

Government Response to the 20th Report of the Joint Standing Committee on Treaties

The Government thanks the Joint Standing Committee on Treaties (JSCOT) for the comprehensive consideration given to the wide range of treaty actions considered in the 20th Report. The Report makes recommendations relating to two treaty actions. The Government response to such recommendations is provided below.

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction

The Joint Standing Committee on Treaties recommends that:

- 2.24 The Minister for Defence should formulate the decision making principles referred to in subsection 8(3) of the *Anti-personnel Mines Convention Act 1998* as soon as possible; and**
- 2.30 The Minister for Foreign Affairs should ensure that, in appropriate international fora, the Australian Government puts a strong position against the development of replacement weapons technologies which have indiscriminate and inhumane effects similar to those possessed by anti-personnel mines.**

The Government offers the following response to the recommendations put forward by the Committee and advises the actions which have been taken in relation to Anti-personnel Mine issues.

Australia strongly supports the global push to rid the world of anti-personnel mines as evidenced by Australia's accession to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction (the Ottawa Convention) and the long standing commitment to the Convention on Certain Conventional Weapons (CCW). Consistent with this the Government firmly opposes the development of replacement technologies which have an indiscriminate or inhumane effect comparable to that of anti-personnel mines. Further, in observing the *Anti-Personnel Mines Convention Act 1998*, the Government has adopted the following decision making principles when determining whether anti-personnel mines may be used by the Australian Defence Force (ADF):

- The retention of anti-personnel mines within the ADF is to be limited to:
 - Maintaining a demining and countermine capability;
 - Maintaining a capability to demolish anti-personnel mines as part of demining, countermine, Explosive Ordnance Demolition (EOD) or Demolition of Malfunctioned Explosive Ordnance (DMEO) capabilities;

- Demonstrating anti-personnel mines' effects as part of mine awareness and countermine training; and
- Research into anti-personnel mines' effects on in-service and trial equipment.
- Within the ADF only those personnel and units likely to be involved in demining or countermine operations or training may deal with live mines.
- Defence Science and Technology Organisation and approved contracted research organisations may produce replica devices or otherwise acquire anti-personnel mines as required for testing, evaluation and research purposes in support of the ADF demining or countermine capability, strictly for research or training purposes.
- ADF personnel serving with coalition forces are to be governed by Australian Rules of Engagement and policy guidelines and will remain subject to Australian law.
- Any Australian Defence Force, Force Element participating in a coalition operation is not to engage in any activity prohibited by the Ottawa Convention and the Anti-Personnel Mines Convention Act 1998 and the Declaration of Understanding deposited with Australia's instrument of ratification to the Convention, unless Australia has withdrawn from the Ottawa Convention and the relevant domestic legislation has been repealed. Mere participation by Australian forces or personnel in a coalition operation involving partners not party to the Ottawa Convention would not constitute a violation by those forces and personnel.
- Sufficient stock of anti-personnel mines is to be retained to allow training for demining and countermine operations, mine awareness training and for research purposes.

1998 Exchange of Letters constituting an Agreement to amend the 1986 Agreement on Health Services between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland

4.67 The Committee:

- (a) supports the Agreement to amend the *Agreement on Health Services between Australia and the United Kingdom*;
- (b) recommends that binding treaty action be taken;
- (c) recommends that when negotiating medical treatment agreements in future, the Department of Health and Aged Care undertake a rigorous assessment of the cost of the agreement to both parties; and
- (d) recommends that the results of such cost assessments be reported to Parliament in the National Interest Analyses prepared in support of future medical treatment agreements.

The Government is pleased to note that the Committee recommended that binding treaty action be taken to amend above Agreement [its Articles 1, 2 and 3]. Binding treaty action was taken on 8 March 2000 and entry into force occurred on that date.

The Government has taken note of the Committee's recommendations and in respect of future agreements, the Commonwealth Department of Health and Aged Care undertakes to provide an assessment of costs, incorporating both qualitative and numerical analysis. The Department also undertakes to report to the Parliament, through the JSCOT and the National Interest Analysis process, the results of any cost assessments.