

# Report 83

## **Treaties tabled on 20 June (2), 17 October, 28 November (2) 2006 and CO<sub>2</sub> Sequestration in Sub-Seabed Formations**

Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and Protocol, done at Mexico City on 23 August 2005

Amendments, done at St Kitts and Nevis in the Caribbean on 20 June 2006, to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946

Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning the Transfer of Sentenced Persons, done at Canberra on 11 October 2006

Amendment to Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

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ISBN 978 0 642 78901 3 (printed version)

ISBN 978 0 642 78902 0 (HTML version)



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## Membership of the Committee

Chair            Dr Andrew Southcott MP

Deputy Chair   Mr Kim Wilkie MP

Members	Hon Dick Adams MP	Senator Andrew Bartlett
	Mr Michael Johnson MP	Senator Carol Brown
	Mr Michael Keenan MP	Senator Brett Mason
	Mr Andrew Laming MP (from 14/2/2007)	Senator Julian McGauran
	Mrs Margaret May MP	Senator Glenn Sterle
	Mrs Sophie Mirabella MP (until 14/2/2007)	Senator Russell Trood
	Mr Bernie Ripoll MP	Senator Dana Wortley
	Hon Bruce Scott MP	

## Committee Secretariat

Secretary	James Rees
Inquiry Secretary	Serica Mackay (from 24/1/07)
	Stephanie Mikac (until 24/1/07)
Administrative Officer	Heidi Lushtinetz



## Resolution of appointment

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

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
  - (i) either House of the Parliament, or
  - (ii) a Minister; and
- c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.





## List of abbreviations

COAG	Council of Australian Governments
Cth	Commonwealth
DEH	Department of the Environment and Heritage
DFAT	Department of Foreign Affairs and Trade
ECBM	Enhanced Coal Bed Methane
EOR	Enhance Oil Recovery
ICRW	International Convention for the Regulation of Whaling
IPCC	Intergovernmental Panel on Climate Change
IPPA	Investment Protection and Promotion Agreements
ITP	International Transfer of Prisoners
IWC	International Whaling Commission
JRPA	Japanese Research Program Antarctic
LNG	Liquefied Natural Gas
NAFTA	North American Free Trade Agreement
NIA	National Interest Analysis
RIS	Regulatory Impact Statement
SCOT	Commonwealth-State/Territory Standing Committee on Treaties





## List of recommendations

### 2 Agreement with the United Mexican States on the Promotion and Reciprocal Protection of Investments and Protocol

#### Recommendation 1

The Committee supports the *Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and Protocol* (Mexico City, 23 August 2005) and recommends that binding treaty action be taken.



## Introduction

### Purpose of the report

- 1.1 This report contains advice to Parliament on the review by the Joint Standing Committee on Treaties of four treaty actions tabled in Parliament on 20 June, 17 October, 28 November and 6 December 2006. These treaty actions are:

20 June 2006<sup>1</sup>

- *Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and Protocol, done at Mexico City on 23 August 2005*

17 October 2006<sup>2</sup>

- *Amendments, done at St Kitts and Nevis in the Caribbean on 20 June 2006, to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946*

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1 Australia, House of Representatives 2004-05-06, *Votes and Proceedings*, No. 109, p. 1236; Australia, Senate 2004-06, *Journal*, No. 88, p. 2297.

2 Australia, House of Representatives 2004-05-06, *Votes and Proceedings*, No. 132, p. 1485; Senate 2004-06, *Journal*, No. 111, p. 2899.

**28 November 2006<sup>3</sup>**

- *Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning the Transfer of Sentenced Persons, done at Canberra on 11 October 2006<sup>4</sup>*

**6 December 2006<sup>5</sup>**

- *Amendment to Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter*

- 1.2 With regard to the above treaty, the Committee adopted the reference from the Minister for Foreign Affairs on 5 September 2006. Following the formal adoption of the amendment to the London Protocol on 2 November 2006, the treaty text and NIA were tabled in both houses of Parliament on 6 December 2006.

**Briefing documents**

- 1.3 The advice in this Report refers to the National Interest Analysis (NIA) prepared for the proposed treaty actions. This document is prepared by the Government agency (or agencies) responsible for the administration of Australia's responsibilities under each treaty. Copies of the NIA may be obtained from the Committee Secretariat or accessed through the Committee's website at:

[www.aph.gov.au/house/committee/jsct/20june2006/tor.htm](http://www.aph.gov.au/house/committee/jsct/20june2006/tor.htm)

[www.aph.gov.au/house/committee/jsct/17october2006/tor.htm](http://www.aph.gov.au/house/committee/jsct/17october2006/tor.htm)

[www.aph.gov.au/house/committee/jsct/28november2006/tor.htm](http://www.aph.gov.au/house/committee/jsct/28november2006/tor.htm)

[www.aph.gov.au/house/committee/jsct/co2sequestration/tor.htm](http://www.aph.gov.au/house/committee/jsct/co2sequestration/tor.htm)

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3 Australia, House of Representatives, 2004-05-06, *Votes and Proceedings*, No. 140, p. 1586; Senate 2004-06, *Journal*, No. 119, p. 3089.

4 The recommendation in relation to this treaty is contained in Report 82. A copy can be found at Appendix D.

5 Australia, House of Representatives 2004-05-06, *Votes and Proceedings*, No. 145, p. 1634; Australia, Senate 2004-06, *Journal*, No. 125, p. 3257.

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

[www.austlii.edu.au/au/other/dfat/](http://www.austlii.edu.au/au/other/dfat/)

## Conduct of the Committee's review

- 1.5 The review contained in this report was advertised in the national press and on the Committee's website.<sup>6</sup> Invitations to lodge submissions were also sent to all State Premiers, Chief Ministers, Presiding Members of Parliament and to individuals who have expressed an interest in being kept informed of proposed treaty actions. Submissions received and their authors are listed at Appendix A. Exhibits received are listed at Appendix B.

