XIV—USE OF FORCE AND WAR

Use of force—principle of non–use of force in international relations

On 10 October 1984 Australia's representative to the Sixth Committee of the United Nations General Assembly is reported as having said on the Report of the Special Committee enhancing the effectiveness of the principle of non–use of force in international relations and on the related draft resolution A/C6/39/L9(A/C6/39/SR15, pp11–12):

> 47. Ms RAWSON (Australia) said that the need for the commitment of all States to the related principles of non-use of force in international relations and the peaceful settlement of disputes was an issue of high priority in a world characterised by an increasing number of regional conflicts, threatening international peace and stability. Her delegation believed, however, that the drafting of a world treaty on the non-use of force was neither necessary nor desirable. The principle of non-use of force against the territorial integrity or independence of a State was already well-established in general international law and was reinforced by Article 2, paragraph 4, of the Charter. A new treaty which restated that obligation would add no force to the principle, nor would it enhance its effectiveness. If the treaty departed from the wording of the Charter, it could be used by States to circumscribe the Charter's prohibition of the use of force and would, moreover, establish a parallel regime in an instrument having neither the authority nor the universality of the Charter. Problems might result from different and conflicting obligations for Members of the United Nations which became parties to the new treaty, and the Charter could be undermined.
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> 48. What was really needed was a genuine commitment by Member States to abide by the existing provisions of international law and to co-operate with each other within the United Nations in seeking solutions to threats to international peace and security. Full use by Member States of the mechanisms provided by the Charter would do much to enhance the principle of non-use of force. Ways should be examined to enhance the fact-finding roles of the Secretary-General and the Security Council, and the Secretary-General might be encouraged to make greater use of his powers under Article 99 of the Charter. Parties to a dispute should be encouraged to bring the issues to the Security Council at an early stage. It would also be useful to consider improving the functioning of peace-keeping operations. The Special Committee's mandate could be widened to explore those and other possible means of making the existing mechanisms on the non-use of force more effectively.
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> 49. It was evidence that the Special Committee's discussion on the various "headings" had become deadlocked. While not arguing for the abandonment of those "headings", she hoped that the Special Committee could turn its attention to the matters she had mentioned. It might also focus on the relationship between the non-use of force, the peaceful settlement of disputes and the collective security system provided for under the Charter.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden,

provided the following written answer in part to a question on notice in the House of Representatives (HR Deb 1985, 4272–4273):

> Australia has been a member of the United Nations Committee on the Indian Ocean since its formation in 1972. Australia is currently a Vice-Chairman of the Committee.
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> The objective of the Committee is to see convened as soon as possible an international conference to examine the establishment of an Indian Ocean Zone of Peace, in accordance with UN Resolution 2832 (xxvi) adopted on 16 December 1971, embodying the Declaration of the Indian Ocean as a Zone of Peace.
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> In a statement issued on 29 November 1984 following the adoption of a resolution on the Indian Ocean Zone of Peace proposal, I said that the Government "had always made clear its support for the concept of an Indian Ocean Zone of Peace, in line with Labor Party policy and its commitment to peace and disarmament". Preparatory work for a conference on the Zone of Peace has not, however, advanced sufficiently for a final decision to be taken on the date of the convening of the conference.
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> Most, if not all, Indian Ocean littoral states have signified support for the ideal of an Indian Ocean Zone of Peace.
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> I am not aware of any Indian Ocean state which has opposed the Zone of Peace.

Use of force—treaties of alliance—ANZUS Treaty—Manila Treaty—South Pacific Regional Security Arrangements

On 11 November 1985 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in answer to a question (Sen Deb 1985, 1885):

> An insurrection in the Philippines by the New People's Army would not of itself lead to an invoking of ANZUS Treaty obligations. An armed attack on United States forces located in the Philippines could provide grounds for activation of Articles IV and V of the ANZUS Treaty. This was one of a number of hypothetical illustrations referred to by Mr Hayden in his speech at Lorne in May this year of the possible repercussions of treaty commitments.
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> Australia's response to hypothetical situations cannot be determined in advance. Article III of the treaty obliges the parties to consult if the territorial integrity, political independence or security of any of them is threatened in the Pacific. Article IV requires each party, in response to an armed attack in the Pacific area on any of them, to act to meet the common danger in accordance with its constitutional processes. The commitment to respond does not extend automatically to a military response. Any one of a range of possible responses, such as diplomatic, political or economic action or logistic support, might be appropriate, depending on the circumstances. While Australia would be bound to consult, the nature of any support it might give would be a matter for decision by the government of the day.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 4045):

The Manila Treaty remains in legal force. As a party to the Treaty Australia, along with the other Treaty members including Thailand, has certain commitments under Article IV of the Treaty. However, since the dissolution of South-East Asia Treaty Organisation in 1977, there have been no joint consultative or any other activities carried out under the aegis of the Treaty. The Government is keeping Australia's continuing adherence to the Treaty under review.

On 3 December 1985 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in answer to a question without notice (Sen Deb 1985, 2774):

I simply say first that the Manila Pact, more formally titled the South East Asia Collective Defence Treaty, does remain technically in force and, as a party to the Treaty, Australia still formally subscribes to its provisions. However—this is a very crucial however—for all practical purposes that Treaty is moribund and is so regarded by us and everyone previously associated with it. As far as the Philippines itself is concerned, it, like Australia, does also remain a party to the Treaty but its Government is on record as stating that in its view the Treaty effectively terminated with the winding up of the South East Asia Treaty Organisation in 1977.

Use of force—zones of peace—nuclear free zones—South Pacific—Indian Ocean

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written replies to questions on notice in the House of Representatives (HR Deb 1985, 4055 and 4072):

The signature by Australia on 6 August 1985 of the South Pacific Nuclear Free Zone Treaty will not affect the operations of the Australian Atomic Energy Commission. These operations are fully consistent with the objectives and provisions of the Treaty.

Parties to the South Pacific Nuclear Free Zone Treaty undertake not to manufacture nuclear explosive devices and not to permit them to be tested or stationed on their territory. Peaceful nuclear activities are not proscribed b y the Treaty providing these are subject to safeguards administered by the International Atomic Energy Agency (IAEA) to verify the non-diversion of nuclear material from peaceful activities to nuclear explosive devices. These safeguards already apply in Australia.

The provision of the South Pacific Nuclear Free Zone Treaty covering the dumping of radioactive wastes and other radioactive matter (Article 7) applies only to dumping at sea. It does not relate to the storage of nuclear materials (which includes highly enriched uranium) nor the disposal of radioactive wastes on land.

The South Pacific Nuclear Free Zone Treaty contributes to regional security through its objective of preventing the proliferation of nuclear weapons. In particular, the provisions of the Treaty prohibiting the acquisition of nuclear explosive devices and their stationing or testing on the territory of Parties are in the security interests of the region and help to preserve the South West Pacific as a region free of superpower rivalry. These objectives are further reinforced by the draft Protocols to the Treaty

which invite France, the United Kingdom and the United States to apply key provisions of the Treaty to their territories within the Zone and which invite the five nuclear weapon States to undertake no to use or threaten to use nuclear weapons against Parties to the Treaty and not to test nuclear explosive devices anywhere within the Zone. At the same time the Treaty and its draft Protocols in no way cut across Australia's obligations under the ANZUS Treaty and the broader defence relationship between Australia and the United States which, in the Government's view, continues to be fundamental to Australian security and to contribute to the stability of the region as a whole.

On 29 November 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1984, 2497–2498):

The Minister for Foreign Affairs, the Hon Bill Hayden, today announced that the United Nations had taken positive steps towards the convening of an international conference to examine the establishment of an Indian Ocean zone of peace.

Hayden said that the first disarmament committee of the UN General Assembly had on 28 November adopted a resolution by consensus which directed the UN Committee on the Indian Ocean to complete organisational and preparatory work during 1985 to enable an international conference to be held in Colombo at the earliest date in the first half of 1986. The task of the conference would be to examine ways of giving effect to the 1971 Declaration of the Indian Ocean as a zone of peace.

Mr Hayden said that this positive result owed much to Australia's active participation in the work of the UN Committee. Australia was a foundation member of the Committee and a number of the five national drafting group which produced the resolution.

The Government had always made clear its support for the concept of an Indian Ocean zone of peace, in line with Labor Party policy and its commitment to peace and disarmament. It was important to seek the widest international support for ways in which the objective of the creation of the zone of peace could be realised.

Mr Hayden said that, while he acknowledged that the area was one of continuing conflict, for example, in Afghanistan, the Horn of Africa and the Gulf, Australia had important interests in the region and would maintain its activity in support of the ideal of a zone of peace.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice concerning the proposal by the New Zealand Government for a co-ordinated South Pacific regional security arrangement (HR Deb 1985, 4064):

Australia's attitude to the New Zealand Government's recent proposal was expressed by the Prime Minister when it was considered at the South Pacific Forum meeting in Rarotonga in August this year. As indicated in his press conference following the Forum meeting, Mr Hawke stated that existing arrangements for regional defence cooperation were already working effectively and, through current Australian and New Zealand defence cooperation programs, the security concerns of the countries in the South Pacific region were already being met. Thus, rather than create new

arrangements, the Australian Government felt that any additional resources that may become available would probably be better spent in adding to these existing programs.

The Forum took no decision on the proposal presented by the New Zealand Prime Minister.

Use of force—nuclear free zones—South Pacific Nuclear Free Zone—legislation to give effect to the Treaty within Australia

On 5 June 1986 the Minister for Foreign Affairs, Mr Hayden, introduced the South Pacific Nuclear Free Zone Treaty Bill 1986 into the House of Representatives and explained the purpose of the Bill as follows (HR Deb 1986, 4619–4623):

> The purpose of the South Pacific Nuclear Free Zone Bill is to give effect to certain obligations that Australia has as a party to the Treaty on a South Pacific Nuclear Free Zone. This Bill is complemented by the projected amendments to the Environment Protection (Sea Dumping) Act 1981 relating to the dumping of radioactive waste, and the provisions of the Nuclear Non-Proliferation (Safeguards) Bill 1986 relating to the application of safeguards to nuclear material which cover obligations under the South Pacific Nuclear Free Zone Treaty referred to but not provided for in this Bill. Enactment of this body of legislation, and the making of some related regulations are prerequisites for Australian ratification of the Treaty. The implementing legislation in fact goes beyond the minimum that is technically required for the purpose of ratification: It covers all the substantive provisions of the Treaty. This course of action was chosen by the Government to reflect the Government's commitment to the objectives and provisions of the South Pacific Nuclear Free Zone Treaty, as well as Australian Labor Party policy on the manufacture, testing and stationing of nuclear weapons in and/or by Australia.
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> Honourable members will recall that on 6 August 1985, the fortieth anniversary of the first use of atomic weapons, the heads of government of countries members of the South Pacific Forum, meeting at Rarotonga, endorsed the text of the Treaty and opened it for signature. Nine of the 13 countries eligible to sign have already done so. Apart from Australia, they are the Cook Islands, Fiji, Kiribati, New Zealand, Niue, Papua New Guinea, Tuvalu and Western Samoa. Three countries have already ratified the Treaty, namely, the Cook Islands, Fiji and Tuvalu. The Treaty will enter into force when the eighth instrument of ratification has been lodged with the depository who, as established in the Treaty, is the Director of the Bureau for South Pacific Economic Co-operation at Suva. Many see the Treaty as the South Pacific Forum's most ambitious and far-reaching endeavour so far. Whatever the truth of that, the Treaty shows that the Forum has come of age not only as the authentic and collective voice of the South Pacific region but as an actor able to make that voice clearly heard on the world stage.
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> The Treaty was an initiative of Australia's and specifically of the Prime Minister (Mr Hawke). The Government, as soon as it gained office, began work to achieve consensus within the South Pacific on a nuclear free zone. Australia promoted the concept at the fourteenth South Pacific Forum which

met at Canberra in August 1983. In August 1984, the fifteenth South Pacific Forum meeting at Funafuti, Tuvalu, endorsed a set of principles proposed by Australia as a basis for a zone and appointed a working group of officials, with Australia in the chair, to prepare the text of a treaty. It was that text which heads of government endorsed. If the initiative for a zone was Australia's, the Treaty itself constitutes a genuinely collective effort by the 13 member countries of the Forum. Not only was it endorsed by the 13 heads of government, but virtually every member country of the Forum contributed substantially to the work of development and drafting. Some countries made the main running on some aspects and some on others. Every country can see its hand in the text we now have.

Forum governments, in drafting the Treaty, drew on, among other things, the provisions of existing international arrangements prohibiting the proliferation of nuclear weapons and establishing demilitarised and nuclear weapons free zones, notably the Antarctic Treaty, 1959—the earliest of the post-World War II arms limitation agreements—the Treaty of Tlatelolco 1967; the Treaty on the Non-Proliferation of Nuclear Weapons of 1968 and the Seabed Arms Control Treaty, 1971. Forum governments gave particular attention to the Non-Proliferation Treaty, which, with 134 parties, is the most widely supported of all international arms control agreements, and especially to its Article VII, which recognises the right of any group of states to conclude regional treaties so as to assure the total absence of nuclear weapons in their respective territories. The Treaty of Tlatelolco, which broke important ground by establishing the first nuclear weapons free zone in a populated region, namely Latin America, created a precedent valuable to the work of Forum governments. That they were able to draw on the Latin American achievement is evident in the fact that the Treaty of Rarotonga goes beyond it in several respects.

...

At the same time the Treaty does not seek to determine the factors that have created and sustained the very favourable security environment which the South Pacific enjoys. It does not in any way conflict with Australia's defence arrangements, notably ANZUS. It does not run counter to our support for stable nuclear deterrence. It does not impede in any way our ability to co-operate militarily with our allies. The same is true of this Bill. On the contrary, it seeks to build on those factors by, for example, the provisions against nuclear weapons which will help to ensure that the South Pacific, unlike other parts of the world, does not in the future become a theatre for nuclear confrontation.

I turn to two important aspects of the Treaty: The boundaries of the zone and its title. Forum governments, in developing the zone, considered two approaches:

- an incomplete 'patchwork' approach, with the zone confined to the territories of countries which adhere to the Treaty;
- a 'diagrammatic' approach, with a boundary line circumscribing the Forum countries as well as large areas of the high seas.

