2006, p. 2.

program, youth exchanges programs (output 1), residency programs (output 2) and a diverse range of programs such as residency programs and delegation visits (output 3).<sup>30</sup>

1.30 The committee notes that in the administrative overview and appendices, the report provides information on administrative arrangements, financial statements and the organisation's strategic plan for 2006–2009.<sup>31</sup>

1.31 The Council has produced an interesting report that informs the reader on the operations and outcomes of the ACC. It is clearly written and presented in a simple and effective format. The committee finds that the report complies with the reporting requirements for non-statutory bodies.

### ***Australia–Indonesia Institute***

1.32 The *Australia–Indonesia Institute Annual Report 2005–2006* was tabled in the Senate on 9 May 2007. The Institute was established in April 1989 under an Order-in-Council. The Institute reports to the Minister for Foreign Affairs and submits an annual report to the Minister on its activities.<sup>32</sup>

1.33 The mission of the Institute is 'to develop relations between Australia and Indonesia by promoting greater mutual understanding and by contributing to the enlargement over the longer term of the areas of contact and exchange between the people of Australia and Indonesia'.<sup>33</sup>

1.34 Under 'programs', the report states that the Institute supports and initiates activities consistent with its goals and on the basis of a strategic program set by the Board. It states also, that the policy of the Institute is to target groups and individuals in Australia and Indonesia who have an interest in a future relationship with substance with the other country, including through the enhancement of institutional links.

1.35 The Chairman, Mr Allan Taylor, reported that the year in review had been fruitful for the Institute's programs, including the Muslim Exchange Program, which has developed strong support in both Indonesia and Australia since its inception in 2002:

This year, as part of the Board's continuing commitment to promoting inter-faith programs, the Muslim Exchange Program brought twelve young emerging Indonesian Muslim leaders, in four groups to Australia as well as one group of Australian Muslim leaders to Indonesia. The visit program for the Indonesian groups introduced participants to a variety of contacts and

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30 Australia–China Council Annual Report 2005–2006, pp. 7–18.

31 Australia–China Council Annual Report 2004–2005, p. 48.

32 Australia–Indonesia Institute Annual Report 2005–2006; p. 8.

33 Australia–Indonesia Institute Annual Report 2005–2006, p. 10.

experiences which helped to reinforce the strong theme of Australia as a modern and vibrant, diverse society and exposed them to a variety of Australian Muslim opinions.

The Institute sought to have a full Australia–Indonesia Youth Exchange Program (AIYEP) in 2005–2006 but concerns about the security situation and bird flu meant that the Board cancelled the Indonesian leg of the exchange. ... The Board in consultation with the Department of Foreign Affairs and Trade has developed arrangements which it hopes will allow AIYEP to proceed in 2006–2007.

1.36 The Institute receives its program funding from the Australian government in the form of an annual grant-in-trust administered by the Department of Foreign Affairs and Trade. The Institute received new program funding in 2005–2006 of \$725,000.

1.37 The report states that the Institute was able to roll-over previously approved funding from AusAID of \$237,553 in support of the second stage of the Partnerships in Education and Training in Regional Islamic Institutions (PETRII) which started in 2004–2005.

This project seeks to upgrade the research and lecturing skills of staff from Islamic tertiary institutions outside Java. In addition, an amount of \$240,125 previously approved by AusAID to commence a new one-year program under the Learning Assistance Program for Islamic Schools (LAPIS) was rolled over for use in that financial year. This program is devoted to enhancing the teaching skills of educators from tsunami-affected institutions in Aceh.<sup>34</sup>

1.38 The committee notes that the total value of activities which received Institute funding was far greater than the amount of Institute funding. However, most of the activities involved substantial joint funding and in-kind support from other organisations and individuals in both countries.<sup>35</sup>

1.39 The report states that, in the course of the year, Board members and staff of the secretariat consulted with a broad range of other Australian organisations and individuals about political, economic and cultural developments between Australia and Indonesia.<sup>36</sup>

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34 Australia–Indonesia Institute Annual Report 2005–2006, p. 11.

35 Australia–Indonesia Institute Annual Report 2005–2006, p. 11.

36 Australia–Indonesia Institute Annual Report 2005–2006, p. 11.

1.40 The Institute has produced an interesting report that informs the reader on the operations and outcomes of the Australia–Indonesia Institute. It is clearly written and presented in a simple and effective format. The committee finds that the report complies with the reporting requirements for non-statutory bodies.