- 1.6 The Committee also received evidence at public hearings held on 14 August, 9 October, 27 November and 5 December 2006 in Canberra. A list of witnesses who appeared before the Committee at the public hearings is at Appendix C. Transcripts of evidence from public hearings may be obtained from the Committee Secretariat or accessed through the Committee's website at:

[www.aph.gov.au/house/committee/jsct/20june2006/hearings.htm](http://www.aph.gov.au/house/committee/jsct/20june2006/hearings.htm)

[www.aph.gov.au/house/committee/jsct/17october2006/hearings.htm](http://www.aph.gov.au/house/committee/jsct/17october2006/hearings.htm)

[www.aph.gov.au/house/committee/jsct/28november2006/hearings.htm](http://www.aph.gov.au/house/committee/jsct/28november2006/hearings.htm)

[www.aph.gov.au/house/committee/jsct/co2sequestration/hearings.htm](http://www.aph.gov.au/house/committee/jsct/co2sequestration/hearings.htm)

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<sup>6</sup> The Committee's review of the proposed treaty action was advertised in *The Australian* on 28 June, 20 September, and 1 November 2006. Members of the public were advised on how to obtain relevant information and invited to submit their views to the Committee, both in the advertisement and via the Committee's website.





# Agreement with the United Mexican States on the Promotion and Reciprocal Protection of Investments and Protocol

## Background

- 2.1 Australian direct investment in Mexico is approximately A\$285 million and Mexican investment in Australia is A\$10 million. Potential exists for greater Australian investment in Mexico, especially in the mining, resources, energy and agribusiness sectors. While Mexico is seen as a gateway to NAFTA<sup>1</sup> markets for Australian investors, similarly Australia is seen as a base for accessing South-East Asian markets for Mexican investors.<sup>2</sup>
- 2.2 Mexico is Australia's largest trading partner in Latin America.<sup>3</sup> Australia's top four exports to Mexico are coal, meat, livestock and dairy. Mexico attracts significant direct investment due to NAFTA membership and its generally liberal investment laws. Australian companies with interests in Mexico include: Austmex, Bolnisi Gold, Orica, Howe Leather, Mincom, Baja Aqua Farms and TNA Packaging Systems.<sup>4</sup>

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1 North American Free Trade Agreement.

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

3 NIA, para. 5.

4 Department of Foreign Affairs and Trade, Mexico Country Brief, April 2006, viewed 22 June 2006, <[www.dfat.gov.au](http://www.dfat.gov.au)>.

- 2.3 Australia currently has 20 investment protection and promotion agreements (IPPA) in force with: Argentina, Chile, China, Czech Republic, Egypt, Hong Kong, Hungary, India, Indonesia, Laos, Lithuania, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Romania, Turkey, Uruguay and Vietnam.<sup>5</sup>
- 2.4 Australia signed a Memorandum of Understanding on Mining with Mexico in July 2002<sup>6</sup> and a memorandum of understanding on energy cooperation in January 2005.<sup>7</sup>
- 2.5 Australia is a leading supplier of coal to Mexico's Federal Electricity Commission and in 2005 won a 3.36 million metric tonne supply contract worth \$A330 million for the Commission's Petacalco Plant. This represents the largest export contract won by Australia in Mexico.<sup>8</sup>
- 2.6 Australian Liquefied Natural Gas (LNG) suppliers are interested in supplying LNG to Mexico and the west coast of the United States over 20 years in contracts worth around \$A50 billion which could begin in 2009.<sup>9</sup>
- 2.7 In 2002, the Australian Government published 'Doing Business in Mexico' in response to an increase in Australian business interest in Mexico.<sup>10</sup>

## Purpose of the Agreement

- 2.8 *The Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and protocol, (the Agreement) by guaranteeing certain*

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5 NIA, List of treaties of the same type with other countries.

6 Vaile, M (Minister for Trade) 2002, *Australia and Mexico Sign Investment Declaration*, media release, Parliament House, Canberra, 18 November.

7 Macfarlane, I (Minister for Industry, Tourism and Resources) 2005, *Australia and Mexico Sign for Stronger Trade Relationship*, media release, Parliament House, Canberra, 29 August.

8 Macfarlane, I (Minister for Industry, Tourism and Resources) 2005, *Australia and Mexico Sign for Stronger Trade Relationship*, media release, Parliament House, Canberra, 29 August.

9 Macfarlane, I (Minister for Industry, Tourism and Resources) 2005, *Australia and Mexico Sign for Stronger Trade Relationship*, media release, Parliament House, Canberra, 29 August.

10 Department of Foreign Affairs and Trade, viewed 22 June 2006, <[www.dfat.com.au](http://www.dfat.com.au)>.

treatment for investments will encourage and facilitate bilateral investment by citizens, permanent residents and companies.<sup>11</sup> The Agreement is entered into in accordance with the internationally accepted principles of mutual respect for sovereignty, equality, mutual benefit, non discrimination and mutual confidence.<sup>12</sup>

- 2.9 Citing the reason for the Agreement, a representative from the Department of Foreign Affairs and Trade stated:

What underpins Australia's interest in broadening the bilateral relationship through an agreement such as this one is the fact that Mexico is Australia's largest trading partner in Latin America. Mexico is also a significant education and training market for Australian institutions. Mexico and Australia regard each other as potential strategic partners in areas such as energy, mining and agriculture. This is based on Australia's ability to supply coal and liquefied natural gas and the potential for Australian miners to invest in Mexican projects. And yet, to date, we have seen relatively modest levels of investment between Mexico and Australia. Australian investment, including portfolio investment, is predominantly in services, which are followed by manufacturing, mining and extraction, whereas Mexican investment in Australia is in private real estate and manufacturing.<sup>13</sup>

## Benefits of the Agreement

- 2.10 Mexico's investment regime is considered relatively open and transparent. Consistent with the prospect of continued economic growth and political stability in Mexico, increased export and investment opportunities are likely. The establishment of an IPPA framework between Australia and Mexico would greatly benefit investors.<sup>14</sup>

- 2.11 The Agreement would be an important safeguard for Australian companies that wish to participate in major projects in Mexico as it

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11 NIA, para. 7.

12 NIA, para. 4.

13 Mr David Glass, *Transcript of Evidence*, 14 August 2006, pp. 2-3.

14 NIA, para. 9.

offers most favoured nation status and national treatment of Australian investments. It does this by providing guarantees about expropriation/nationalism and by establishing a mechanism for resolving investment disputes. The investor-state dispute settlement provisions provide an avenue by which Australian investors can choose to take alleged breaches of the obligations of this Agreement to international arbitration, instead of relying on the local legal system.<sup>15</sup>

- 2.12 An IPPA would also give Australian investors parity with Mexico's other bilateral investment treaty partners.<sup>16</sup>

## Concerns raised by the Queensland Government

- 2.13 The Queensland Government wrote to the Committee in July and December 2006 with concerns regarding the expropriation and compensation provisions of the Agreement.<sup>17</sup> The Queensland Government was concerned that the expropriation and compensation provisions of the Agreement went further than what was provided under Queensland legislation, that the Queensland Government should determine in what circumstances compensation is appropriate and that the Agreement may create disparity between the rights of foreign and domestic investors.<sup>18</sup>
- 2.14 The Department of Foreign Affairs and Trade (DFAT) informed the Committee that the expropriation and compensation provisions of the Agreement are the minimum that Australian investors expect when investing overseas.