Forum governments strongly preferred the diagrammatic approach since it was easier to visualise and clearly identifies the region to which the zone

was intended to apply. They set the boundaries of the Zone in the East, to abut on the existing nuclear weapons free zone in Latin America; in the South, to abut on the completely demilitarised zone established by the Antarctic Treaty; in the north, to follow the Equator but with some humps to accommodate the exclusive economic zones of Papua New Guinea, Kiribati and Nauru; and, in the west, to run along the outer limit of the Australian territorial sea. Australia's external territories in the Indian Ocean are also covered by the provisions of the Treaty of Rarotonga; but our Antarctic territories are not, since they have long been subject to the Antarctic Treaty. Greater detail on the negotiating history of the boundaries of the zone and other aspects of the Rarotonga Treaty is to be found in the report by the Chair of the Working Group of South Pacific Forum officials. The report is germane in interpreting the Treaty and bears on this legislation.

Even though Forum governments choose the diagrammatic approach, I stress that Forum members like all other countries, are able to agree on provisions affecting the actions of other states, only in relation to their own territories and, to a much more limited extent, in areas of jurisdiction outside their territory. Beyond that, Forum members can only undertake Treaty obligations in relation to their own actions, and actions on their own ships and aircraft. The Treaty does not seek to mislead or create false expectations by pretending to legislate in disregard of these constraints. Neither does the Bill now before us.

I refer also to the title of the Treaty and, in particular, to the appropriateness of the term 'Nuclear Free'. Clearly it is beyond the legal power and practical capability of Forum governments, including the powers and capabilities of the Australian Government, to exclude all things nuclear from the zone. Moreover, whatever Forum governments sought to do within this zone, it would remain part of a world in which nuclear weapons exist and the peaceful use of nuclear energy and materials is widespread. I draw the attention of honourable members, in this connection, to the term 'nuclear weapon free zone', which has long been established in United Nations and other international usage—for example, the Latin American and Antarctic zones which do not preclude transit or visits by ships. In the case of the Treaty of Rarotonga, however, its key obligations go beyond those relating to nuclear weapons and encompass as well the dumping of nuclear waste and strong safeguards on the peaceful use of nuclear energy. It is for that reason and because no freedom is absolute that Forum governments concluded that the term 'Nuclear Free' should appropriately form part of the title of the Treaty and the zone.

The Bill at hand gives effect to the provisions of the Treaty throughout the Commonwealth, in all States and in every external Australian Territory. It extends to the Australian Antarctic Territories since Antarctica too is free from nuclear weapons by virtue of the Antarctic Treaty.

I turn now to the specific clauses of the Bill and draw the attention of honourable members to its interpretative provisions at clause 4. Honourable members will see that in clause 4 the term 'nuclear explosive device' has the same meaning as it does in the Treaty, namely, 'any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used'. The term includes such a weapon or

device in assembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it'. I stress that the inclusion of delivery systems in the definition of a nuclear explosive device would have presented serious difficulties since such systems capable of being used for nuclear weapons are also capable of being used with conventional weapons and some such systems are used by at least some Forum members in their conventional defence forces. How, for example, is a meaningful distinction to be drawn between military aircraft which could be either conventionally or nuclear armed; or, for that matter, between rockets that can and do deliver non-nuclear or even civilian payloads but may also be used to deliver a nuclear warhead? On the other hand, the term 'nuclear explosive device' as defined in the Treaty, and thus in this Bill, included so-called 'peaceful' nuclear explosive devices as well as nuclear weapons because, technically and in non-proliferation terms, it is impossible to distinguish between them. That is an important point of difference between the treaties of Rarotonga and Tlatelolco since the latter seeks to make that distinction.

I now turn to the specific prohibitions in the Treaty of Rarotonga and the manner in which they are reflected in Part II of the Bill before the House. The Treaty includes an obligation on parties not to manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific nuclear free zone. The Bill provides in its clause 8 that the manufacture, production and acquisition of nuclear explosive devices is prohibited. In its clause 9, it goes on to equally prohibit research and development for the purpose or directed towards the manufacture or production of a nuclear explosive device. And clause 10 prohibits possession of or control over nuclear explosive devices. These three provisions thus give effect to Article 3(a) of the Treaty.

The Nuclear Non-Proliferation Treaty and the Treaty of Rarotonga prohibit parties from having, among other things, control over nuclear explosives. In drafting the legislation and extending this prohibition to individuals it has been necessary to make provision to ensure that this prohibition was not interpreted in ways not intended by the treaties. Thus, for example, a visiting Head of State or senior military officer from one of the nuclear weapon states has 'control' over nuclear weapons and vehicles which carry them although these weapons may be as far away as on the other side of the planet. A visit by such a person to Australia is clearly not contrary to the treaties and the Bill explicitly provides that it is not a contravention of the Bill. It could also be maintained that some Australians have control over nuclear explosive devices if they are in a position to interrupt communications between foreign ships or aircraft which carry such weapons and their foreign command centres. The example which springs to mind is an Australian employee at North West Cape where, the Minister for Defence (Mr Beazley) has explained to us, Australia could intercept and prevent a message to fire a nuclear device despatched to, for example, the commander of a nuclear missile-capable submarine. Clearly, this is not what the prohibitions of the NPT and the Treaty of Rarotonga on 'control' of nuclear explosives were intended to cover, and the Bill explicitly provided

that any such 'control' would not be a contravention of the legislation.

The Treaty, in its Article 5, requires parties to prevent the stationing of any nuclear device in their territory. The definition of 'stationing' contained in the Treaty also applies to the legislation. It draws from the definition of stationing in the Latin American Treaty: That Treaty says that stationing means stockpiling or storage of nuclear explosives or their installation or deployment. Deployment of a nuclear explosive weapon in normal usage means that it is set out ready for combat. This definition of stationing was thought to be sufficient for the Latin American Treaty but the Forum Working Group which drafted the Treaty of Rarotonga wanted to make doubly sure that it had a fully comprehensive definition of stationing. It therefore added the concepts of emplantation or emplacement which comes from the Seabed Arms Control Treaty of 1971. To ensure that the prohibition on stationing is all-inclusive, the drafters of the Treaty of Rarotonga added to these internationally established concepts a reference to transportation on land or inland waters, so that there could be no possible circumvention of the prohibition through the deployment of nuclear explosives on mobile platforms.

Some may claim an inconsistency here with the fact that the Treaty of Rarotonga explicitly recognises the rights of parties to permit foreign ships and aircraft to visit their ports and airfields, the allow foreign aircraft to overfly their territory and to allow foreign ships to navigate in their territorial seas, over and beyond the rights of navigation which they already have under international law and which could obviously not have been abridged by the Treaty. A similar understanding was registered in connection with the Latin American Treaty. This is not an inconsistency but reflection of a deliberate intention to make clear the distinction between the stationing of nuclear weapons by the parties to the Treaty themselves or by others on their territory and each party's sovereign right to continue collective security arrangements with external powers. In the course of Australia's defence co-operation with the United States and the United Kingdom it may happen, for example, that nuclear weapons are temporarily present in Australian waters and ports by virtue of visits by those countries' naval ships.

Thus, the Treaty of Rarotonga and the present legislation, which gives effect to it, in no way impede Australia's ability to maintain military co-operation and exchanges with its allies and friends and particularly with the United States under ANZUS. We can continue to receive visits by United States ships and aircraft to our ports and airfields. United States aircraft can transit our air space and our waters. United States ships and aircraft can participate in exercises in Australia and its territorial waters. Allied and friendly warships can go into dry dock in Australia. All this is permissible under the Treaty and under the proposed legislation because it does not constitute stationing. The Treaty definition [of] stationing and Article 15(2) of the Treaty of Rarotonga make this clear and it is reflected in clause 15 of the Bill. Clause 12 of the Bill prohibits the testing of nuclear explosive devices by rendering it an offence for any person to undertake or carry out a test of such a device. Following the text of the Treaty, the Bill in clause 13 prohibits any person from doing 'any act or thing to facilitate the manufacture, production, acquisition or testing by any person (including a

foreign country) of a nuclear explosive device whether in or outside Australia'. This gives effect to the Treaty obligation not to 'assist or encourage' these activities.

The concept of facilitation was extensively discussed by the working group of officials which drafted the Treaty. The prohibition is clearly against taking action to facilitate. This means action deliberately directed at the prohibited activities, not action undertaken for other purposes which can have the unintended effect of facilitating. For example, Australia and several other Forum countries regularly broadcast meteorological information which may be useful to the French authorities in deciding on the timing of nuclear tests at Mururoa. Clearly, the Treaty does not require Australia or other Forum countries to cease broadcasting meteorological information. Equally clearly, it would require us to refuse refuelling facilities for foreign military aircraft primarily engaged in supporting a nuclear testing program. The prohibition on facilitating the production of nuclear explosive devices does not in any way interfere with Australia's ability to support stable nuclear deterrence. This fact is explicitly recorded in the report of the working group. But, equally clearly, the prohibition on facilitating the manufacture or production of nuclear explosive devices by any country means that Australian uranium cannot be exported for use in clear explosives. That would be contrary to the Treaty of Rarotonga and it would be contrary to the legislation I now propose. It has been the policy of successive Australian governments, since 1977 in fact, that Australian uranium cannot be exported for use in clear explosives. That would be contrary to the Treaty of Rarotonga and it would be contrary to the legislation I now propose. It has been the policy of successive Australian governments, since 1977 in fact, that Australian uranium should only be exported under conditions which give grounds for confidence that it will not be diverted into the manufacture of nuclear weapons or so-called peaceful nuclear explosives. The Treaty of Rarotonga makes this a binding legal international obligation. This Bill now before the House renders it a matter of Australian law.

On safeguards to ensure the peaceful use of nuclear material, I simply note here that provision for imposing and maintaining such safeguards, pursuant to Australia's obligations under articles 4 and 8 of, and annex 2 to, the Treaty of Rarotonga, is made in the Nuclear Non-Proliferation (Safeguards) Bill 1986 shortly to be introduced into the Senate. Similarly, provision for the prevention of the dumping at sea of radioactive waste and other radioactive matter, pursuant to Australia's obligations under article 7 of the Treaty, is made in the Environment Protection (Sea Dumping) Act 1981 through the amendments recently tabled by my colleague the Minister for Arts, Heritage and the Environment (Mr Cohen). That legislation also includes provisions against aiding and abetting activities which it prohibits, thereby giving effect to the Treaty prohibition on facilitating dumping. The Bill provides appropriately severe penalties, including up to 20 years imprisonment, for offences committed under Part II relating to the Treaty prohibitions. In view of the severity of these sentences the Attorney-General's consent will be necessary to institute any proceedings against individuals or corporations under Part II. Lesser penalties are imposed for

offences under Parts IV and V relating to inspections, investigations into possible breaches of the legislation and hearings in camera. The Crown will be bound by the Act although it will not be liable to prosecutions for offences under it.

The Treaty makes provision for special inspections in the event of an alleged breach of the Treaty by a party to it. These inspections are to be carried out by international inspectors appointed by the consultative committee established by the Treaty and on the basis of a directive given to them by the committee. These inspectors, referred to as Treaty inspectors in the Bill, will be subject only to the direction of the Consultative Committee. Nevertheless, to ensure that the Australian Government can comply with its Treaty obligations and take all appropriate steps to facilitate any such inspection in Australia, the Bill gives Treaty inspectors appropriate powers under Australian law to enable them to carry out their inspections. In addition, the Minister may appoint authorised officers to accompany Treaty inspectors, with powers under the Act to facilitate Treaty inspections, and may call upon inspectors from the Australian Safeguards Office to assist the authorised officers and Treaty inspectors in their work. It would be the Australian Safeguards Office inspector who would secure warrants, if these were needed, for the Treaty inspection. I should add that the Treaty expressly permits host governments to appoint representatives to accompany Treaty inspectors while in the country. Regulations conferring privileges and immunities on Treaty inspectors, as required by the Treaty, will be made under appropriate existing legislation in due course. The inspectors from the Australian Safeguards Office, in addition to their role in assisting Treaty inspections, are also given such powers as are necessary for them to investigate possible breaches of the legislation. These powers are substantially the same as those accorded inspectors under the Nuclear Non-Proliferation (Safeguards) Bill 1986.

May I reassure honourable members that this legislation will involve no financial expenditure on the part of the Government. The Australian Safeguards Office is already fully competent to discharge the tasks required of its inspectors under this Bill. I conclude by stressing that this Bill is not simply a legal instrument to give effect to Australia's obligations under the South Pacific Nuclear Free Zone Treaty. It is not simply an expression of the desire of the Australian people and of this Government to do whatever can be done to strengthen the peace and security of this nation. It is an expression of the urgent need for Australia to make the fullest practical contribution, within our means, to reduce for all humankind the risk of nuclear war. The Government cannot emphasise the point heavily enough that nuclear weapons, deployed in global defence systems for more than a generation, will not disappear overnight. The nuclear powers have made it clear that they will not disarm unilaterally or easily. The Government recognises that success in arms control and disarmament will be won, not by grand and satisfying gesture, but by painstaking and often tedious work. I instance the consistent effort that the Government and its officers have devoted to encouraging a zone of peace in the Indian Ocean, establishing a network of seismic monitoring facilities in Australia as part of a worldwide

system to monitor a ban on nuclear testing, negotiating arrangements to keep the arms race from outer space and, most importantly, taking the initiative towards a comprehensive and verifiable ban on nuclear testing. The Government is proud to include the South Pacific nuclear free zone among these initiatives. I commend the measure to the House.

Mr Hayden's address in reply to debate on the Bill was given on 21 August 1986: see HR Deb 1986, 417–420.

On 15 June 1986 the Minister for Defence, Mr Beazley, provided the following answer in part to a question on notice in the Senate (Sen Deb 1986, 4056–4057):

The Australian Government would like to see the South Pacific region remain free of external military confrontation and rivalry. Moreover, it could not but oppose any measures which might have the effect of assisting or reinforcing the French nuclear testing program in the South Pacific.

However, while Australia has signed the South Pacific Nuclear Free Zone Treaty and is actively encouraging all major nuclear weapons states, including France, to sign the Protocols to the Treaty, the Government recognises that the Treaty does not prevent the passage through the region of any ships or aircraft of any nation. Further, the Treaty allows for each signatory to the treaty to determine its own policy on ship and aircraft visits.

On 19 August 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1986, 166):

None. The South Pacific Nuclear Free Zone Treaty does not require any change in Australian policies towards other countries, including allies. On the contrary, the legal obligations it establishes are consistent with the policies of the Australian Government. That the Treaty also accords with the policy of other South Pacific Forum Member countries is indicated by the fact that it was collectively drafted and the text subsequently endorsed by the Forum and that ten of the thirteen Member countries of the Forum have already signed it.