**Senator Marise Payne**

Chair





# Appendix 1

## Annual reports referred to the Committee

### Defence portfolio

#### *Departments*

Department of Defence

Department of Veterans' Affairs, Repatriation Commission and the National Treatment Monitoring Committee (NATMOC)

#### *Statutory authorities*

Army and Air Force Canteen Service Board of Management

Australian Military Forces Relief Trust Fund

Australian Strategic Policy Institute Limited

Australian War Memorial

Commonwealth Ombudsman and Defence Force Ombudsman

Defence Force Remuneration Tribunal

Defence Force Retirement and Death Benefits Authority

Defence Housing Authority (DHA)

Judge Advocate General

Office of the Inspector-General of Intelligence and Security (not tabled)

Military Superannuation and Benefits Board of Trustees No 1

Repatriation Medical Authority (RMA)

Royal Australian Air Force Veterans' Residences Trust Fund

Royal Australian Navy Relief Trust Fund

Veterans' Review Board (VRB)

#### *Non-statutory authorities and government companies*

Australian Submarine Corporation Pty Limited, now known as 'ASC'

**Foreign Affairs and Trade portfolio*****Department***

Department of Foreign Affairs and Trade

***Statutory authorities***

Australia–Indonesia Institute

Australia–Japan Foundation

Australian Centre for International Agricultural Research (ACIAR)

Australian Safeguards and Non–Proliferation Office

Australian Trade Commission (Austrade)

Export Finance and Insurance Corporation (EFIC)

***Non–statutory authorities and government companies***

Australia–China Council

Australia–India Council

Australia–Korea Foundation

Australian Agency for International Development (AusAID)

## Appendix 2

### Compliance table of the annual reports referred to the Committee for scrutiny for the period 2005–2006

<i>Reports tabled after 31 October 2006</i>				
Department/agency	Enabling legislation	Date on letter of transmittal	* Date report submitted to the minister (if known); # Date report received by minister (if known)	* Date report presented to President; # Date tabled in the Senate
<b><i>Defence—statutory authorities</i></b>				
Judge Advocate General	<i>Defence Force Discipline Act 1982</i> , section 196A(1). As soon as practicable after 31 December each year. JAG reports for the period 1 January to 31 December each year.	02 May 07	Not known	# 07 Aug 07
<b><i>Foreign Affairs &amp; Trade—non—statutory authorities and government companies</i></b>				
Australia–China Council	Established by Executive Council Order in 1978. The Council reports to the Minister for Foreign Affairs. As soon as practicable after 30 June each year, the Council shall provide the Minister with an annual report on Council activities during the period of 12 months ending on 30 June.	17 Nov 06	Not known	# 20 Mar 07
Australia–Indonesia Institute	Although not required to do so, the Institute submits an annual report to the Minister for Foreign Affairs and the Parliament.	21 Dec 06	Not known	# 09 May 07

<b><i>Reports tabled after 31 October 2006</i></b>				
<b>Department/agency</b>	<b>Enabling legislation</b>	<b>Date on letter of transmittal</b>	<b>* Date report submitted to the minister (if known); # Date report received by minister (if known)</b>	<b>* Date report presented to President; # Date tabled in the Senate</b>
	No specific date prescribed for tabling.			

## Appendix 3

### Reporting requirements and guidelines

#### Departmental reports<sup>1</sup>

##### *Authority for requirements*

These annual report requirements are prepared pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999* and were approved by the Joint Committee of Public Accounts and Audit on 13 June 2007.

##### *Commencement and reporting period*

The requirements apply for annual reports for financial years ending on or after 30 June 2007.

##### *Application*

- (1) The requirements apply to annual reports for departments of state pursuant to subsection 63(2) and for executive agencies pursuant to subsection 70(2) of the *Public Service Act 1999*. As a matter of policy, they also apply to prescribed agencies under section 5 of the *Financial Management and Accountability Act 1997 (FMA Act)*.
- (2) In most cases the term ‘department’ is used in these Requirements to refer to all departments and agencies that will be preparing annual reports under these requirements. Similarly, ‘secretary’ is used to refer to a departmental secretary or to an agency head of one of those other bodies.
- (3) In the case of an agency (including an executive agency established under section 61 of the *Public Service Act 1999*) that is neither prescribed under the *FMA Act* nor comes with the *Commonwealth Authorities and Companies Act 1997 (CAC Act)*, these Requirements may be used to the extent that they are consistent with any reporting requirements contained in the agency’s own legislation (if any).
- (4) In cases of machinery of government change during the reporting period, where functions or offices are gained or lost, the established practice is that the gaining department must report on that function or office for the entirety of the reporting period, whether or not the losing department continues to exist. However, in relation to financial statements, the general rule is that

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<sup>1</sup> Excerpt from the Requirements for annual reports for departments, executive agencies and FMA Act bodies, Department of Prime Minister and Cabinet, June 2007, pp. 1, 2.

each Chief Executive who had responsibility for a function must sign off on financial statements relating to the period of their individual responsibility and include them in their own annual reports. If, for any reason, the losing department does not produce an annual report that covers the period it had the function, the financial statements from the earlier period must be published in the gaining department's annual report.