The Australian Government is keen to maintain a high standard for Australian investors internationally and these standards would be difficult to maintain if Australia were unable to commit itself to them. Indeed, foreign investment in Australia would likely be affected by any move by Australia away from these minimum conditions.<sup>19</sup>

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15 NIA, para. 8; Mr David Glass, *Transcript of Evidence*, 14 August 2006, p. 3.

16 NIA, para. 12.

17 Queensland Government, *Submission 3 and Supplementary Submission 3.1*. Article 7 of the provides the expropriation and compensation provisions.

18 Queensland Government, *Submission 3 and Supplementary Submission 3.1*.

19 Department of Foreign Affairs and Trade, *Supplementary Submission 6.1*, p. 2.

- 2.15 The expropriation and compensation provisions are also common among Australia's other investment promotion and protection agreements, the free trade agreements with Singapore, Thailand and the United States, and have also been endorsed by State Governments.<sup>20</sup>
- 2.16 Addressing a specific concern relating to the payment of compensation for the cancellation of a permit or lease, DFAT advised that it was unlikely that regulatory action by States, such as the imposition of taxation or the lawful revocation of licences of permits, would constitute expropriation at international law.

## Consultation

- 2.17 Although negotiations were encouraged by industry representatives, no formal submissions were received in relation to the negotiation of this Agreement.<sup>21</sup>
- 2.18 All relevant agencies were consulted during negotiations and have given their approval to the final text of the Agreement including Treasury and the Attorney-General's Department.<sup>22</sup>
- 2.19 State and Territory governments were informed of the proposed agreement when negotiations commenced in 2001 through the Commonwealth-State/Territory Standing Committee on Treaties. No objections or concerns were raised.<sup>23</sup>

## Costs

- 2.20 Costs may be incurred in the event of a dispute between the Parties, if the dispute is submitted to an arbitration at the request of either Party. Under such circumstances each Party would bear the cost of the arbitrator it has appointed and of its representation in arbitration proceedings, while the cost of the Chairman and the remaining costs

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20 Department of Foreign Affairs and Trade, *Supplementary Submission 6.1*. Australia has 19 other investment promotion and protection agreements.

21 NIA, Consultation Annex

22 NIA, Consultation Annex

23 NIA, Consultation Annex

of arbitration would be borne in equal parts by the Parties unless otherwise decided by a Tribunal.<sup>24</sup>

- 2.21 Costs may also be incurred if it is necessary to defend disputes brought forward by Mexican investors. If a claim is brought forward in an Australian court or tribunal, Australia would incur the ordinary costs associated with litigating domestic disputes as determined by the court. If a claim is brought forward in an international tribunal, costs would be determined by the International Centre for Settlement of Investment Disputes and the United Nations Commission on International Trade Law rules respectively, depending on the forum in which the claim was prosecuted.<sup>25</sup>
- 2.22 Australia may also be liable to pay compensation for losses owing to war or other armed conflict, revolution, a state of national emergency, a civil disturbance or similar events in its territory, or in the event that an investment is expropriated or nationalised.<sup>26</sup>

## Implementation

- 2.23 The Agreement will be implemented within the framework of Australia's existing laws and policies relating to foreign investment.<sup>27</sup>

## Entry into force and withdrawal

- 2.24 The Agreement will enter into force 60 days after the date on which an exchange of notes takes place between the Parties. The Agreement will remain in force for a period of ten years.<sup>28</sup> The Agreement may be terminated with twelve months written notice of termination after ten years has expired. The Agreement will continue to be effective in respect to investments made or acquired before the date of termination for a further period of ten years after the date of termination.<sup>29</sup>

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24 NIA, para. 28.

25 NIA, para. 29.

26 NIA, para. 31.

27 NIA, para. 27.

28 NIA, para. 1.

29 NIA, paras 34 and 35.

## Conclusion and recommendation

- 2.25 The Committee acknowledges that the Agreement will provide a formal framework that has the potential to encourage greater investment between Mexico and Australia.

### Recommendation 1

**The Committee supports the *Agreement between the Government of Australia and the Government of the United Mexican States on the Promotion and Reciprocal Protection of Investments, and Protocol (Mexico City, 23 August 2005)* and recommends that binding treaty action be taken.**





## Amendments, done at St Kitts and Nevis in the Caribbean on 20 June 2006, to the International Convention for the Regulation of Whaling

### Introduction

- 3.1 The treaty action consists of Amendments to the *International Convention for the Regulation of Whaling* (ICRW). The ICRW implements the moratorium on commercial whaling and each year the International Whaling Commission (IWC) meets to extend the moratorium. In 2006, the annual meeting was held in St Kitts and Nevis from 16-20 June.

### 58<sup>th</sup> Annual Meeting of the IWC

#### Amendments to extend the moratorium on commercial whaling

- 3.2 The Committee was informed that the IWC voted by a three quarters majority in 1982 to set the commercial catch numbers to zero,

commencing in 1985.<sup>1</sup> The amendments to extend the moratorium on commercial whaling are automatic every year that the IWC does not vote by a three quarter majority to lift the moratorium.<sup>2</sup>

- 3.3 To give effect to the Amendments, minor changes have been made to Paragraphs 11 and 12, and Tables 1, 2 and 3 of the Schedule of the ICRW (changes in **bold italics type**):

Substitute the dates **2006/2007** pelagic season, **2007** coastal season, **2007** season, or **2007** as appropriate.

- 3.4 Australia has been a Contracting Government since the ICRW came into force in 1948 and has enforced the ban on commercial whaling since it was adopted by the IWC.<sup>3</sup> The amendments are consistent with Australia's position as a strong advocate of whale conservation.<sup>4</sup>

## St Kitts and Nevis Declaration

- 3.5 At the 58<sup>th</sup> annual meeting of the IWC, a resolution known as the St Kitts and Nevis declaration was passed by a simple majority of member countries.<sup>5</sup> The St Kitts and Nevis declaration is a non-binding statement in favour of resuming commercial whaling.