No changes have been made in the level of support given by Australia to other South Pacific nations. The SPNFZ Treaty explicitly upholds the sovereign right of each Party to decide for itself such questions as visits to its ports and airfields by foreign ships and aircraft. Transit rights for ships and aircraft in accordance with customary international law are fully respected by the Treaty.

On 8 October 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1986, 1691):

The provisions of the South Pacific Nuclear Free Zone (SPNFZ) Treaty apply to the territory including seas over which the Parties to the Treaty have sovereignty. The Treaty does not affect the rights, or the exercise of rights, of any state under international law with regard to freedom of the seas.

The Treaty expressly provides that each Party in the exercise of its sovereign rights remain free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields.

Australia welcomes any genuinely constructive interest in the Asian/Pacific region and is aware of the growth in recent years of Soviet interest and activity

in the South Pacific area. But the Government is concerned at a possible increase in the Soviet Union's military presence there and would, of course, be critical of any negative aspect of a stronger Soviet presence.

The Protocols to the SPNFZ Treaty provide for the Nuclear Weapon States (Britain, China, France, the United States and the USSR) to undertake not to use or threaten to use nuclear weapons against parties to the Treaty and not to test nuclear weapons in the South Pacific.

The Treaty and its Protocols are thus intended to reinforce the favourable security situation the South Pacific has long enjoyed and to ensure that the South Pacific, unlike other parts of the world, does not become a theatre for nuclear confrontation.

South Pacific Nuclear Free Zone Treaty—Protocols—attitude of the nuclear-weapon States—France, USSR, USA, China, UK—Australian response

On 10 October 1986 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in answer to a question (Sen Deb 1986, 1196):

It is the case that, according to a speech by the French Ambassador in Washington on 29 September, France is not prepared to sign the protocols to the South Pacific Nuclear Free Zone Treaty. The Government very much regrets that state of affairs. It is worth repeating that the Treaty is not anti-French but pro-region. It reflects the strong and united opposition of South Pacific countries to all nuclear testing in their region.

The Government also rejects the suggestion made in the Ambassador's speech that the Treaty is detrimental to Western interests in general. United States of America officials, by contrast, have consistently emphasised their appreciation of the efforts of the authors of the Treaty to ensure that vital Western interests are taken into account. The Government rejects the charge that the Treaty is anti-Western. The Treaty seeks to reinforce, not to undermine, the existing security situation in the South Pacific to which Australia's defence relationship with the United States has long contributed. The Treaty in no way impedes Australia's ability to co-operate militarily with Western allies—notably the United States under ANZUS—or to contribute to the maintenance of stable nuclear deterrence.

On 16 December 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 2328):

The Minister for Foreign Affairs, the Hon Bill Hayden, said today that the Australian Government welcomed the Soviet Union's adherence to Protocols 2 and 3 of the Treaty of Rarotonga. The Protocols were signed in Suva on 15 December by the Soviet Ambassador to Australia who is jointly accredited to Fiji.

Mr Hayden said that by signing the Protocols the Soviet Union had accepted binding undertakings: not to use or threaten to use any nuclear explosive device against parties to the Treaty; and not to test any nuclear explosive device anywhere within the South Pacific nuclear free zone.

Mr Hayden commented that these undertakings would contribute to the effectiveness of the Treaty of Rarotonga and to its objective to ensure that

the South Pacific does not in future become a theatre for nuclear confrontation. Mr Hayden expressed the hope that the other nuclear weapon states—China, France, the United Kingdom and the United States would also sign the Protocols to the Treaty in the near future.

Mr Hayden said that the Australian Government appreciated the significance of the legally binding undertakings the Soviet Union had now given not to use or threaten to use nuclear weapons against Australia or other Parties to the Treaty of Rarotonga. At the same time, he noted, the Treaty in no practical way impeded Australia's ability to co-operate with its allies, notably under ANZUS, or to contribute to the maintenance of stable nuclear deterrence.

On 4 February 1987 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1987, 118):

The Minister for Foreign Affairs, the Hon Bill Hayden, said today that the Australian Government deeply regretted the United States' decision not to sign the protocols to the Treaty of Rarotonga. The protocols provide for the United States to apply key provisions of the Treaty to its South Pacific territories and to undertake not to use nuclear weapons against parties to the Treaty and not to conduct nuclear testing in the South Pacific.

Mr Hayden noted that the United States had previously signed similar protocols to the Treaty of Tlatelolco and had given its support to proposals for nuclear weapons free zones in South Asia and the Middle East. Because of this he hoped that the United States' decision on the Treaty of Rarotonga would not be the United States' final word on the matter.

Mr Hayden believed that the United States' decision insufficiently took into account the aspirations of the South Pacific states. The Treaty reflected the very real, deeply felt and long-standing concerns about nuclear testing, the ocean-dumping of nuclear waste and the horizontal proliferation of nuclear weapons. The Treaty was fundamentally directed at preserving the favourable political and security environment of the South Pacific region. It reflected the determination of regional countries that the South Pacific, unlike other parts of the world, should not become a theatre for nuclear confrontation.

The South Pacific states were a component of the Western association of states, though their interests justified more attention and certainly should not be taken for granted. Their calls on world support were moderate and modest. Their expectations in the Treaty were high because of their concerns about the vulnerability of their environment to nuclear damage. These concerns go to the very heart of preserving a free, independent livelihood for their peoples. It is likely the region would find it difficult to understand the decision to reject the protocols.

The Treaty did not compromise Western strategic interests not cut across the maintenance of stable nuclear deterrence. Mr Hayden emphasised that the Treaty did not in any practical way impede Australia's ability to co-operate with the United States under ANZUS. Mr Hayden recalled that he and the United States Secretary of State, Mr Shultz, had at their meeting in San Francisco last August reaffirmed their intention to continue to work with the island countries in promoting security and stability in the South Pacific region.

The Australian Government was convinced that the Treaty was an arrangement which reinforced the favourable security environment in the South Pacific and was fully consistent with Australia's support for the ANZUS alliance. Mr Hayden noted that ten members of the South Pacific Forum had signed the Treaty: New Zealand, Fiji, Cook Islands, Tuvalu, Kiribati, [Nive], Western Samoa, Nauru, Papua New Guinea and Australia. All these countries with the exception of Nauru and Papua New Guinea had already ratified the Treaty.

On 13 February 1987 the Acting Minister for Foreign Affairs, Mr Bowen, issued the following statement (Comm Rec 1987, 177–178):

The Acting Minister for Foreign Affairs, the Hon Lionel Bowen, said today the Australian Government welcomed China's signature of Protocols 2 and 3 of the Treaty of Rarotonga. The Protocols were signed in Suva on 10 February by China's Ambassador to Fiji.

Mr Bowen said that in signing the Protocols, China had taken an important step towards accepting binding obligations: not to use or threaten to use any nuclear explosive device against parties to the Treaty; not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

Mr Bowen recalled that the Treaty of Rarotonga expressed the strong community of interest which members of the South Pacific Forum share in environmental and security matters and reflects their deeply felt and long-standing concerns about nuclear testing, the ocean-dumping of nuclear waste and the proliferation of nuclear weapons. At the same time, Mr Bowen noted, the Treaty in no practical way impeded Australia's ability to co-operate with its allies, notably under ANZUS, or to contribute to the maintenance of stable nuclear deterrence.

The Soviet Union had signed Protocols 2 and 3 on 15 December 1986, Mr Bowen said. The Australian Government hoped that the other nuclear weapon states—France, the United Kingdom and the United States—would also adhere to the Protocols to the Treaty.

On 20 March 1987 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 360–361):

The Minister for Foreign Affairs, the Hon Bill Hayden, said today that the Australian Government was greatly disappointed by the British Government's decision not to sign the Protocols to the Treaty of Rarotonga. The Protocols provide for Britain to apply key provisions of the Treaty to its South Pacific territory, Pitcairn Island, and to undertake not to use nuclear weapons against parties to the Treaty and not to conduct nuclear testing in the South Pacific.

Mr Hayden noted that in announcing its decision not to sign the Protocols the British Government had said that as a matter of policy it would not test, manufacture or base nuclear weapons on Pitcairn nor conduct nuclear tests elsewhere in the South Pacific. Britain had reaffirmed as well an earlier general undertaking not to use nuclear weapons against non-nuclear weapon state parties to the NPT or equivalent commitments. Mr Hayden said that in effect Britain had declared it would abide by the requirements of the Protocols.

Mr Hayden noted that at the same time Britain had agreed to become a party to the South Pacific Regional Environment Program Convention. This convention banned the dumping of nuclear waste in the South Pacific and complemented the Treaty of Rarotonga's prohibition on the dumping of nuclear waste. In all these circumstances, it was all the more difficult to understand the British decision.

Mr Hayden said that the British had important historical and current Commonwealth links with the South Pacific Forum countries. Australia was disappointed that these were not appropriately reflected in the British decision. Mr Hayden believed the decisions by the British and United States Governments not to sign the Protocols insufficiently took into account the aspirations of the South Pacific states. He said:

> The Australian Government remains firmly convinced that the Treaty is an instrument which reinforces the favourable security environment in the South Pacific and does not cut across the maintenance of stable nuclear deterrence. It in no practical way impeded Australia's ability to co-operate militarily with its allies.

Mr Hayden noted that ten members of the South Pacific Forum had signed the Treaty: New Zealand, Fiji, Cook Islands, Tuvalu, Kiribati, Niue, Western Samoa, Nauru, Papua New Guinea and Australia. All these countries, with the exception of Nauru and Papua New Guinea, had already ratified the Treaty. The Soviet Union and China had signed Protocols 2 and 3 of the Treaty, he said.

For a statement by the Prime Minister on signature of Australia's instrument of ratification, see Comm Rec 1986, 8 December 1986, 2279–2280. Australia's instrument of ratification was deposited on 11 December 1986, on which date the Treaty entered into force.

On 2 November 1987 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1987, 1869):

Eleven South Pacific countries have so far signed the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga):

Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tuvalu and Western Samoa.

All of these, except Papua New Guinea and Solomon Islands, have already ratified and are now parties to the Treaty.

There are also three Protocols to the Treaty which are open for signature and ratification by the nuclear weapon States.

Protocol 1 is open for signature by France, the United Kingdom and the United States.

Protocols 2 and 3 are open for signature by France, the United Kingdom, the United States, China and the Soviet Union.

To date China and the Soviet Union have signed but not ratified Protocols 2 and 3.

Any member of the South Pacific Forum is eligible to become a party to the South Pacific Nuclear Free Zone Treaty. Present membership of the Forum includes those eleven members listed above which have signed the Treaty and Tonga, Vanuatu, Marshall Islands and the Federated States of Micronesia.

Nuclear Free Zones—proposed Indian Ocean Zone of Peace

On 19 August 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1986, 102):

> The United States Ad Hoc Committee on the Indian Ocean continues its work in preparation for a Conference on the Indian Ocean at Colombo 'as a necessary step for the implementation of the Declaration of the Indian Ocean as a Zone of Peace, adopted in 1971'. So far the Committee has been unable to complete preparatory work for the Conference. The fortieth General Assembly adopted resolution 40/153, which asks the Committee to complete the preparatory work and provides for the opening of the Conference at Colombo not later than 1988.
>
> No Indian Ocean State opposes the idea of an Indian Ocean Zone of Peace. Indicative of this is the fact that Resolution 40/153 was adopted by consensus.

Treaties of alliance—ANZUS Treaty—agreements with the United States—New Zealand ban on nuclear-warships—effect on ANZUS

On 18 February 1986 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in part in answer to a question (Sen Deb 1986, 497–498):

> The Minister for Foreign Affairs, Mr Hayden, has advised me that he agrees that to describe New Zealand as the Hartley of ANZUS is a somewhat misleading analogy in that it implies that New Zealand could be expelled from the Treaty. The honourable senator is correct in noting that the Treaty does not provide for expulsion but provides only, under Article X, for withdrawal from the Council by giving one year's notice to the Australian Government. To the extent that the United States has given any public indication of its position on this issue, it has, as I understand it, spoken so far of maintaining its security relationship under ANZUS with Australia fully intact but of possibly withdrawing or suspending its security obligations to New Zealand under ANZUS as a result of the New Zealand Government's actions. How that issue is finally resolved formally as between the United States and New Zealand is a matter which we would regard as one appropriate for resolution between those two countries.
>
> As to the particular part of the question about what there is in the ANZUS Treaty which bears upon the question of nuclear ship visits, it is the case that, although the ANZUS Treaty does not refer to nuclear weapons, the nuclear dimension is important to the credibility and deterrent value of United States defence commitments. Certainly the Australian Government sees port access for United States nuclear-powered warships as essential to the continuing effectiveness of ANZUS.
>
> As to the reference to the alleged behaviour of the Australian Government between 1971 and 1976 being inconsistent, as Senator Vallentine put it, with that sort of approach, let me say this on behalf of the Government: In 1971 the United Kingdom and United States governments were asked to refrain from proposing visits by nuclear-powered warships, pending a full study of the practical requirements in the differing circumstances of each Australian port. This was completed in 1976 with

the promulgation of the conditions of entry for nuclear-powered warships which permitted visits to resume. There is simply no comparison between that course of events and these arrangements and the port ban which has been instituted by the New Zealand Government. I repeat that we regard the latter issue as one between New Zealand and the United States and we are simply not seeking to play a role in any sense as an intermediary in that dispute.

On 30 April 1986 the Prime Minister, Mr Hawke, said in the course of a statement on his recent overseas visit (HR Deb 1986, 2746):

President Reagan and I reaffirmed the importance of the ANZUS ties between us which are fundamental to Australia's foreign and defence policies. They also have important implications for the security and stability of our region. In reaffirming the importance of our security arrangements under ANZUS, I also made clear to the United States that, notwithstanding the current difficulties between New Zealand and the United States over ANZUS, Australia intended maintaining its bilateral defence co-operation with New Zealand. The United States has already indicated that, if New Zealand proceeds to enact its proposed anti-nuclear legislation, the United States will review its security commitments to New Zealand. In my discussions with President Reagan, I reiterated Australia's firm view that, whatever may occur in the security relationship between the United States and New Zealand, the legal framework of the ANZUS Treaty should be left intact, and the security relationship between Australia and the United States reaffirmed. In the President's words: 'Australia is a responsible ANZUS ally, an important trading partner and a trusted friend'.