### ***Timetable***

A copy of the annual report is to be laid before each House of the Parliament on or before 31 October in the year in which the report is given.

The provisions of subsections 34C(4)–(7) of the Acts Interpretation Act 1901 apply in relation to an application for extension of the period.

Where an agency's own legislation provides a timeframe for its annual report, for example 'within six months' or 'as soon as practicable after 30 June in each year', that timeframe applies. An extension under the Act Interpretation Act would need be sought only should a specified timeframe not be met.

However, it remains the Government's policy that all annual reports should be tabled by 31 October.

### **Commonwealth authorities and companies**

The *Commonwealth Authorities and Companies Act 1997* (the *CAC Act*) contains detailed rules about reporting and accountability for Commonwealth authorities and Commonwealth companies. Commonwealth companies also must meet other reporting requirements as set out in Corporations Law.

The *Commonwealth Authorities and Companies (Report of Operations) Orders 2002*, made under section 48 of the *CAC Act*, enables organisations to comply with the specific requirements for tabling reports.

The notes from the *Commonwealth Authorities and Companies (Report of Operations) Orders 2002* are set out below.

- **Basis for annual report:** Section 9 of the *CAC Act* requires directors of a Commonwealth authority to prepare an annual report in accordance with Schedule 1 of the *CAC Act*.
- **Report of operations requirement:** The annual report must include a report of operations prepared by the directors in accordance with Finance Minister's Orders (clause 1 of Schedule 1 of the *CAC Act*).
- **Financial statements requirement:** The annual report must include financial statements prepared by the directors (clause 2 of Schedule 1 of the *CAC Act*) and the Auditor-General's report on those financial statements.

- **Tabling requirements:** Section 9 of the *CAC Act* provides that the directors must give the annual report to the responsible Minister by the 15<sup>th</sup> day of the 4<sup>th</sup> month after the end of the Commonwealth authority's financial year. Where a Commonwealth authority's financial year ends on 30 June, this means that the annual report must be given to the responsible Minister by 15 October. The responsible Minister must in turn table the annual report in both Houses of the Parliament 'as as soon as practicable'. Under subsection 34C(3) of the *Acts Interpretation Act 1901*, this means within 15 sitting days.

### Non-statutory bodies

The annual report of a non-statutory body shall contain the following information (after Senate *Hansard*, 8 December 1987, pp. 2643–2645):

- The annual report shall show the date of establishment of each new non-statutory body (NSB) and, in relation to each existing NSB, information regarding the date of its establishment in as much detail as is available.
- The annual report shall contain a statement of each NSB's objectives and functions.
- The annual report shall contain an account of each NSB's significant activities during the year.
- The annual report shall contain an indication that the creation or continued existence of each NSB, its functions and its organisation have received Ministerial approval.
- The annual report shall show the date in which each NSB will cease to exist or before which it will be reviewed (whichever is the earlier).
- In the case of any NSB whose continued existence, functions and organisation have been reviewed and whose continued existence has been approved by the Minister, the annual report shall show a summary of the outcome of the review.
- The annual report will contain a list of any positions provided for ex-officio government members on each NSB and of any positions provided for representatives nominated by particular non-government organisations.
- The annual report shall show the maximum term of appointment of each on an NSB.
- Except in cases where there may be little or no continuity of membership from one meeting to the next, the annual report will show the names of individual members of each NSB, and their terms of appointment.
- The report will show the manner in which the level of remuneration paid (if any) to members of each NSB is determined.
- The report will show the manner in which each NSB is funded.
- The report will show a summary of any other financial arrangements such as the kinds of expenditure that can be made from the funds provided, and the nature of secretariat services provided and the way in which these are funded.
- In respect of each NSB, the annual report shall indicate whether one of its functions is to distribute funds to other organisations or individuals.

- AN NSB with its own accounting system shall provide an audited financial statement.
- When an NSB operates through its parent body accounts, the NSB shall provide an account of receipts and expenditure on a program basis. It will also show:
  - the NSB's work reflected in the parent body's published program structure,
  - performance related to objectives and measured in terms of stated criteria, in accordance with standard program budgeting techniques, and
  - the amounts of any grants made by each NSB.