[The St Kitts and Nevis declaration] outlines what they call the 'normalisation' of the IWC. It states that countries opposed to commercial whaling are acting contrary to the object and purpose of the international convention. They claim that the IWC will collapse unless whaling resumes. It is important to note that the declaration includes no operative paragraphs and does not call on the IWC to take any action.

- 3.6 Binding resolutions of the IWC require a three-quarter majority. At its 58<sup>th</sup> annual meeting, the IWC had 70 member countries. This means that a binding resolution would require 53 votes to succeed.<sup>6</sup> The Committee was informed that there are approximately 36 member countries in favour of commercial whaling and 34 in favour of whale conservation.<sup>7</sup>
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1 Ms Robyn McCulloch, *Transcript of Evidence*, 27 November 2006, p. 2.

2 Ms Robyn McCulloch, *Transcript of Evidence*, 27 November 2006, p. 2.

3 National Interest Analysis (NIA), para. 7.

4 NIA, para. 7.

5 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

6 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

7 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

## Recent developments

### Iceland resumes commercial whaling

- 3.7 Shortly after this treaty action was tabled in Parliament, Iceland resumed commercial whaling, killing the first whale in contravention of the moratorium on Sunday 22 October 2006.
- 3.8 Iceland's relationship with the IWC has varied as a result of its position on commercial whaling. Iceland left the IWC in 1992 but re-adhered to the ICRW in 2002 with a reservation which left open the possibility of commercial whaling. The reservation read, in part:
- ...the Government of Iceland will not authorise whaling for commercial purposes by Icelandic vessels before 2006 and, thereafter, will not authorise such whaling while progress is being made in negotiations within the IWC on the [Revised Management Scheme].<sup>8</sup>
- 3.9 Although not all members of the IWC accepted Iceland's reservation, a majority of governments voted to accept Iceland as a member at a Special Meeting of the Commission in Cambridge, United Kingdom, on 14 October 2002.<sup>9</sup> The Committee was informed that the Australian government has consistently maintained that the reservation is contrary to the object and purpose of the ICRW.<sup>10</sup>
- 3.10 Following Iceland's decision to resume commercial whaling, Australia joined 25 other countries in a demarche to formally protest the decision.<sup>11</sup> The IWC has not expressed a formal view on Iceland's actions as it only expresses views as a body through meetings of the Commission. The next scheduled meeting of the IWC is in May 2007 in Anchorage.<sup>12</sup>

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8 See International Whaling Commission website 'Iceland and Commercial Whaling', accessed 9 January 2006: <[www.iwcoffice.org/conservation/iceland.htm](http://www.iwcoffice.org/conservation/iceland.htm)>

9 See International Whaling Commission website 'Iceland and Commercial Whaling', accessed 9 January 2006: <[www.iwcoffice.org/conservation/iceland.htm](http://www.iwcoffice.org/conservation/iceland.htm)>

10 Mr Clinton Dengate, *Transcript of Evidence*, 27 November 2006, p. 4.

11 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

12 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

- 3.11 Until resuming commercial whaling, Iceland conducted whaling under Article VIII of the ICRW which allows whales to be killed for scientific research purposes.<sup>13</sup>

## Japanese Research Program Antarctic (JRPA) 2

- 3.12 Japan currently conducts whaling under the scientific research provision of the ICRW. Japan's whaling program is known as JRPA2 – Japanese Research Program Antarctic. The number of whales killed by Japan as part of its research program is far greater than the number of whales killed by Iceland in contravention of the moratorium on commercial whaling.<sup>14</sup>
- 3.13 The Committee was informed that in 2005 under Japan's new scientific whaling program in the Southern Ocean, Japan took 853 minke whales and 20 fin whales.<sup>15</sup> Furthermore, these numbers are expected to increase:

Japanese whaling fleets set sail for the Southern Ocean on 15 November this year. This season, Japan intends to take up to 935 minke whales and 10 fin whales. Next year, they propose to take the same number of minkes, to increase the take of fin whales to 50 and, for the first time, take 50 humpback whales.<sup>16</sup>

## Entry into force

- 3.14 The Amendments entered into force on 4 October 2006 following the expiry of the 90 day period during which Contracting Governments can lodge an objection.<sup>17</sup> The Australian Government did not lodge an objection.<sup>18</sup>

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13 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

14 See *Transcript of Evidence*, 27 November 2006, p. 5.

15 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

16 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

17 NIA, para. 4.

18 NIA, para. 3.

## Implementation

- 3.15 Australia already prohibits whaling under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and so the Amendments to the ICRW will not add to Australia's existing obligations.<sup>19</sup>

## Consultation

- 3.16 The Department of the Environment and Heritage (DEH) meets three times a year with non-government organisations to discuss Australia's position on the ICRW proposals.<sup>20</sup> Meetings took place on 11 August 2005, 20 January 2006 and 8 May 2006. A further meeting on 15 August 2006 was held to provide feedback following the meeting in St Kitts and Nevis.<sup>21</sup>
- 3.17 This year the Humane Society International and Project Jonah Australia participated as members of the Australian delegation.<sup>22</sup>

## Concluding remarks

- 3.18 The Committee understands the importance of whale conservation and strongly supports the treaty amendments which give effect to the moratorium on commercial whaling for the 2006/2007 year. However, the Committee is concerned by recent actions by Iceland, which contravene the moratorium, and Japan, which undermine the moratorium, and encourages efforts which would reduce the number of whales killed under both the scientific research provision and commercial licences.

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19 NIA, para. 9.

20 NIA, 'Consultation', para. 1.

21 NIA, 'Consultation', para. 1.

22 NIA, 'Consultation', para. 1.



# Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons

## Introduction

- 4.1 This chapter contains the Committee's report on its consideration of the *Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons*, done at Canberra on 11 October 2006 (the Agreement). However, it does not contain the Committee's recommendation relating to the Agreement, which was made in Report 82. A copy of Report 82 is at Appendix D.
- 4.2 The Committee decided to expedite its recommendation with respect to this treaty action so that the other domestic requirements for the treaty's entry into force could proceed as quickly as possible. Ordinarily, the Committee would not have been required to report on the Agreement until 20 March 2007, after the expiry of 15 joint sitting days. By tabling a brief report before the summer break, and well before the 15 days sitting period has expired, the Committee acted to provide the Government with an opportunity to complete the other domestic requirements for implementation much earlier than would normally be the case.

- 4.3 The Committee thought it was important to ensure that any Australians who would access the provisions of the Agreement once it has entered into force would have the opportunity to do so as soon as possible. The Committee is aware that one Australian serving a prison sentence in Cambodia was arrested in 2005 when he was 16 years old.