In his departure statement at the White House on 17 April, President Reagan confirmed to me that, whatever New Zealand's decision, the United States commitment to Australia under ANZUS is firm. Further discussions on matters related to ANZUS will take place at the Australia-United States ministerial talks which are scheduled to be held in San Francisco in August.

For the test of the letters exchanged between Mr Hayden and Mr Shultz, concerning their understanding of the ANZUS Treaty, on 11 August 1986, see above p 514.

On 29 February 1986 the Minister for Defence, Mr Beazley, provided the following written answer to a question on notice in the Senate (Sen Deb 1986, 741–742):

The exchange of notes of 11 March 1981, which constitutes an Agreement between the United States and Australia Governments concerning the staging of USAF B52 aircraft and associated KC 135 tanker aircraft through Australia, provides inter alia that the agreement of the Australian Government will be obtained before the facilities at RAAF Base Darwin are used in support of any category of operations other than "for sea surveillance in the Indian Ocean area and for navigation training purposes". The Agreement also provides that arrangements will be made for consultations to ensure that the Australian Government has full and timely information about strategic and operational developments relevant to B52 staging operations through Australia and that the Agreement shall continue in force until terminated on one year's note in writing by either Government.

While there have been routine consultations between Australian and US personnel involved in arrangements for B52 flights in Australia, no formal consultations specifically concerning US plans to strengthen its forces in Guam have taken place between the two Governments. No proposals have been made to alter the nature of B52 operations through Australia.

All the B52 aircraft which have been staged through Australia have conducted low level navigation training flights on the basis of the arrangements announced by the then Minister for Defence on 3 February 1980. This statement, which was agreed by the US, provides that the aircraft "would be unarmed and carry no bombs". The Australian Government is confident that all USAF aircraft staged through Australia have in fact been unarmed. This confidence is derived not only from our firm belief in the good faith of our ally, but also from the particular operational characteristics of the agreed B52 activities. For safety reasons, it is not practice to carry weapons of any sort in aircraft undertaking low level navigation flights. Moreover, the stringent security measures which the US Air Force always takes to protect its nuclear weapons while on the ground are not applied when B52s stage through Darwin. In light of this the Australian Government sees no requirement for verification arrangements.

The arrangements which cover B52s staging through Australia do not contravene the US policy of neither confirming nor denying the presence of nuclear weapons on board its ships and aircraft since the B52s are unarmed and carry no bombs.

On 11 March 1986 the Minister for Defence, Mr Beazley, provided the following written answer to a question on notice in the Senate (Sen Deb 1986, 829):

(1) The terms of arrangements covering the staging of B52 flights through Australia are contained in a Press Release of 3 February 1980 by the then Minister for Defence, a Parliamentary Statement of 11 March 1981 by the then Prime Minister (*Hansard* 11 March 1981, pp 666, 667), and a Press Release of 16 October 1982 by the then Minister for Defence. I refer the honourable senator to these documents.

(2) All the B52 aircraft which have been staged through Australia have conducted low level navigation training flights on the basis of the arrangements announced on 3 February 1980. This statement, which was agreed by the United States, provides that the aircraft 'would be unarmed and carry no bombs'. The Australian Government is confident that all USAF aircraft staged through Australia have in fact been unarmed. This confidence is derived not only from our firm belief in the good faith of our ally, but also from the particular operational characteristics of the agreed B52 activities. For safety reasons it is not United States practice to carry weapons of any sort in aircraft undertaking low level navigation flights. Moreover, the stringent security measures which the US Air Force always takes to protect its nuclear weapons while on the ground are not applied when B52s stage through Darwin.

(3) B52 aircraft regularly fly along pre-arranged and publicised low jet routes in northern Australia. They normally fly at an altitude of 800 ft above ground level, although this may vary according to terrain. For every

flight the Department of Aviation is notified in advance and a Notice to Airmen is issued. The B52s are in radio communication with the Department of Aviation which provides appropriate traffic information to all known civil and military aircraft in the area. Thus there is no hazard to light aircraft posed by these flights.

Treaties of alliance—agreements with United States on Joint Facilities

On 15 October 1986 the Minister representing the Minister for Defence in the Senate, Senator Gareth Evans, said in part in answer to a question (Sen Deb 1986, 1317–1318):

> The document formally entitled 'Exchange of Notes between Australia and the United States of America constituting an Agreement Amending the Agreement relating to the establishment of a Joint Defence Space Research Facility of 9 December 1966', which document is from the Australian Treaty Series No 24 of 1977, states that the co-operating agencies responsible for the operations of the facility at Pine Gap are the Australian Department of Defence and the United States Department of Defence. I also remind the honourable senator in this respect that on 27 May this year I advised her, in this chamber, that there are no National Security Agency facilities in Australia.

On 22 October 1986 Senator Evans said further (Sen Deb 1986, 1722–1723):

> I should say at the outset, with particular reference to what Senator Kilgariff said on 16 October, that the 1977 agreement referred to by the honourable senator does not provide for the lease of the Joint Defence Space Research Facility. Rather, the 1977 agreement extended the 1966 agreement which established the facility and provides that the agreement be extended for a period of 10 years from 19 October 1977 and thereafter until terminated.
>
> As Senator Vallentine is no doubt aware, one year's written notice to terminate the agreement may be given as of 19 October this year. As such, the agreement continues and there is no requirement for it to be renegotiated or amended. The Government presently sees no need to amend it and has no current intention of amending it.

Use of force—South African invasions of Angola

On 16 January 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1984, 49–50):

> The Minister for Foreign Affairs, the Hon Bill Hayden, today expressed the Australian Government's serious concern over South Africa's recent military incursions into Angola. Mr Hayden said that the Australian Government had been deeply perturbed by the South African military actions in southern Angola and condemned the continuing occupation by South African forces of parts of that country in flagrant violation of Angola's sovereign territory. The South African actions had been the subject of widespread international condemnation, including by the United Nations Security Council.
>
> Mr Hayden said that Australia had been following closely recent developments in Namibia and Angola, and had welcomed moves towards negotiating a ceasefire and towards discussions between South Africa and

the South-West Africa Peoples' Organisation (SWAPO). It was disappointing that these moves appeared to be once again stalling in a mire of rhetoric and accusations.

Mr Hayden said that it was now for South Africa to demonstrate its good faith, to desist from its illegal activities and presence in Angola, and from attempts to link independence for Namibia to a withdrawal of Cuban troops from Angola. Mr Hayden called on all parties to work without further delay towards the negotiation of an honourable settlement in Namibia in accordance with the relevant United Nations Security Council resolutions.

On 20 June 1985 Australia's representative in the Security Council, Mr Woolcott, made the following statement on a complaint by Angola (S/PV2596, 46–48):

It is a damning indictment of the Government of South Africa that this Council has been called into session to deal consecutively with South Africa's unacceptable policies and actions in Namibia, Angola and Botswana.

We have just had an exhaustive debate on the situation in Namibia, arising out of South Africa's refusal to implement the United Nations plan for Namibia's independence and its determination to proceed with the installation of a so-called interim government. During that debate, many delegations, including my own, condemned South Africa's policies of regional stabilization, its actions in southern Angola, its linkage of Namibian independence to the withdrawal of Cuban troops from Angola and its most recent raid into Cabinda.

We heard also in the statement of the South African Permanent Representative on 10 June an apologia for South Africa's policies. This amounted to an arrogation by South Africa of the right to intervene at will, through the exercise of military superiority, in the affairs of neighbouring States presumably in an attempt to force them to pursue policies acceptable to South Africa.

Such parties are indefensible in international law. They are also futile because they are likely to be unproductive in the long term. The disregard shown by South Africa for the independence of its neighbours is, sadly, all too consistent with the attitude it has displayed towards the United Nations plan for the independence of Namibia since 1978.

Many of the issues which are relevant to our present debate have been extensively discussed over the last 10 days and I shall not dwell on them at length. But brevity should not be interpreted as a lack of concern for the gravity of South Africa's actions. We listened with close attention and sympathy to the statement by the Foreign Minister of Angola this morning. We share his concerns. We consider South Africa's actions pose grave and unacceptable risks to peace in the region. Let there be no doubt about Australia's attitude to these actions. We condemn them unreservedly.

My delegation welcomed the negotiations involving Angola, South Africa and the United States aimed at securing the withdrawal of South African troops from southern Angola. We believed that this could contribute to the improvement of regional relations, restore stability to the hard-pressed civilian population of southern Angola and contribute to a climate

of confidence in which the negotiations for the implementation of the United Nations plan for the independence of Namibia could proceed.

We accepted at face value South Africa's assurances on 17 April that it had withdrawn its troops from Angola. We were in fact deceived. One month later we and the rest of the international community were presented with irrefutable evidence of South Africa's continued military actions in Angola after the interception by Angolan troops of a South African force in Cabinda. The explosive devices found with the South African troops suggest that their incursion was for much more sinister purposes than intelligence gathering—as South Africa claims—and is consistent with an intention of sabotaging oil installations.

We have never accepted that South African forces had a right to be in southern Angola and we welcomed their reported withdrawal. We certainly do not accept that South Africa has a right to dispatch or station forces anywhere else on Angolan territory without the consent of the Angolan Government.

In addressing this matter before the Council today, there is, it seems to us, only one correct and just conclusion: South Africa's actions in Cabinda were illegal, in violation of the Charter and in violation of international law. They deserve the condemnation of the international community.

On 20 September 1985 Australia's representative in the Security Council, Mr Woolcott, said further on another complaint by Angola (S/PV2607, 4–5):

It is only three months since this Council was called into session to discuss South Africa's raid against Cabinda. On that occasion, the Council in resolution 567 (1985) strongly condemned South Africa's actions and its use of Namibia as a spring-board for armed aggression against Angola.

The Australian Government has never accepted that South Africa has any right to dispatch or station forces anywhere on Angolan territory without the consent of the Angolan Government. We therefore welcomed the announcement in April 1985 that South Africa had decided finally to withdraw its troops from southern Angola. Our hopes, however, have been sadly dashed. Once again, South Africa has mounted a cross-border raid into Angola in defiance of international law, in defiance of the Charter and in defiance of the resolutions of this Council.

South Africa's duplicity has been exposed. Its policies of *apartheid* are tearing South Africa apart; its policies of regional destabilization in Mozambique, in Botswana and in Angola give the lie to its proclaimed wish for good relations in southern Africa. Its most recent attack, deep into Angola, does nothing to bring closer a peaceful settlement in Namibia. That option is available through Security Council resolution 435 (1983), which provides the means for an early and peaceful transition to independence.

South Africa has chosen the path of the gun over the path of negotiation, and its representative had the effrontery in this Council today to try to justify South Africa's action against Angola on the grounds that it was necessary to maintain stability in Namibia—a Territory which South Africa occupies illegally.

South Africa's actions in southern Angola must be deplored by the international community. Australia unreservedly condemns these actions

and calls on South Africa to cease all aggression against its neighbours.

On 3 October 1985 Australia's representative in the Security Council, Mr Woolcott, said on another Complaint by Angola (S/PV2612, 39–42):

> My delegation listened with concern and sympathy to the statement of the representative of Angola, who for the third time in as many months has been forced to appear before this Council as a direct result of South Africa's illegal military interventions against his country in disregard of Angola's territorial integrity and sovereignty.
>
> It is clear that this latest action on the part of the South African armed forces was illegal and the Australian Government deplores the loss of life and the destruction of property that it entailed. My Government extends its sympathy to the families of those killed and injured in these attacks.
>
> The Australian Government has consistently condemned South Africa's attacks this year against Angola and Botswana, as well as the attacks in recent years against other neighbouring countries of South Africa.
>
> Australia rejects South Africa's claim to any right to enter the sovereign territory of its neighbours against their will. Australia cannot condone the doctrine of tutorial or punitive aggression. Australia may be geographically far removed from southern Africa, but we follow very closely developments in that region.
>
> South Africa's repugnant *apartheid* policies, its aggressions against its neighbours and its refusal to relinquish control of Namibia constitute fundamental violations of international law and human rights which, as we have said, many, too many, times, are totally unacceptable to us.
>
> Australia was pleased to be asked to participate in the Commission of Investigation formed by this Council under resolution 571 (1985) to evaluate as soon as possible the damage resulting from the previous invasion of Angola by South African forces in September of this year.. Our participation reflects our concern that all members of the international community, and particularly members of the Security Council, have a role to play in containing the escalation of violence which has occurred in recent months in Angola and in other parts of southern Africa.
>
> When acts, good or bad, occur frequently, there is an imperceptible tendency somehow to become accustomed to such acts. It is the duty of members of this Council not to grow accustomed to such acts, but to maintain and to re-emphasize condemnation of illegal actions in the hope that repetition will oblige South Africa to accept the established norms of international behaviour. Therefore, Australia reiterates its appeal to South Africa to refrain from any further aggressive actions against Angola, a course which, as the Permanent Representative of the United Kingdom has just said, would seem, in our eyes, to be in South Africa's own best interests.

Use of force—South African invasion of Botswana

On 16 June 1985 the Acting Minister for Foreign Affairs, Mr Bowen, issued the following statement (Comm Rec 1984, 897):

> The Acting Minister for Foreign Affairs, the Hon Lionel Bowen, today expressed the Australian Government's deep concern at the armed incursion

by South African forces into neighbouring Botswana, resulting in at least twelve deaths.

Mr Bowen said that the incursion represented a blatant breach of international law and complete disregard for Botswana's sovereignty. Reports indicated that the raid had been carried out with premeditated and arrogant violence.

Mr Bowen said that South Africa had sought international recognition of recent internal changes and for its claim that it seeks peaceful and mutually respectful relations with its neighbours. It was hard to give credence to their claims when South African authorities behave in this way.

The incursion into Botswana came at a time when the UN Security Council was considering the question of South Africa's occupation of Namibia. The Security Council has not completed its consideration and South Africa's action in Botswana at this time makes it even more inexplicable.

Mr Bowen said that Australia would support any request for consideration in the Security Council of the Botswana affair.

On 21 June 1985 Australia's representative in the Security Council, Mr Woolcott, said on the complaint by Botswana (S/PV2598, 33–35):

The Australian delegation listened this morning to the poignant and detailed statement of the Foreign Minister of Botswana with genuine feelings of sorrow and respect—sorrow that a peaceful country should be so abused by its larger neighbour and respect for its unprovocative humanitarian and principled policies towards its neighbours, which the Minister so eloquently described.

It was with a sense of frustration and deep concern that the Australian Government learnt of the armed incursion by South African forces into Botswana on the night of 13 June.