## Terms of the Agreement

- 4.4 The Agreement provides a formal process for the transfer of prisoners between Australia and Cambodia. Prisoners are eligible to apply for transfer from Cambodia to Australia provided they:
- Are Australian citizens; or
  - Are otherwise permitted by Australian law to enter and remain indefinitely in Australia and have community ties to Australia.<sup>1</sup>
- 4.5 Prisoners are eligible to apply for transfer from Australia to Cambodia if they are a Cambodian national.<sup>2</sup>
- 4.6 Other conditions which must be satisfied for a prisoner to be transferred include:
- The prisoner was not sentenced in respect of an offence under the law of Cambodia against the internal or external security of the state, against His Majesty the King, or a member of the royal family, or against legislation protecting Cambodian national art treasures;<sup>3</sup>
  - The prisoner must have at least one year remaining to be served at the time of the request for transfer;<sup>4</sup> and
  - The judgment must be final and no other legal proceedings relating to the offence or any other offence are pending in the transferring party;<sup>5</sup>

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1 National Interest Analysis (NIA), para. 5, Article 4(c) of the Agreement.

2 NIA, para. 6, Article 4(b) of the Agreement.

3 Article 4(d) of the Agreement.

4 Article 4(e) of the Agreement.

5 Article 4(f) of the Agreement.



- 4.7 Prisoners can apply to either the Australian or Cambodian government for transfer under the Agreement. However, prisoners will only be transferred if they, the Australian government and the Cambodian government all give informed consent to the transfer.<sup>6</sup>
- 4.8 The Committee was informed that as at 27 November 2006 there were five Australians who had been sentenced to imprisonment in Cambodia and 13 Cambodians sentenced to imprisonment in Australia.<sup>7</sup>

## International Transfer of Prisoners

- 4.9 The operation of Australia's domestic legislation and international arrangements entered into by Australia is called the international transfer of prisoners (ITP) scheme.<sup>8</sup> Under Australian law, the *International Transfer of Prisoners Act 1997* (the ITP Act) allows for regulations to be made which give effect to Australia's bilateral and multilateral transfer of prisoner agreements.
- 4.10 The ITP scheme has humanitarian, rehabilitative and social objectives.<sup>9</sup> Allowing prisoners to serve their sentence in the home country is expected to relieve the hardship and burden on the relatives of the prisoner, facilitate the prospects of that prisoner's rehabilitation and also reduce the administrative burden on Australian consular officials in Cambodia.<sup>10</sup>
- 4.11 The New South Wales Council for Civil Liberties also pointed out that:

The separation of prisoners from their families, most of whom cannot bear the cost of travel, is particularly acute; even more so when the prisoners have young children, or are themselves children. Language is a real barrier, along with a myriad of other cultural factors. The health of prisoners appears to

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6 NIA, para. 18, Articles 5(2)(a) and 4(g) of the Agreement.

7 Ms Robin Warner, *Transcript of Evidence*, 5 December 2006, p. 2.

8 NIA, para. 9.

9 NIA, para. 10.

10 NIA, para. 7.

deteriorate faster in these circumstances, and rehabilitation becomes a more remote prospect.<sup>11</sup>

- 4.12 As Cambodia is not part of any multilateral convention relating to the transfer of prisoners, and following growing public pressure for Australia to conclude bilateral ITP agreements with more of its regional neighbours, the negotiation of the Agreement was considered a priority.<sup>12</sup> Cambodia has not completed a bilateral ITP treaty with any other country.<sup>13</sup>

## Implementation and entry into force

- 4.13 The Agreement will be implemented through regulations under the ITP Act.<sup>14</sup>

- 4.14 The Committee was informed that Administrative Arrangements with all the States and Territories, with the exception of South Australia, are in place to facilitate the transfer of prisoners into, and out of, State and Territory prisons.<sup>15</sup>

- 4.15 The Agreement will enter into force 30 days after an exchange of notes by which each party notifies the other that its domestic requirements for the Agreement's entry into force have been complied with.<sup>16</sup>

- 4.16 The Committee received a submission from the New South Wales Council for Civil Liberties concerning the long delay in processing a request for prisoner transfer.<sup>17</sup> Their specific concerns relate to Gordon Vuong, who was 16 at the time of his arrest in Cambodia in January 2005, and the likelihood that it will take approximately 12 months, in addition to the 6 to 9 months for the Agreement to enter into force, to process a request for transfer to Australia.<sup>18</sup> The New South Wales Council for Civil Liberties calls for a 'greater sense of

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11 New South Wales Council for Civil Liberties, *Submission 3*, p. 1.

12 NIA, paras 14 and 16.

13 NIA, para. 15.

14 NIA, para. 26.

15 Ms Robin Warner, *Transcript of Proceedings*, 5 December 2006, p. 5; NIA, paras 27-28.

16 NIA, para. 3.

17 New South Wales Council for Civil Liberties, *Submission 3*, p. 2.

18 New South Wales Council for Civil Liberties, *Submission 3*, p. 3.

urgency' to be 'injected into the process giving effect to prisoner transfers generally, and to Gordon Vuong's transfer in particular.'<sup>19</sup>

- 4.17 The Committee supports this call and while it recognises that much will also depend on Cambodian authorities, encourages the Government and relevant government agencies to treat requests for prisoner transfers with the speed that the nature of the circumstances necessitate.

## Consultation

- 4.18 As part of the consultation for the Agreement, on 22 July 2005, Senator the Hon Christopher Ellison wrote to all State and Territory ministers with portfolio responsibility for implementation of the ITP scheme.<sup>20</sup>
- 4.19 Responses were received from the Hon Tony Kelly MLC, New South Wales Minister for Justice, the Hon John D'Orazio MLA, Western Australian Minister for Justice and Small Business and the Hon Judy Jackson, Tasmanian Attorney-General. Attorney-General Jackson and Minister Kelly supported the proposed treaty action. Minister D'Orazio thanked the Australian Government for the opportunity to comment.<sup>21</sup>
- 4.20 Copies of the letter from Senator the Hon Chris Ellison were forwarded to the Commonwealth-State/Territory Standing Committee on Treaties (SCOT). No response was received from SCOT either in response to the letters or at meetings in September 2005, May 2006 and September 2006 at which the treaty was listed on the schedule as under negotiation.<sup>22</sup>

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19 New South Wales Council for Civil Liberties, *Submission 3*, p. 3.

20 NIA, 'Consultation', para. 5.

21 NIA, 'Consultation', para. 6.

22 NIA, 'Consultation', para. 7.

## Conclusion

- 4.21 The Committee supports the Prisoner Transfer Agreement with Cambodia and has recommended in Report 82 that binding treaty action be taken.<sup>23</sup> Report 82 is reproduced at Appendix D.
- 4.22 The Committee also encourages the Government to act quickly to implement the Agreement to ensure that any Australians who would access the provisions of the Agreement once it has entered into force will have the opportunity to do so as soon as possible.

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23 Joint Standing Committee on Treaties Report 82, see Appendix D.

## Amendment to Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

- 5.1 The amendment *Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972* (the London Protocol) will allow sequestration of carbon-dioxide (CO<sub>2</sub>) in sub-seabed geological formations.
- 5.2 Australia is a Party to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972* (London Convention) and the London Protocol. The London Protocol supersedes the London Convention for parties to both.<sup>1</sup>

The protocol entered into force internationally in March 2006, having gained the required number of signatories. There are now 28 signatory parties. Australia has implemented the protocol domestically since 2000 under the *Environment Protection (Sea Dumping) Act 1981*. The objective of the protocol is to protect the marine environment from pollution related to sea dumping. The protocol is an advanced international agreement limiting the types of material that can be dumped to the seven categories listed in its annex 1.<sup>2</sup>

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1 Department of the Environment and Heritage, *Submission No. 1*, p. 1.

2 Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment and Heritage, *Transcript of Evidence*, 9 October 2006, pp. 13-14.

- 5.3 CO<sub>2</sub> geo-sequestration was discussed at the 27<sup>th</sup> Consultative Meeting of the London Convention in October 2005 and it was agreed that CO<sub>2</sub> geo-sequestration should be allowed, noting that amendments to the Protocol may be required. The amendment to Annex 1 to the London Protocol was adopted unanimously on 2 November 2006 at the First Meeting of Contracting Parties to the London Protocol.<sup>3</sup> It came into force on 10 February 2007.<sup>4</sup>

## Background

- 5.4 Prior to the adoption of the amendment there was uncertainty whether the geo-sequestration of CO<sub>2</sub> in the marine environment under certain scenarios, particularly capture onshore and injection under the seabed offshore, was consistent with Australia's international obligations under the London Protocol. The Protocol applies to "the seabed and subsoil thereof" and only permits the disposal of materials listed at Annex 1 to the London Protocol.<sup>5</sup>

Carbon geo-sequestration was not contemplated when the protocol was being developed, and carbon dioxide was not included on the list at annex 1. Carbon geo-sequestration is therefore currently illegal in the marine environment. However, it is now agreed Australian government policy to explore geo-sequestration as one of a suite of potential climate change measures.<sup>6</sup>

- 5.5 While the Amendment changes Australia's obligations under the London Protocol to allow the sub-seabed sequestration of CO<sub>2</sub>, it seeks to ensure the CO<sub>2</sub> gas 'stream' sequestered is overwhelmingly CO<sub>2</sub> and does not contain industrial wastes or other prohibited materials.<sup>7</sup>

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3 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), p. 2.

4 Parties that were not able to accept the amendment had until 10 February 2007 to lodge a declaration.

5 Department of the Environment and Heritage, *Submission No. 1*, p. 1.

6 Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment and Heritage, *Transcript of Evidence*, 9 October 2006, p. 14.

7 Department of the Environment and Heritage, *Submission No. 1*, p. 2.

## Geo-sequestration

- 5.6 Geo-sequestration involves injecting CO<sub>2</sub> directly into underground sedimentary basins which can be either onshore or offshore. Declining or depleted oil and gas fields, saline aquifers, and unminable coal seams are potential storage sites.<sup>8</sup>
- 5.7 CO<sub>2</sub> has been injected into declining oil fields in Texas since the early 1970s to enhance oil recovery (EOR). EOR is a commercial technology as currently practiced because the CO<sub>2</sub> storage costs are offset by recovery of the additional oil, the economic driver being enhanced oil recovery rather than CO<sub>2</sub> storage.<sup>9</sup> Similar technology could potentially increase the gas recovered from gas reserves.<sup>10</sup> Unminable coal seams can also be used for safe long-term storage of CO<sub>2</sub> (usually at a shallower depth than EOR), because CO<sub>2</sub> adsorbs<sup>11</sup> to the coal surface. Injecting CO<sub>2</sub> into the coal seam releases methane adsorbed to the coal surface and the methane may be recovered. The process is called Enhanced Coal Bed Methane recovery (ECBM) and potentially, as with EOR, the sale of the methane could be used to offset the cost of the CO<sub>2</sub> storage.<sup>12</sup>
- 5.8 Existing infrastructure and the geophysical and geological information about oil and gas fields from the exploration phase is relevant in evaluating the size and suitability of potential storage sites. At depth and under pressure (below 800 metres) CO<sub>2</sub> will be 50% to 80% of the density of water and tends to rise. Therefore a geological barrier preventing its upward migration is necessary but not usually a problem as oil and gas fields have such a barrier which prevents the upwards migration of hydrocarbons.<sup>13</sup>
- 5.9 Saline aquifers are common and could potentially provide large storage volumes. Compared to oil and gas reservoirs, a disadvantage

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8 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, p. 200.

9 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, p. 262.

10 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, p. 216.

11 Adsorb: to gather (a gas, liquid, or dissolved substance) on a surface in a condensed layer, as is the case when charcoal adsorbs gases, *The Macquarie Dictionary*.

12 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, p. 216.