Botswana, a fellow member of the Commonwealth, is a country with which Australia has warm and friendly relations. As one of the front-line States, Botswana has, in recent years, had to pay a heavy price for its geography and for its humanity, in dealing with refugee problems posed by the policies of South Africa in Angola, Namibia and in South Africa itself.

Botswana's is a voice which is widely respected in the United Nations, in the Commonwealth and in Africa. Botswana has never attacked any neighbouring country and, as the representative of Botswana reminded us this morning, does not represent any threat to any of its neighbours. Yet it has been the subject of a brutal and cowardly incursion by South Africa against which it has little capacity to retaliate. The international community has a responsibility to condemn South Africa for its actions in Botswana and to do all that it can to ensure that such actions do not recur.

It is inevitable that, after the exhaustive debates of the last weeks on developments in Namibia and Angola, our statements will have a sense of *deja vu*. It is important, however, that notwithstanding the coincidence of three consecutive Security Council debates, the issues be stated clearly and unequivocally in response to these specific situations. This has been done in the cases of Namibia and Angola through the adoption of Security Council resolutions 566 (1985) and 567 (1985); and it will again, we trust, be done

through the adoption of the draft resolution before us dealing specifically with Botswana.

South Africa's armed incursion was strongly condemned in a statement issued on behalf of the Australian Government by the Deputy Prime Minister and Acting Foreign Minister, Mr Lionel Bowen, on 16 June, and the concern of the Australian Government was strongly registered with the South African Government, through the South African Ambassador in Canberra.

South Africa's incursion represented a blatant breach of international law and underlined a complete disregard for Botswana's sovereignty. It was clear that the raid had been carried out with premeditated violence and without concern for the rights and safety of the people of Gaborone.

South Africa's actions were particularly deplorable because they took place at a time when Botswana and South Africa were holding talks on security measures.

Use of force—South African attacks on Zimbabwe, Zambia, Botswana and Angola—condemnation by Australia

On 20 May 1986 the Acting Minister for Foreign Affairs, Senator Button, issued the following statement in part (Comm Rec 1986, 806–807):

The Australian Government condemns in the strongest possible terms the South African incursions yesterday against targets in Zimbabwe, Zambia and Botswana. South Africa's actions are an outrageous affront to the norms of civilised behaviour which are fundamental to any decent society and they are totally unacceptable to the Australian Government.

Australia has frequently expressed its complete and unequivocal rejection of South Africa's resort to armed aggression within the region, the Acting Minister for Foreign Affairs, Senator the Hon John Button, said today. The latest attacks were a flagrant violation of the sovereignty and territorial integrity of Australia's fellow Commonwealth countries; countries which were engaged with other Commonwealth countries in an initiative to establish peace and stability on the southern African region. Indeed, they undermine the whole credibility of South Africa's often repeated willingness to move towards genuine reforms and a peaceful resolution of the problems of southern Africa.

Senator Button said that he had asked the Secretary of the Department of Foreign Affairs (Dr Stuart Harris) to convey to the South African Government Australia's absolute rejection of the South African Government's actions.

On 28 May 1986 the Prime Minister, Mr Hawke, issued the following statement, in part (Comm Rec 1986, 846):

Cabinet today considered the implications of the recent South African raids on Botswana, Zambia and Zimbabwe. The Federal Government condemns the South African actions in the strongest terms. It is impossible to justify such arrogant violation of the sovereignty and territorial integrity of South Africa's neighbouring states. The situation in southern Africa demands an end to apartheid and a suspension of violence on all sides.

On 29 May 1986 the Minister for Foreign Affairs, Mr Hayden, provided the

following answer to a question on notice (HR Deb 1986, 4327):

> Australia voted in favour of UN Security Council Resolutions 574 and 577, condemning South African armed aggression violating the sovereignty, airspace and territorial integrity of the People's Republic of Angola. Both of these resolutions were adopted unanimously. Australia's support for these resolutions is based on its concerns over South African actions and its rejection of South Africa's claims to any rights to violate the territorial integrity of its neighbours.

On 28 April 1987 the Minster for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1987, 606):

> The Minister for Foreign Affairs, the Hon Bill Hayden, said today that Australia strongly condemned South Africa's armed violation of the territorial integrity of Zambia. Mr Hayden was commenting on the raid by South African Defence Forces on the southern Zambian town of Livingstone on 25 April in which seven Zambians are reported to have been killed.
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> In recent weeks, Mr Hayden said, South Africa had made strong public threats against its neighbours claiming that the African National Congress (ANC) was planning to disrupt the 6 May South African elections. The raid has produced no evidence to substantiate the Pretoria Government's claims and has strengthened international suspicion that the raid was undertaken for South Africa's political and election purposes.

On 29 April 1987 the Minister for Foreign Affairs and Trade, Mr Hayden, said in answer to a question without notice (HR Deb 1987, 2176):

> The Government is aware of reports of this raid. The violation of the sovereign territory of Zambia is not justified and has been condemned by the Australian Government. The incursion took place on 25 April. Elements of the South African Defence Force were involved. Four Zambian civilians were killed and two were wounded. No African National Council officials or South African refugees were encountered. The South African Defence Force unit used a helicopter and motorbikes for mobility and the attack involved six white SADF members. They attacked the Zambian National Provident Fund Building, killing two watchmen; they shot up a vacant building in which there were no ANC members, indeed, no people at all; they attacked and destroyed a house, killing two Zambians and wounding the wife of one of those people they had murdered. There are reports that the vacant house that they destroyed had been empty for four months and that there had been a prospective buyer.
>
> In carrying out this raid the South African Defence Force violated the sovereign territory of Zambia. The soldiers killed and wounded innocent civilians. It was a major military blunder which was obviously based on untrustworthy intelligence. This is an indication of how shakily based is any assertion made by the South African authorities. It has been labelled as an election stunt by the South African Government and has all the hallmarks of such. The Australian Government extends its sympathy to the Government of Zambia for the way in which its territory has been violated and in particular it extends its sympathy to the bereaved and wounded. The Australian Government formally condemns this raid and any cross-border

raid in either direction. It regrets very much that this action sets back any prospect of a negotiated and peaceful settlement.

On 2 December 1987 the Acting Minister for Foreign Affairs, Senator Evans, issued the following statement (News Release No M 183):

The Acting Minister for Foreign Affairs and Trade, Senator Gareth Evans, said today that the Government vigorously condemned recent armed incursions by South African Forces into Angola.

Senator Evans said that the incursions were clearly part of a deliberate campaign by South African to destabilise its neighbours. It had been widely condemned as such, including by the 12 European Community Foreign Ministers.

"South Africa's actions were a clear violation of Angolan sovereignty and territorial integrity" Senator Evans said. "Visits by President Botha and other prominent South African Government figures to South African troops inside Angola served to emphasise the blatancy with which the South African Government had violated the territorial integrity of Angola."

Senator Evans called on South Africa immediately to withdraw its troops from Angola and to refrain from such actions in the future.

"Rather than resorting to violence against its neighbours, the South African Government should take steps to ensure a peaceful solution to the problems of the region", he said.

Use of force—attacks by Iraq on shipping in the Persian Gulf—death of an Australian—attack on Australian fishing vessel—protest

On 21 January 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 55–56):

The Minister for Foreign Affairs, the Hon Bill Hayden, expressed today his sincere condolences to the family of Mr Wayne Spicer, an Australian crew member of the Dutch vessel *Smit Maassluis*, who was killed when the ship was struck by an Iraqi missile on 19 January. The *Smit Maassluis* was an unarmed maintenance vessel working on an Iranian oil terminal.

Mr Hayden said that the evidence available to the Australian Government indicated that the attack on the *Smit Maassluis* was carried out by Iraqi military aircraft. He recalled that in October 1984 an Australian citizen had been killed in the Gulf following an Iranian attack on the ship on which he was working.

Mr Hayden said that the Government was deeply concerned about this latest incident. He had instructed the Department of Foreign Affairs to convey this concern to the Government of Iraq.

Mr Hayden added that Australia would continue to encourage both sides in the conflict to exercise restraint and to engage in negotiations towards a settlement. Failure to do so could only lead to further tragic loss of life.

On 2 October 1987 the Minister for Foreign Affairs and Trade, Mr Hayden, issued the following statement (News Release No M137):

The Minister for Foreign Affairs and Trade, Mr Bill Hayden..., has condemned the attack on an Australian fishing vessel in the Persian Gulf.

Mr Hayden said it was disturbing and distressing that the vessel, the *Shenton Bluff*, was attacked on 1 October in international waters whilst

flying the Australian flag. Whilst its information was not complete in every detail, the Australian Government had reason to believe that the attack was carried out by an Iraqi aircraft.

"I have instructed senior officers of my Department to call in the Iraqi Ambassador and deliver the strongest possible protest over this incident", Mr Hayden said.

"The Australian Ambassador in Baghdad has been instructed to make a similar protest to the Iraqi authorities. We will be looking to the Iraqi Government to provide, without delay, a full explanation for the attack, an apology, assurances that such attacks will not occur again an compensation for the victims and for all losses involved."

"The attack was unprovoked and in clear breach of international law."

"It is condemned and protested in the strongest possible terms by the Australian Government" Mr Hayden added.

Mr Hayden expressed sincere condolences to the family of Robert Wilcox, the captain of the *Shenton Bluff* who lost his life in the attack. He said the Australian Ambassador in Riyadh had been instructed to provide appropriate consular assistance to the other Australians involved. An official from the Embassy was travelling to Dubai for this purpose.

Mr Hayden said Mr Wilcox was the third Australian to be killed in attacks on merchant shipping in the Persian Gulf. His tragic and unnecessary death underscored the Government's deep concern over the continuation of a bloody and senseless conflict.

Australian remained committed to the principles of freedom of navigation for all countries, including passage through the waters of the Persian Gulf. Efforts in the United Nations to seek a ceasefire and negotiated settlement to the Gulf conflict, now in its eighth year, would continue to receive Australian support Mr Hayden said.

For other Persian Gulf issues involving mining of waters and the freedom of navigation, see above 289 et seq.

Use of force—situation in the Lebanon—invasion by Israel

On 1 June 1985 the Minister for Foreign Affairs, Mr Hayden, issued the following statement in part (Comm Rec 1985, 795):

The Minister for Foreign Affairs, the Hon Bill Hayden, today welcomed the adoption by the United Nations Security Council of a resolution calling for an end to acts of violence in Lebanon and for humanitarian assistance to all those affected...

Mr Hayden said that the Government hoped that the resolution, with its call for respect for the sovereignty, independence and territorial integrity of Lebanon, would contribute to strengthening the hand of the Lebanese Government as it dealt with the grave situation in that country.

Mr Hayden noted that the first paragraph of the resolution called for an end to all acts of violence. He said that only with an end to violence could Lebanon turn its attention to the urgent task of reconstruction and securing a better life for all people living in that country.

On 7 March 1985 Australia's representative in the Security Council, Mr Hogue, said on the Situation in the Middle East (S/PV.2570, 52–55):

Our approach to the problem before the Council has been guided by these general considerations as well as by some particular considerations which apply to the situation now before the Council. These are:

There should be strict respect for the sovereignty, independence, unity and territorial integrity of Lebanon, within its internationally recognized boundaries;

Australia deplores all acts of violence in Lebanon, especially those which endanger civilian lives;

Australia has consistently called for the withdrawal from Lebanon of all foreign forces, except those in Lebanon at the request of the Lebanese Government and that remains our position;

Australia welcomes the intention of Israel to begin to withdraw its forces and believes that a complete withdrawal according to an agreed timetable is essential. Australia therefore supports the Secretary-General's call for the reconvening of the Naqoura talks as a means of achieving this objective;

Australia recognizes that Israeli forces in withdrawing have been subject to attacks and that some Israel Defence Forces (IDF) actions might have been undertaken in self-defence. On the other hand, other IDF actions appear to have been severe and cause us concern because of their severity. In this regard, there should be strict respect for the provisions of the Fourth Geneva Convention and for the rights of the civilian population;

Australia continues to support the role of the United Nations Interim Force in Lebanon (UNIFIL) in the difficult environment in which it is required to function. All acts of violence against UNIFIL from whatever quarter are to be deplored.

On 29 May 1985 the Minister for Foreign Affairs, Mr Hayden, issued a statement which said in part (Comm Rec 1985, 794):

Mr Hayden said that Australia remained committed to continue, through the United Nations and with its relations with other concerned countries, efforts to bring an end to the violence which has for so long afflicted Lebanon.

Australia, as a member of the United Nations Security Council was party to the statement issued by the Council on 24 May which reads:

The members of the Security Council express their serious concern at the heightened violence in certain parts of Lebanon in the past few days.

They take note of and fully support the statement issued on 22 May 1985 by the Secretary-General, which also refers to the situation in and around the Palestinian refugee camps and his appeal to all concerned to make every possible effort to put an end to all concerned to make every possible effort to put an end to violence involving the civilian population.

They reaffirm that the sovereignty, independence and territorial integrity of Lebanon must be respected.

In response to their humanitarian concern, they strongly appeal for restraint, in order to alleviate the sufferings of civilians in Lebanon.

On 5 June 1986 the Minister for Foreign Affairs, Mr Hayden, said in answer to a question, in part (HR Deb 1987, 4663):

The Government remains gravely concerned at the violence which continues to erupt in various areas of Lebanon, and the problems which

confront the Government of Lebanon in bringing about the peaceful resumption of government authority over all of Lebanon. It is the belief of the Government that all external interference in Lebanon's internal affairs should cease and that all foreign forces in Lebanon should withdraw, except those there at the request of the Government of Lebanon.

The Australian Government is not a party principal to efforts to promote a solution to the awful problems affecting Lebanon. It has, however, urged all parties involved to exercise maximum restraint and to enter into negotiations aimed at national reconciliation and a peaceful settlement to outstanding problems. In keeping with our concern and our membership of the Security Council, Australia has played an active role in the deliberations of the Security Council on Lebanon.

On 7 September 1987 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (News Release No M117):

The Foreign Minister, Mr Bill Hayden, has deplored the loss of life, suffering and destruction resulting from Israeli raids on Palestinian positions in Southern Lebanon at the weekend.

Israeli Air Force planes are reported to have struck two naval bases belonging to Yasser Arafat's Fatah Organisation, a Fatah Base in the Ein El Helweh refugee camp on the outskirts of Sidon and a position at Magdouche in the hills east of Sidon controlled by the Lebanese Shiite Militia, Amal.

At least 500 people are reported dead and 52 wounded, many of them apparently civilians.