13 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Technical Summary, p. 28.

of saline aquifers is that less is known about them and there may be more uncertainty about their structure. Therefore, leakage of CO<sub>2</sub> into the atmosphere may be more of a problem in saline-aquifer storage. Also, unlike EOR or ECBM processes, there is no by-product to offset the storage cost.<sup>14</sup>

- 5.10 Three commercial geological sequestration projects are currently underway. EOR is used at an oil field at Weyburn in southeastern Saskatchewan, Canada. Norway's Statoil natural gas platform *Sleipner* in the North Sea strips CO<sub>2</sub> from natural gas with amine solvents and disposes of it in an offshore saline formation. At the In Salah Gas Field in Algeria, Sonatrach, BP and Statoil strip CO<sub>2</sub> from natural gas and inject it into the gas reservoir outside the boundaries of the gas field.<sup>15</sup> At the Gorgon offshore gas field in Western Australia, Chevron is proposing to strip CO<sub>2</sub> from the natural gas it recovers and inject it into the Dupuy Formation 2,000 metres below Barrow Island.<sup>16</sup>

## Ocean Sequestration

- 5.11 Sub-seabed geo-sequestration of CO<sub>2</sub> is not the same as ocean sequestration. In ocean sequestration, CO<sub>2</sub> would be pumped directly into the water at depths greater than 1,000 metres where a high proportion of it would be isolated from the atmosphere for several hundred years. At depths greater than 3,000 metres CO<sub>2</sub> is denser than seawater and, using different methods of release, could be dispersed into the deep ocean or deposited to form 'lakes' of liquid CO<sub>2</sub> on the ocean floor.<sup>17</sup> Ocean sequestration is **not** currently under consideration by Australia or the Consultative Meeting<sup>18</sup> and is **not** permitted by the amendment to Annex 1 to the London Protocol.

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14 [http://en.wikipedia.org/wiki/Carbon\\_sequestration#Geological\\_sequestration](http://en.wikipedia.org/wiki/Carbon_sequestration#Geological_sequestration) (accessed 19 September 2006)

15 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, pp. 201-4.

16 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 5, pp. 201-4, and see [www.doir.wa.gov.au/documents/investment/000111lornafitzgerald.pdf](http://www.doir.wa.gov.au/documents/investment/000111lornafitzgerald.pdf). (accessed 19 September 2006)

17 Intergovernmental Panel on Climate Change, *IPCC Special report on Carbon dioxide capture and Storage*, Chapter 6, pp 282-283.

18 Department of the Environment and Heritage, *Submission No. 1*, p. 1.



## Obligations

5.12 Under the London Protocol the types of material that may be dumped at sea is limited to the seven categories listed in its Annex 1.

The list at Annex 1 is:

- dredged material;
- sewage sludge;
- fish waste, or material resulting from industrial fish processing operations;
- vessels and platforms or other man-made structures at sea;
- inert, inorganic geological material;
- organic material of natural origin; and
- bulky items primarily comprising iron, steel, concrete and similarly unarmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.<sup>19</sup>

5.13 The amendment to the Protocol adds “Carbon dioxide streams from carbon dioxide capture processes for sequestration” to the list at Annex 1 and further provisions to ensure that the CO<sub>2</sub> streams may only be considered for dumping if:

- disposal is into a sub-seabed geological formation; and
- they consist overwhelmingly of carbon dioxide. They may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and
- no wastes or other matter are added for the purpose of disposing of those wastes or other matter.<sup>20</sup>

5.14 Australia’s other obligations under the Protocol will not change. However, under the amendment “sequestration in sub-seabed geological formations would be an option available to Australia and would facilitate Australia in remaining at the forefront of geo-

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19 Protocol, done at London on 7 November 1996, to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 29 December 1972, NIA, <http://www.austlii.edu.au/au/other/dfat/nia/1997/39.html> (accessed 9 November 2006)

20 Text of amendment to Annex 1; Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), page 6.

sequestration technology while also continuing to provide leadership in marine environment protection through the London Protocol".<sup>21</sup>

- 5.15 Also, geo-sequestration projects will still require rigorous assessment and approval in accordance with the articles of the Protocol, the *Environment Protection (Sea Dumping) Act 1981* and the *Environment Protection and Biodiversity Conservation Act 1999*.<sup>22</sup>

...[A]part from just the technology of injecting the carbon dioxide, for any sea-dumping application that is currently assessed under Australian law, we assess all the impacts. So they would be all of the actual mechanisms and the operating requirements in order to bring CO<sub>2</sub> from a source, have it injected and stored safely. Each of those projects is assessed on their merits and would also go through a period of public consultation.<sup>23</sup>

## Consultation

- 5.16 Public consultation on the amendment has occurred mainly through the development of the Council of Australian Governments (COAG) Regulatory Impact Statement (RIS) and *Guiding Regulatory Principles* which were endorsed by the Ministerial Council on Mineral and Petroleum Resources on 25 November 2005.<sup>24</sup>
- 5.17 In addition to direct consultation with the State and Territory Governments, comments were received from the following parties:
- Anna Tredwell (Eco Property Pty Ltd)
  - Australian Coal Association
  - Australian Conservation Foundation
  - Australia Petroleum Production and Exploration Association
  - Australian Power and Energy Limited

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21 Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment and Heritage, *Transcript of Evidence*, 9 October 2006, p. 14.

22 Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment and Heritage, *Transcript of Evidence*, 9 October 2006, p. 14.

23 Ms Vicki Dickman, Assistant Secretary, Environment Assessment Branch, Department of the Environment and Heritage, *Transcript of Evidence*, 9 October 2006, p. 17.

24 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), page 5.

- BHP Billiton
- Baker McKenzie
- Conservation Council of Western Australia
- Cooperative Research Centre for Greenhouse Gas Technologies (CO2CRC)
- Cooperative Research Centre for Coal in Sustainable Development
- Climate Action Network Australia
- EWN Publishing
- Friends of the Earth
- National Generators Forum
- New South Wales Minerals Council
- Origin Energy
- PricewaterhouseCoopers Legal
- Rising Tide
- Stanwell Corporation
- Western Australian Government
- Woodside
- Xstrata Coal<sup>25</sup>

5.18 Comments received during consultation addressed issues including issues in relation to the natural environment, the need to adequately address environmental risks and the need to consider the use of alternative technologies.<sup>26</sup>

## Costs

5.19 While there are costs associated with assessing permit applications and the ongoing regulation of approved permits under the *Environment Protection (Sea Dumping) Act 1981* and the *Environment Protection (Sea Dumping) Regulations 1983* this is currently undertaken on a cost recovery basis. The permit process is expected to be similar for geo-sequestration proposals and the amendment will not result in

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25 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), page 5.

26 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), page 5.

additional costs to the Commonwealth or State and Territory governments.<sup>27</sup>

## Implementation

- 5.20 No legislation is required to implement the amendment to the London Protocol. Australia's obligations under the London Protocol are met by the *Environment Protection (Sea Dumping) Act 1981*. The Act limits the granting of permits to dump material at sea to materials listed at Annex 1 to the Protocol and permits may be granted only in accordance with processes set out in Annex 2 to the Protocol. The amendment to Annex 1 ensures that parties to the Protocol may permit offshore sub-seabed geo-sequestration in accordance with requirements set out in Annex 2.<sup>28</sup>
- 5.21 The amendment to Annex 1 to the London Protocol was adopted unanimously by the First Meeting of Contracting Parties to the London Protocol on 2 November 2006. The amendment came into force for Australia and other Parties to the agreement on 10 February 2007 after no objections were received within the 100 days-period from contracting parties to the London Protocol. However, the committee acknowledges the efforts of the former Minister for the Environment and Heritage and his Department to bring the agreement before it in time for the Committee to hold hearings and consider the proposed amendment before it came into force.

## Conclusion

- 5.22 The Committee supports the sub-seabed geo-sequestration of CO<sub>2</sub> streams as one of a suite of measures to mitigate climate change and ocean acidification and recognises that the amendment to Annex 1 of the London Protocol will allow Australia and other countries to pursue this option. Therefore the Committee supports the amendment to *Annex 1 to the 1996 Protocol to the Convention on the*

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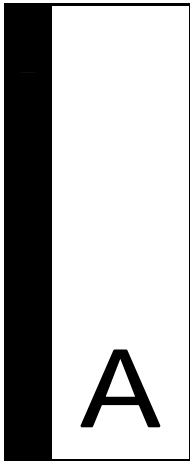
27 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), pages 3-4.

28 Department of the Environment and Heritage, *Submission No. 5*, (NIA with attachment on consultation), page 3.

*Prevention of Marine Pollution by Dumping of Wastes and Other Matter,  
1972.*

**Dr Andrew Southcott MP**  
**Committee Chair**





## Appendix A - Submissions

### Treaty tabled on 20 June 2006

- 1.1 Australian Patriot Movement
- 2 ACT Government
- 3 Queensland Government
- 3.1 Queensland Government
- 5 Tasmanian Government
- 6 Department of Foreign Affairs and Trade
- 6.1 Department of Foreign Affairs and Trade

### Treaty tabled on 17 October 2006

- 1 Australian Patriot Movement
- 2 ACT Government
- 3 Tasmanian Government
- 4 Department of the Environment and Heritage

### Treaty tabled on 28 November 2006

- 1 Australian Patriot Movement
- 2 Attorney-General's Department

3 NSW Council for Civil Liberties

### **CO<sub>2</sub> Sequestration in Sub-Seabed Formations**

1 Department of the Environment and Heritage

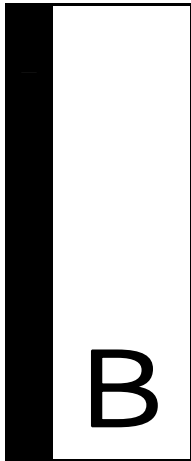
2 Government of Western Australia

3 Tasmanian Government

4 Minister for the Environment; Racing and Gaming

5 Minister for the Environment and Heritage





## Appendix B - Exhibits

### Treaty tabled on 17 October 2006

- 1 Department of the Environment and Heritage  
*Protecting Whales and Dolphins*
- 2 Department of the Environment and Heritage  
*Scientific permit catch numbers*

### Treaty tabled on 28 November 2006

- 1 Confidential





## Appendix C - Witnesses

**Monday, 14 August 2006 - Canberra**

Attorney-General's Department

Mr Stephen Bouwhuis, Principal Legal Officer, International Trade Law & General Advising Branch, Office of International Law

Department of Foreign Affairs and Trade

Mr David Glass, Acting Assistant Secretary, Canada and Latin America Branch, Americas Division

Mr David Mason, Executive Director, Treaties Secretariat, Legal Branch

Ms Kirsty McNeil, Acting Director, Canada and Latin America Section, Canada and Latin America Branch, Americas Division

Ms Elizabeth Peak, Executive Officer, International Law and Transnational Crime Section, Legal Branch

**Monday, 9 October 2006 - Canberra**

Attorney-General's Department

Ms Nicola Colbran, Senior Legal Officer

Department of Foreign Affairs and Trade

Mr Robert Owen-Jones, Director, Climate Change Section

**Department of the Environment and Heritage**

Ms Vicki Dickman, Assistant Secretary, Environment Assessment Branch

Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division

Mr Matt Johnston, Acting Director, Ports and Marine Section, Environment Assessment Branch

Ms Kate Roggeveen, Assistant Director, Technology Futures Team

**Monday, 27 November 2006 - Canberra****Attorney-General's Department**

Mr Mark Jennings, Senior Counsel, Office of International Law

**Department of Foreign Affairs and Trade**

Ms Zena Armstrong, Assistant Secretary, Environment Branch

Mr Clinton Dengate, Executive Officer

Mr David Mason, Executive Director, Treaties Secretariat, Legal Branch

**Department of the Environment and Heritage**

Ms Robyn McCulloch, Acting Director, Cetacean Policy and Recovery Section, Marine Environment Branch, Marine Division

Mr Martin Paull, Project Officer, Cetacean Policy and Recovery Section, Marine Environment Branch, Marine Division

Ms Donna Petrachenko, First Assistant Secretary, Marine Division

**Tuesday, 5 December 2006 - Canberra****Attorney-General's Department**

Mr Stephen Bouwhuis, Principal Legal Officer, International Trade Law & General Advising Branch, Office of International Law

Ms Katherine Reimers, Acting Director, International Legal Cooperation Section

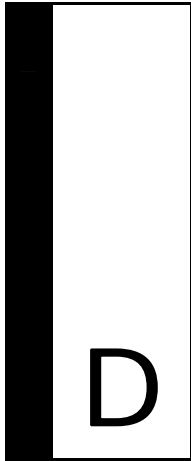
Mr Robin Warner, Assistant Secretary, International Crime Branch,  
Criminal Justice Division

Department of Foreign Affairs and Trade

Ms Kate Duff, Assistant Secretary, South-East Asia (North) Branch

Mr David Mason, Executive Director, Treaties Secretariat, Legal  
Branch





## Appendix D – Report 82

### **Report 82**

### **Treaty Tabled on 28 November 2006**

Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons, Canberra, 11 October 2006

Joint Standing Committee on Treaties

December 2006  
Canberra

## Treaty Tabled on 28 November 2006

In order to facilitate the timely implementation of the *Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons* (the Agreement) the Committee resolved to report its recommendation on the treaty to the Parliament immediately and will provide a more detailed report on the provisions of the Agreement at a later date.

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### Recommendation 1

**The Treaties Committee supports the *Agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons, Canberra, 11 October 2006* and recommends that binding treaty action be taken**

**Dr Andrew Southcott MP**  
**Committee Chair**