Mr Hayden said that the raids had come in the wake of an increasing number of attacks on Israeli and Southern Lebanese Army Forces in the so-called security zone in South Lebanon and the firing of several Katyusha rockets into Northern Israel from areas of Lebanon beyond the security zone.

Mr Hayden called for maximum restraint in an increasingly tense situation and urged respect for Lebanese territorial integrity and sovereignty. Whilst acknowledging Israel's security concerns, he said that raids like those at the weekend were often counter-productive, especially when they involved casualties amongst the civilian population. Mr Hayden said that the actions had further placed at risk prospects for an international peace conference.

Use of force—Soviet Union's invasion of Afghanistan

On 6 June 1984 the Minister for Foreign Affairs, Mr Hayden, said in answer to a question without notice in the House of Representatives (HR Deb 1984, 2978):

My question is addressed to the Foreign Minister. I refer to the very eloquent declaration of concern about human rights which the Minister has made and which I think would have found an echo on both sides of the House. In light of that, I ask the Minister whether he raised with Mr Gromyko the continuing Soviet invasion of Afghanistan. If so, what was the response?

Mr HAYDEN—No, I did not raise it directly with him. But I publicly declared our condemnation of it in front of him at the luncheon to which I

referred. So, there is no doubt about our condemnation of the invasion of Afghanistan. We did not soft-pedal on it. I raised many other matters with him. But if the honourable member is keen that the matter should be raised with the Soviet authorities, I will ensure that our representative in Moscow reminds them of the fact that our opposition to it was clearly and unambiguously declared at the luncheon. But there is no doubt that it was registered.

On 5 June 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice (HR Deb 1986, 4860–4861):

The Australian Government's position on the presence of Soviet forces in Afghanistan has already been made clear to the USSR and the international community. In its statement to the United Nations in November 1985, the Australian delegation stated inter alia that 'The Soviet Union has engaged in deplorable military tactics inside Afghanistan in its attempts to subjugate the Afghan people. It has indiscriminately attacked and bombed the civilian population and used methods which have provoked widespread condemnation within the international community...Australia believes that the solution to this tragic and continuing problem must be based on the withdrawal of Soviet forces from Afghanistan. This of course remains the position of the Government and there is no doubt that the Soviet Union is well aware of this problem.

On 28 November 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1986, 4056):

In my luncheon address in Moscow on 29 May 1984, hosted by the then Foreign Minister of the USSR, Mr AA Gromyko, I made clear to Mr Gromyko and before the wide range of assembled guests Australia's opposition to the Soviet invasion of Afghanistan. I said:

'You have spoken out strongly against what you consider to be unjustified action by the West. We in our turn have opposed many of your actions. The Soviet invasion of Afghanistan is a case in point.'

Use of force—Turkish occupation of North Cyprus

On 31 May 1984 the Acting Minister for Foreign Affairs, Mr Bowen, said in the course of an answer to a question without notice in the House of Representatives (HR Deb 1984, 2612–2613):

I was in Cyprus in December, which confirmed for me what the honourable gentleman has said. There is a great deal of tension there because of the failure to resolve the current problem and the additional problems created by Mr Denktash declaring unilaterally that there was to be a Turkish Republic of Northern Cyprus. The real issue that the United Nations obviously has to deal with is to get support from all parties to guarantee that the Turkish Army leaves Cyprus so that the problems of Cyprus can be settled by all the Cypriots who are there. The Government continues to support the Secretary-General of the United Nations, who has the responsibility of continuing in what is called a good offices role in an endeavour to solve that problem. He indicated that he required the unambiguous support of all countries. If, as the question indicated, there is to be further development on one side which could lead to suspicions on the

other side, one could well think that we are getting no closer to but in fact getting further away from a settlement.

I assure the honourable gentleman that Australia will continue to do all in its power to bring about a just and lasting solution to the situation in Cyprus. The forerunner of that, of course, is the immediate withdrawal of all Turkish forces.

Use of force—Vietnamese invasion and occupation of Cambodia

On 22 January 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement in part (Comm Rec 1984, 60):

We hope we will not see a repetition this dry season of Vietnamese attacks in the Thai-Cambodian border region resulting in civilian casualties and incursions into the sovereign territory of Thailand, as they did in the 1983 dry season.

I said at that time that we could find no justification or excuse for such actions: that we condemned them, and we made known our views directly to the Vietnamese through our Ambassador in Hanoi.

Australia's opposition to Vietnam's continued occupation of Cambodia is well known as is our conviction that a solution to the Cambodian problem will be brought about only through peaceful negotiations—and not through the cyclonical prolongation of military conflict which has entrenched all sides in a dangerous stalemate. Our attitude is based on the following principles:

- the acceptance by Vietnam of an appropriate accommodation with its neighbours
- phased withdrawal of Vietnamese forces from Cambodia matched by an effective arrangement to prevent Pol Pot and his Khmer Rouge forces going back into Cambodia
- a form of self determination for Cambodia
- the creation of conditions for the peaceful return of displaced Cambodians to Cambodia
- the acceptance by all parties that Cambodia is neutral, independent and non-aligned
- the restoration of normal relations on the part of Vietnam with China, ASEAN and the West.

On 4 April 1984 the Minister for Foreign Affairs, Mr Hayden, said in part in answer to a question without notice in the House of Representatives (HR Deb 1984, 1350):

I pointed out on 14 March at a dinner here in Canberra for the Foreign Minister for Vietnam, Mr Thach, that while we deplore the continued occupation of Cambodia by Vietnamese forces, at the same time we recognise that continual attacks upon Vietnamese and Cambodian forces by Khmer Rouge forces, among others, could sooner or later lead to retaliatory action. At this point we put the recent conflict in that category. Nonetheless, we deplore and condemn any invasion or military incursion by any country into another country's territory wherever it occurs, and to the extent that there has been or may have been an incursion into Thailand that condemnation would be extended to the Vietnamese forces responsible.

On 2 October 1984 the Minister for Foreign Affairs, Mr Hayden, said in the course of his speech in general debate in the General Assembly of the United Nations (A/39/PV17, 51):

> In the South-East Asian area, stability is subjected to undesirable strain by Viet Nam's continued occupation of Cambodia. Australia condemned the invasion of Cambodia when it happened and we continue to condemn it. Nobody can tolerate armed incursion by one country into another, wherever it occurs. Accordingly, Australia considers that Viet Nam should withdraw from Cambodia. The reasonable way for this to take place would be in the context of a settlement acceptable to all parties. This is why the need continues for negotiations towards a settlement, for which Australia has been working in the past 18 months. Australia remains ready to provide the site and any facilities necessary so that the parties involved, or any combination of them, can discuss ways in which settlement can be reached in Cambodia.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 4046–4047):

> Ever since the invasion of Kampuchea by Vietnam in 1979 Australia has repeatedly condemned Vietnam's invasion and occupation of Kampuchea. Australia has consistently stated that Vietnam's continued occupation constitutes a breach of internationally accepted principles and poses dangers to the peace and stability of the region.

Use of force—French attack on the vessel "Rainbow Warrior" in New Zealand

On 23 September 1985 the Acting Minister for Foreign Affairs, Senator Gareth Evans, issued the following statement (Comm Rec 1985, 1651):

> The Acting Minister for Foreign Affairs, Senator the Hon Gareth Evans, said today that the Australian Government welcomes the French Government's final admission of guilt over the sinking of the *Rainbow Warrior* and its undertaking—however belated—to conduct a thorough investigation of the whole affair. Senator Evans said:
>
> As has been made clear in earlier statements by the Prime Minister and Foreign Minister, we remain appalled at the action now admitted to have been taken by French agents.
>
> The Australian Government expects the French Government to act within the bounds of international law and civilised conduct and to take account of world and regional option. At the very least, a full apology by the French Government is now clearly called for.
>
> Recalling Prime Minister Fabius's previous call for the perpetrators of the crime to be brought to justice, Senator Evans said that Australia looked forward to that occurring without delay or qualification. Senator Evans said:
>
> > The Australian Government has made clear to the French Government its concern that there should be no resort to violence in dealing with the other Greenpeace vessels now assembling at Mururoa.

Use of force—Afghan attacks on Pakistan

On 21 August 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1984, 1651):

> The Minister for Foreign Affairs, the Hon Bill Hayden, said today that the Australian Government condemned the recent attacks against Pakistan by Afghan aircraft, artillery and rockets. Mr Hayden said that these attacks were particularly disturbing in that they appeared to have been directed against innocent Afghan refugees and Pakistani civilians, many of whom had been killed.
>
> Mr Hayden said that the recent series of attacks began on 13 August when Afghan aircraft bombed a village 20 kilometres inside Pakistan. There was further aerial bombing on 14 August. On 19 and 20 August, there were renewed air attacks, and artillery and multiple rocket launchers were also used.
>
> Mr Hayden said that the attacks took place just before the resumption of the United Nations sponsored proximity talks between Pakistan and Afghanistan in Geneva. The Australian Government welcomed the resumption of these talks. The Government hoped that they would lead to a settlement which would encourage the return of the nearly four million refugees in Pakistan and Iran to their homeland.
>
> Mr Hayden said that the needless loss of life and suffering in the region would only come to end when, in accordance with successive United Nations resolutions supported by Australia, the Soviet Union withdrew its forces from Afghanistan.

Use of force—Israeli attack on Tunisia

On 2 October 1985 the Acting Minister for Foreign Affairs, Senator Gareth Evans, issued the following statement (Comm Rec 1985, 1710):

> The Acting Minister for Foreign Affairs, Senator the Hon Gareth Evans, said today that the Australian Government deplored the violation of Tunisian sovereignty which occurred as a result of the attack by Israeli Air Force over Tunis on 1 October.
>
> Senator Evans said that whatever reasons the Israeli Government may have given in explanation of this action, the Australian Government firmly believed that terrorism and violence were unacceptable means by which to pursue political objectives. The Israeli action had resulted in the death of innocent civilians who can be seen once again to have been needlessly caught up in the cycle of violence.
>
> There were some heartening signs of movement towards a comprehensive settlement in the Middle East, most recently in the address by King Hussein of Jordan to the United Nations General Assembly on 27 September. It would be unfortunate if the raid on Tunis were to harden attitudes and to set back the search for peace, Senator Evans said.

On 2 October 1985 Australia's representative in the Security Council, Mr Woolcott, said on the attack by Israel on Tunisia (S/PV2611, 18–21):

> We have seen yet another incident in the sad cycle of violence and counter-violence in the Middle East. It is an incident which, whatever the background may be, cannot be condoned, and we express our sympathy to the Government and people of Tunisia on the violation of their sovereignty

and the loss of life that has been occasioned by this unfortunate event.

Australia condemns all acts of terrorism and violence, wherever and whenever they take place. On this occasion, Israel has engaged in an act of violence which has resulted in the death of innocent civilians and which is clearly a breach of international law and the United Nations Charter.

Whether or not the Palestine Liberation Organization has carried out acts of terrorism against Israel is not really the point at issue. The point is that even if we were to accept Israel's version of the events, two wrongs do not make a right.

There is also, of course, the question of the strength of the response to the alleged actions that were used to justify Israel's reaction.

Australia has always maintained, and still maintains, that Israel has the right to exist in peace within legally recognized borders and free from outside attack. Tunisia, of course, has exactly the same right.

It is particularly unfortunate that the raid should have taken place at a time when there had been some encouraging signs of movement towards a comprehensive settlement in the Middle East, and in that context my delegation welcomes especially His Majesty King Hussein's statement to the General Assembly last week. We must ensure that this kind of action by Israel is not permitted to set back the search for peace.

Australia condemns Israel's action and calls upon Israel to respect the norms of international law.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 4268–4269):

I am aware of the bombing of PLO offices in Tunis and in Lebanon. The Australian Government deplored the violation of Tunisian sovereignty which occurred as a result of the attack by the Israeli airforce over Tunis on 1 October and voted in favour of United Nations Security Council Resolution 573 which condemned the incident.

Use of force—Libyan attack on United States aircraft in Gulf of Sidra

On 25 March 1986, the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 499):

The Minister for Foreign Affairs, the Hon Bill Hayden, today condemned the Libyan action in attacking US aircraft in international waters in the Gulf of Sidra.

Mr Hayden said that the Gulf of Sidra was recognised as international waters by both the Soviet Union and the United States. The United States counteraction was in response to the Libyan attack upon its force. Mr Hayden said:

> Clearly the situation could lend itself to escalation and calls for a balance between protection by the United States of its forces and its interests on the one hand and restraint on the other.

Use of force—United States attack on Libya

On 15 April 1986 the Prime Minister, Mr Hawke, made the following statement in the House of Representatives (HR Deb 1986, 2269):

The Australian Government was advised by the United States Administration early this morning of immediately impending military action against Libya. President Reagan has since confirmed that the United States has taken military action against targets which it regards as supporting terrorism. The Australian Government has counselled restraint by both the United States and Libya in the course of the developing tensions between them. It deeply regrets that this conflict has taken place and urges both sides to suspend hostilities and engage in genuine efforts to bring about the peaceful resolution of their differences. This will mean that the United States terminate its military engagement against Libya. It also means, as an absolute essential, that Colonel Gaddafi terminate his Government's indiscriminate export of terrorist activity against civilians and civilian targets, especially United States civilians.

The United States has said that its action was motivated not only by evidence of Libyan involvement in and direction of past terrorist activities but also by indications of Libyan planning being well advanced for further operations against American citizens in a number of countries. The United States' military action was explained to us not in terms of revenge or reprisals but in terms of demonstrating that terrorism will incur a significant cost. The Government accepts that there is a substantial body of evidence of Libyan involvement in and direction of international terrorism. The Minister for Foreign Affairs (Mr Hayden) and I have been privy to apparently compelling evidence of a direct line of command between Libya and the Berlin nightclub bombing.

It is a matter of serious concern that following the Gulf of Sidra episode—where Libya attacked American forces exercising in international waters and the United States retaliated—Libya's policy of extreme hostility against the United States has continued. The Government, in response to a request from President Reagan in January, took a number of economic measures against Libya and reduced Libya's official representation in Australia as part of collective international measures to demonstrate to Libya that its behaviour in support of international terrorism is totally unacceptable to the international community. The Government has expressed a desire to work with Western and other governments for a concerted approach to dealing with international terrorism. The Minister for Foreign Affairs is pursuing this matter with Western and other governments and will be reporting back to Cabinet on measures to promote a sustained long-term effort to defeat the threat of international terrorism.

The Government is profoundly concerned that the situation has reached the point where Libyan action have driven the United States to regard it as essential that it take military action. Australia works persistently for a peaceful world. We are opposed to the use of violent means to resolve differences between nations, and in particular to the resort to terrorism. Terrorism recognises no rules and respects no moral standards. The victims are almost always innocent victims. Australians have already been victims of this sort of activity, and that is another reason why we are implacably opposed to this sort of behaviour. Let me sum up the Government's position:

We wish to see restraint and an early end to hostilities.

We hope that the conflict will not widen and escalate.

We are fully conscious of the intractable and bitter conflicts of the Middle East, and the need for them to be resolved if the Middle East is to cease to be a source of violence and terrorism not only in that region but throughout the world. We look for such a resolution.

But an essential requirement for ending the fundamental confrontation between Libya and the United States must be that Libya completely and convincingly disavows resource to terrorism.

On 16 April 1986 the Australian Permanent Representative to the United Nations, Mr Woolcott, addressed the Security Council in part as follows (AFAR, April 1986, 352):

As a matter of principle, Australia rejects any attempts to resolve differences between nations by violent measures and in particular through terrorism. This is a principle which has guided the Australian delegation in its approach to many of the issues which have come before this body.

As the Australian Prime Minister, Mr Hawke, said on 15 April, the Australian Government deeply regrets that this conflict has taken place. We urge both sides to engage in genuine efforts to bring about the peaceful resolution of their differences.

It will mean, as an absolute and essential condition, that Colonel Gaddafi terminate his Government's direction of, and export of, and support for, terrorist activity against civilians and civilian targets, such as have been directed recently against United States civilians. This would also mean that the United States should desist from further military action against Libya.

Use of force—United States attack on Libya distinguished from South African attacks on neighbouring States

On 22 May 1986 the Minister representing the Acting Minister for Foreign Affairs in the House of Representatives, Mr Beazley, said in part in answer to a question (HR Deb 1986, 3750–3751):

No, I do not see an equivalence in the situation that occurred in relation to United States action in regard to Libya and that which occurred in the recent attacks by the South African Government across its borders in neighbouring states. I would say, as was said by the Prime Minister at the time, that this Government is not committed to the view that international issues would be settled by resort to violence. But the situation that occurred in Libya was a product of a chain of political initiatives by the United States to attempt to get a resolution of the problem—to secure support for allies and to engage the Libyan Government in a process of discussion, hopefully to achieve a conclusion of removing Libyan support for terrorist activity. It was a decision taken by the US very much against the background in which a political settlement had been sought.

An entirely different situation applies in South Africa. A plethora of possibilities are open to the South African Government to address the real political problems in that area. All those opportunities have been set aside by the South African Government. It is not without significance that it undertook that action at precisely the point of time when the Eminent

Persons Group happened to be visiting South Africa. It represents a sincere initiative on the part of the Commonwealth to attempt to find a settlement whereby the South African Government can enter into a process of negotiation with the majority of the people of South Africa to secure a political settlement which will secure both stability and democratic rights in that country, and in so doing substantially advance Western interests.

All those opportunities have been set aside by the South African Government, both by its actions in this instance and by its general response to the political situation in which that Government finds itself. The South African Government is resorting to resolving its political problems, both internally and externally, by military means, not by negotiation. It has not put forward any proposition that could be seriously entertained by those who seek majority rule in that area and the South African Government has given every indication that it intends not to proceed on that course. In addition, South Africa attacked the territory of our fellow Commonwealth members. It did not sustain a case that substantial terrorist activity had been undertaken across its borders; it simply asserted it. The political context, as I have said, is totally different in those two situations.

To conclude, I would reiterate what Senator Button, as the Acting Minister for Foreign Affairs, said when the raids took place. He was totally condemnatory of them. I understand that the Opposition spokesman on foreign affairs was condemnatory in similar terms. I notice that he is nodding his head in agreement, and that is very welcome indeed. Such actions are insupportable; they are not only damaging to the process of achieving political settlement but—I make this as an ancillary point—they are also damaging to Western interests. We have friendly relations with all the countries that have been attacked. Those friendly relations are important to us, they are important to the Commonwealth. The rogue actions of the South African Government have moved beyond the area of creating a difficult political situation within South Africa; they have moved onto a plane where that Government is directly attacking and threatening Western interests.

Use of force—war—Iran-Iraq war

On 12 February 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement in part (Comm Rec 1986, 160):

> The Minister for Foreign Affairs, the Hon Bill Hayden, today expressed deep concern at the serious escalation in hostilities in the Iran-Iraq conflict arising from the latest offensive by Iranian forces in the Basra region of Iraq.
>
> Mr Hayden repeated previous calls by Australia for an immediate ceasefire leading to negotiations, without precondition, on a comprehensive settlement. This should include respect for international boundaries and an end to further attacks by either side.

On 17 February 1986 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in part in answer to a question (Sen Deb 1986, 418):

As to developments in the Security Council, Australia, as a member of the

Security Council, has been active in the search for a comprehensive settlement. In particular, as President of the Council in November last year we worked to establish a basis for the parties to the conflict to co-operate with the Council. It did not prove possible at that time to secure this co-operation, with Iran maintaining its view that previous Security Council resolutions had not adopted a balanced approach. Both Iraq and Iran expressed their appreciation of the Australian efforts in this respect and agreed that such efforts should continue in the Security Council.

We have been appalled by the destruction, human misery and loss of life resulting from this conflict, which has now entered its sixth year. The Australian Government has expressed its concern to both Iran and Iraq over the attacks on civilian population centres and on merchant shipping, the latter of which have now resulted in the deaths of two Australian seamen, the most recent being that of the last Mr Wayne Spicer on 19 January this year. Recurring allegations that chemical weapons have been used in the conflict are of particular concern to the Australian Government, which has always stated in the strongest terms its abhorrence of chemical weapons. We are working very hard at the Geneva Disarmament Conference to outlaw them. Their use, of course, has been condemned by the Security Council.

On 25 February 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 235):

The Minister for Foreign Affairs, the Hon Bill Hayden, today welcomed the unanimous adoption by the Security Council of a major resolution calling on Iran and Iraq to observe an immediate ceasefire and for the withdrawal of all forces to the internationally recognised boundaries without delay.

Mr Hayden also welcomed the resolution's call to both sides to submit immediately all aspects of the conflict to mediation.

The Australian Government was appalled by the length of the conflict and its terrible cost in human lives and material damage. Australia was closely involved in the drafting of the Security Council resolution, which also deplored the escalation of the conflict and especially:

- territorial incursions
- the bombing of purely civilian population centres
- attacks on neutral shipping and civilian aircraft
- the use of chemical weapons

Mr Hayden called upon the Governments of Iran and Iraq to comply urgently with the terms of the resolution and, in this regard, to co-operate with the Security Council and the United Nations Secretary-General in their attempts to bring an end to the war.

On 21 July 1987 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (News Release No M86):

The Minister for Foreign Affairs, Mr Bill Hayden, today welcomed the passage of a Security Council Resolution (598 of 20 July) calling for a ceasefire in the war between Iran and Iraq. Mr Hayden said the unanimous vote for the resolution demonstrated profound international concern over the danger of a widening of this tragic and protracted conflict. It represented a significant advance on previous Security Council deliberations on the issue.

Australia looked to both parties to the conflict to refrain from any action contrary to the intention of the resolution, and to support the efforts of the UN Secretary-General to mediate in the dispute.

Mr Hayden said the resolution came at a time of rising tension in the Gulf. The security and stability of the region, and the preservation of the rights of all countries to exercise normal freedoms of navigation were concerns Australia shared with other members of the international community. Mr Hayden said that Australia, on several occasions, had presented its concerns on these issued to both Iran and Iraq.

Mr Hayden noted the resolution contained important new features, and included the view of the Non-Aligned nations, further underscoring the strength of international consensus on the danger the war poses to security in the region. It called also on all other states to exercise restraint and refrain from any act which might escalate the conflict.

Passage of the resolution marked the first occasion on which the 15-nation Security Council had drawn upon its mandatory powers to demand an immediate ceasefire between combatants and withdrawal of all forces to internationally recognised boundaries.

The resolution also provides a direct role for the United Nations in establishing a settlement by providing observers to verify the withdrawal and ceasefire and requesting the UN Secretary-General to explore, in consultation with Iran and Iraq, the question of inquiring into responsibility for the conflict.

In recognising the considerable human and material costs of the war and the need for reconstruction with appropriate international assistance, the resolution requested the UN Secretary-General to assign a team of experts to study these matters.

Australia had consistently supported the responsibility of the Security Council for the maintenance of international peace and security, and had been particularly active in the search for a peaceful solution to the Iran/Iraq conflict during Australia's presidency of the Security Council in November 1985.

Mr Hayden said that the resolution was based upon earlier Security Council resolutions on the Iran/Iraq war. He urged both Iran and Iraq to implement Resolution 598 and, in doing so, to demonstrate their intention to bring to an end the senseless loss of life in the war.

Use of force—chemical weapons—use in Iran/Iraq conflict

On 27 March 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement, in part (Comm Rec 1984, 488–489):

The Minister for Foreign Affairs, the Hon Bill Hayden, today called for urgent international action to destroy all chemical weapons and outlaw them for all time. Mr Hayden was commenting on a report to the United Nations Secretary-General released earlier today which found that chemical weapons had been used in the Iran-Iraq war.

The report, by a team of experts including an Australian defence scientist, Dr Peter Dunn, concluded that aerial bombing with chemical agents had taken place in battle zone areas visited by the team during its investigation.

Mr Hayden said evidence collected by the team pointed to the chemical agents being sulphur mustard—a form of mustard gas—and a nerve agent known as tabun. Tabun was a chemical weapon developed by Nazi Germany during World War II. It was an extremely lethal nerve agent which killed with horrific and agonising effect.

It now seemed certain that there had been hundreds, perhaps thousands of victims from chemical weapons, as well as untold thousands of other casualties as the war continued. The Australian Government was deeply concerned that both sides in recent weeks appeared to be prosecuting the war with increasing ferocity.

Mr Hayden said there could be no justification for the use of these barbaric weapons which constituted a clear breach of international law. Both Iraq and Iran, as well as Australia, are parties to the 1925 Geneva Protocol which prohibits the use of chemical weapons.

On 11 October 1984 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer in part in answer to a question on notice in the House of Representatives (HR Deb 1984, 2217–2218):

The United Nations team of specialists, which included an Australian scientist, concluded that mustard gas and the nerve agent 'Tabun' had been used in Iran. The team's mandate did not extend to examining the existence of stocks of chemical weapons, nor did the team visit Iraq. Under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, the 1925 Geneva Protocol, to which both Iraq and Iran are parties, the production or stockpiling of chemical weapons is not prohibited. It would be difficult for the Secretary-General of the United Nations to authorise an investigation into an activity which is not prohibited by international law. There is also the question of whether the country concerned would agree to a United Nations investigation under such circumstances.

As a general principle, however, the suggestion has much to commend it. The Government is firmly of the view that on-site inspection of 'non-production' will be a fundamental component of the verification measures to be established under the comprehensive chemical weapons convention and has made this view known in relevant quarters.

The Government has made it clear to the Government of Iraq its total opposition to the use of chemical weapons. The Government also strongly supported a declaration by the President of the Security Council on 30 March 1984 which condemned the use of chemical weapons as reported by the UN team of specialists, reaffirmed the need to abide by the 1925 Geneva Protocol, urged both parties to observe the generally recognised principles and rules of international humanitarian law applicable to armed conflicts and called urgently for a ceasefire. On 29 June 1984 the Secretary-General of the United Nations sought from the governments of Iran and Iraq a solemn commitment not to use chemical weapons of any kind for any reason. Iran has provided such an assurance.

On 5 August 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement, in part (Comm Rec 1984, 1420–1421):

The Minister for Foreign Affairs, the Hon Bill Hayden, announced in

Geneva today that new regulations had been approved to strengthen the Australian Government's control over the export of certain chemicals that could be used to manufacture chemical weapons. The regulations come into effect from 10 August.

Mr Hayden, who is in Geneva to attend the Conference on Disarmament, said that under the regulations, in the form of an amendment to the Customs (Prohibited Exports) Regulations, the prior approval of the Minister for Defence Support would be required for the export of eight chemicals which had been identified as important ingredients of certain chemical weapons. The chemicals are potassium fluoride, dimethyl methylphosphate, methyl phosphonyl difluoride, phosphorous oxychloride, thiodiglycol, cloroethanol, dimethylamine and methyl phosphonyl dichloride.

On 31 March 1985 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1985, 419):

The Minister for Foreign Affairs, the Hon Bill Hayden, said today that the loss of life in the Iran-Iraq war had reached appalling dimensions. He said the Australian Government believed there should be an immediate ceasefire leading to negotiations without preconditions on a comprehensive settlement. This should include respect for the international boundary and an end to further attacks by either side.

In recent fighting some 10,000 troops have been reported killed. There had been heavy civilian casualties from calculated attacks on civilian population centres. Mr Hayden said that he was disturbed by the continued attacks on merchant shipping and the declaration of an aerial exclusion zone over Iran.

Further reports that chemical weapons had been used in the battlefield were a matter of grave concern. The Australian Government had repeatedly expressed its condemnation of any use of chemical weapons. Mr Hayden recalled that in March 1984 a United Nations investigation which included an Australian expert, had confirmed that chemical weapons had been used in the war.

The Government had always stated in vehement terms its abhorrence of chemical weapons. The latest allegations underline the importance of concluding a comprehensive convention to outlaw chemical weapons and the need for effective verification provisions. The Government would do all it could to facilitate the early conclusion of such a convention and the strengthening of the role of the United Nations Secretary-General in investigating allegations of the use of chemical weapons. Mr Hayden said:

We deplore the hostilities because of the destruction and loss of life and also because they have prejudiced the progress achieved by the Secretary-General in his mediation efforts over the past year and efforts by the Security Council to promote agreement on an exchange of prisoners of war.

On 16 March 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement in part (Comm Rec 1986, 336):

The Minister for Foreign Affairs, the Hon Bill Hayden, today called for urgent international action to destroy all chemical weapons and outlaw them for all time.

Mr Hayden was commenting on a report to the United Nations Secretary-General released in New York on 14 March, which again confirmed that chemical weapons had been used in the Iran-Iraq war.

The report, by a team of experts including an Australian defence scientist, Dr Peter Dunn, which visited Iran from 26 February to 3 March, concluded that aerial bombing with chemical agents had taken place in battle zones visited by the team during its investigation. Mr Hayden said evidence collected by the team on this occasion pointed to the chemical agent being mustard gas.

Mr Hayden said that the report also referred to earlier investigations undertaken by members of the team in 1984 and 1985. He noted that in its current report the team had unanimously concluded on the basis of the investigations in 1984, 1985 and 1986, that on many occasions Iraqi forces have used chemical weapons against Iranian forces.

Mr Hayden said there could be no justification for Iraq's continuing use of these barbaric weapons which constituted a clear breach of international law and a threat to international security. Both Iraq and Iran, as well as Australia, are parties to the 1925 Geneva protocol which prohibits the use of chemical weapons. He recalled that the Australian Government had made clear on many occasions that it would condemn unreservedly any use of chemical weapons wherever and whenever it should occur. It had no hesitation in doing so now.

On 30 April 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice (HR Deb 1986, 2816–2817):

The 1986 Report of the Mission Despatched by the Secretary-General to Investigate Allegations of the Use of Chemical Weapons in the Conflict between Iran and Iraq, which visited Iran from 26 February to 3 March 1986, concluded on the basis of investigations in 1984, 1985 and 1986 that:

(a) on many occasions Iraqi forces have used chemical weapons against Iranian forces;

(b) the agent used has mainly been mustard gas, although on some occasions nerve gas was also employed.

There has been a number of allegations of use of chemical weapons—some verified and others not—once the Geneva Protocol was concluded in 1925. Some of these instances of use involved Parties to the Protocol while others concerned non-Parties. As far as the Government is aware, however, the conclusions of the 1986 Report of the Mission despatched by the United Nations Secretary-General constitute the first occasion since the Protocol was concluded that a Party to the Protocol has been named by an independent panel of experts established under appropriate international auspices as being in violation of the Protocol.

(3) The Government has already strongly condemned Iraq's use of chemical weapons in a statement issued by me on 16 March 1986 and in statements to the United Nations Security Council and the Conference on Disarmament. The Government has also made its views known directly to the Government of Iraq.

On 14 May 1987 the Acting Minister for Foreign Affairs, Senator Evans,

issued the following statement, in part (Comm Rec 1987, 713–714):

> The Acting Minister for Foreign Affairs, Senator the Hon Gareth Evans, today expressed the Government's concern at the findings of the United Nations investigation team which found fresh evidence of chemical weapon use during a recent visit to Iran and Iraq. The team included an Australian, Dr Peter Dunn of the Materials Research Laboratories. The team has now released its report into the allegations of use of chemical warfare in the Iran/Iraq conflict.
>
> Senator Evans repeated the condemnation of the Australian Government of the use of chemical weapons in the Gulf War. He underlined the support of the Australian Government for legal and moral prohibitions against chemical warfare which could never be justified in any circumstances.

Use of force—chemical weapons—position of Australia

On 17 March 1987 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice in the Senate (Sen Deb 1987, 839–840):

> Australia has spoken out strongly against the use of chemical weapons by any country and will continue to do so. On 16 March 1986 in condemning Iraq's use of chemical weapons in the Gulf War, I made clear that the Australian Government did not consider the use of chemical weapons justified under any circumstances. Australia has long urged that the current negotiations for a convention to eliminate chemical weapons should include, as one of its objectives, a ban on the use of such weapons. At the recently concluded UN General Assembly, Australia cosponsored two resolutions on chemical weapons both of which for the first time endorsed this Australian position.
>
> (4) A comprehensive international convention banning chemical weapons has long been a high priority for Australian disarmament policy. Iraq's confirmed use of chemical weapons in the Gulf war and disturbing indications over the past few years of a slow growth in the number of states either possessing or interested in acquiring an offensive chemical warfare capability have lent a special urgency to this task. Accordingly, Australia's work on this subject has picked up momentum in the past two years to the point where foreign commentators, notably in the United States, have spoken of "Australia's leadership role" on this subject. Work is proceeding on three fronts.
>
> First, Australia has been prominent at both the diplomatic and technical level in the negotiations at the 40-nation Conference on Disarmament for a new Comprehensive Chemical Weapons Convention. It is intended that this Convention will not only halt the use of chemical weapons but also their possession and manufacture, and that it will require the destruction of existing stocks and their means of production under effective international supervision and the monitoring of civilian chemical industries to guard against the hidden production of weapons. In 1986 Australia chaired one of the Conference on Disarmament's three Working Groups on this topic which made considerable progress. In May 1986 the Australian delegation to the Conference on Disarmament tabled a paper outlining the results of a

trial run of inspection procedures of a civilian chemical plant carried out in Australia by Government officials with the willing cooperation of the Australian company which owns the factory.

Second, Australia has been active against chemical weapons in the United Nations, and has supported an initiative to authorise the United Nations Secretary-General to undertake investigations of reports of the use of chemical weapons. This led the Secretary-General to compile a list of laboratories and experts to assist him in the investigation of reports of use of chemical weapons eg through the analysis of samples gathered in the course of such investigations. Australia nominated the Defence Department's Material Research Laboratories (MRL) in Melbourne for inclusion on the Secretary General's list and has spent nearly $400,000 on providing MRL with additional manpower and equipment. Dr Peter Dunn of MRL participated in the 1984 and 1986 United Nations Secretary-General's on-site investigations in Iran, which confirmed Iraq's use of chemical weapons in the Gulf War. Iraq's use has been condemned by the Security Council also with Australia's participation.

Finally, the Government has taken steps to ensure that Australia does not inadvertently contribute to the problem of chemical weapons use through chemicals which are exported from Australia being secretly diverted to the manufacture of chemical weapons. The Customs (Prohibited Exports) Regulations have been amended to control the export from Australia of eight chemicals that could be misused in this way and the Government has recently decided to apply export controls to an additional 22 such chemicals. Australia has convened consultations with eighteen industrial countries which have adopted similar measures (known as the 'Australian Group') with a view to harmonising and cooperating in such measures internationally, as well as exchanging information and warning domestic chemical industries against the dangers involved.

On 2 November 1987 the Minister for Foreign Affairs, Mr Hayden, provided the following answer to a question on notice (HR Deb 1987, 1868–1869):

The export of thirty chemical weapons precursors is regulated under the Customs (Prohibited Exports) Regulations, regulation 13D and schedule 15, as amended on 29 May 1987. This regulation provides that the Minister for Foreign Affairs and Trade or his delegate may issue permits, subject where necessary to conditions, for the export of prescribed chemicals. Such permits would not be issued in cases where the Government had reason to believe that the chemicals were likely to be used to make chemical weapons. Similarly regulations exist in many overseas countries, although the detailed provisions and specific chemicals covered vary.

There is no system for monitoring the chemicals once they have left Australia. The Government maintains a dialogue with a wide range of countries on chemical weapons issues, and convenes a consultative group of nineteen industrialised nations to harmonise chemical weapons precursor export controls. Such consultations provide an opportunity for the Government to be alerted to unauthorised diversions of Australian-supplied chemicals for chemical weapons manufacture.

The Government has no evidence of any violation of regulation 13D of the Customs (Prohibited Exports) Regulations, or of diversion of Australian made chemicals from normal civilian use to the manufacture of chemical weapons.

On 23 August 1985 the Minister for Defence, Mr Beazley, provided the following written answer in part of a question on notice in the House of Representatives (HR Deb 1985, 375):

The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction refers, as the title implies, to microbial or other biological agents or toxins. According to the records available to the Department of Defence no weapons of this type have ever been tested in Australia, before or after 1972; and certainly no weapons of this type have been tested in Australia since the Convention entered into force on 26 March 1975.

As part of a long-standing policy extending in effect from the end of World War II and clearly formulated for at least 20 years Australia has no offensive capability in chemical warfare. As a consequence of this policy Australia undertakes no development, maintenance or storage of chemical weapons. Australia has, however, maintained a modest program of research into defence against chemical weapons. This program has included the evaluation of protective equipment, detectors and decontamination equipment at Materials Research Laboratories (MRL) in Melbourne. The South Australian branch of MRL was transferred to the CSIRO in September 1977 and was never involved in chemical defence activities. The Joint Tropical Trials and Research Establishment has trials sites at Innisfail and Cloncurry in Queensland. These sites are used for tropical exposure tests of many kinds of military equipment. There have been no tests involving chemical weapons since World War II. The current testing program includes tropical exposure tests of respirators which can be used for chemical defence.

Use of force—chemical and bacteriological weapons—1925 Protocol—withdrawal by Australia of its reservation

On 26 November 1986, the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 2154–2155):

The Minister for Foreign Affairs, the Hon Bill Hayden, announced today that Australia had withdrawn its reservation to the 1925 Geneva Protocol banning chemical weapons. Mr Hayden said that the Government's attention to chemical weapons issues intensified in 1984 when evidence of use of such weapons surfaced in the Iran-Iraq war. This use was confirmed by a UN investigation team, which included an Australian expert.

Following this deplorable development and given the Government's commitment to a comprehensive convention banning chemical weapons, the Government initiated the processes to withdraw Australia's reservation to the 1925 Protocol. The reservation was made in 1930 when Australia acceded to the Geneva Protocol for the Prohibition of the Use of War of Asphyxiating, Poisonous or other Gases and of Bacteriological Methods of Warfare.

Mr Hayden observed that Australia's reservation had left open the possibility of Australia using chemical weapons against countries which were not parties to the Protocol and of retaliating with chemical weapons in the event that such weapons were used against Australia.

Mr Hayden said that the Government rejected the assumption that Australia would be prepared, under certain circumstances, to use chemical weapons. On 16 March this year, in condemning Iraq's use of chemical weapons in the Gulf War, he had made clear that the Australian Government did not consider the use of chemical weapons justified under any circumstances.

Mr Hayden said that Australia's withdrawal of its reservation was consistent with the Government's view and with general international opinion that chemical warfare was an abhorrent activity. It also reflected the Australian Government's strong commitment to the early conclusion of a comprehensive convention which would ban the development, production, stockpiling and use of chemical weapons, outlawing them altogether, not simply their use. The negotiation of such a convention was a high priority for the Australian delegation to the Conference on Disarmament in Geneva.

Mr Hayden said that the 1925 Protocol, although very valuable, was a less than perfect instrument. In view of the many reservations to it, it could not be stated categorically that it prohibited all use of chemical weapons. By withdrawing its own reservation and by its active pursuit of the convention, Australia aimed to strengthen the international norms against chemical warfare.

Note: the text of the Protocol, and Australia's reservation, were attached to Mr Hayden's statement and are reproduced here as published in AFAR, November 1986, 1067:

Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare

Geneva, June 17, 1925

PROTOCOL

The undersigned Plenipotentiaries, in the name of their respective Governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

DECLARE:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of the declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear today's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratifications to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

Australia acceded to the Protocol on 22 January 1930 –

Subject to the reservations that His Majesty is bound by the said Protocol only towards those Powers and States which have both signed and ratified the Protocol or have acceded thereto, and that His Majesty shall cease to be bound by the Protocol towards any Power at enmity with Him whose armed forces, or the armed forces of whose allies, do not respect the Protocol.

Use of force—weapons—chemical weapons—development by France—Kerguelen Island

On 29 May 1987 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in part in answer to a question (Sen Deb 1987, 3253):

> We are not aware of the report which apparently suggests that France is working on a copy of the United States 155mm binary nerve gas artillery shell, but we do know that in 1986 France foreshadowed that it would resume production of a deterrent to chemical warfare capability. The Government has no evidence that France has tested chemical warfare on the Kerguelen Islands. Australia has had numerous discussions with the French Government about chemical warfare, and specifically about the development of a comprehensive convention banning chemical weapons. The French Foreign Minister, Raimond, reconfirmed France's commitment to a chemical weapons convention during an address to the conference on disarmament held in February this year.

Use of force—biological weapons—review conference

On 3 October 1986 the Acting Minister for Foreign Affairs, Mr Bowen, issued the following statement in part (Comm Rec 1986, 1700):

> The Acting Minister for Foreign Affairs, the Hon Lionel Bowen, said today that the Australian government welcomed the successful outcome of the second review conference of the Biological Weapons Convention, which took place in Geneva from 8–26 September...

Together with the 1925 Geneva Protocol, which prohibits the use of chemical and biological weapons, the Biological Weapons Convention establishes an important norm of international behaviour, namely that States shall not possess or use biological agents or toxins as weapons. This norm had been reaffirmed by the recent review conference.

Use of force—nuclear weapons—Treaty on the Non-Proliferation of Nuclear Weapons—International Atomic Energy Agency safeguards

On 23 August 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to the question "What safeguards exist to ensure that Australian uranium is not used in nuclear weapons?" (HR Deb 1985, 592–593):

Australia's nuclear safeguards requirements on exported uranium have the effect of reinforcing the controls provided in the Non-Proliferation Treaty to ensure that non-nuclear weapon states do not manufacture nuclear weapons. Further they provide assurance that Australian uranium cannot end up in the nuclear weapons programs of the nuclear weapon states which in any event have their own sources of nuclear material not subject to the stringent conditions required in Australia.

In ensuring that uranium exported by Australia for peaceful purposes is not used in nuclear weapons, the Government relies upon:

(a) the operation of its network of bilateral nuclear safeguards treaties, which contain binding international undertakings that:

Australian uranium will not be diverted to military or nuclear explosive purposes nor used for research thereon;

Australian uranium and derived generations of nuclear material will be covered by International Atomic Energy Agency (IAEA) safeguards to verify compliance with this;

Fall-back-safeguards will apply if at any stage NPT or IAEA safeguards ceased to operate;

Prior Australian consent is required to the enrichment of Australian uranium beyond 20% in the isotope U235, for the reprocessing of spent fuel derived from Australian uranium, and for retransfer of Australian uranium to another country. Although Australia has not received or consented to any proposal to enrich Australian uranium beyond 20% in the isotope U235, it has exercised its prior consent rights over reprocessing and retransfer undertaken by certain of our treaty partners on a long-term and specific basis, including within the parameters of clearly defined fuel cycle requirements and a delineated and recorded nuclear fuel cycle program:

Adequate physical security to internationally agreed levels to prevent theft or nuclear material will be applied by importing countries;

Sanctions (enforceable if necessary by compulsory international arbitration) may be invoked by Australia if specified breaches occur; and

Consultations with bilateral nuclear safeguards treaty partners be

held at least annually and more frequently as and when required, particularly in respect of reprocessing and plutonium use questions.

Australia will supply uranium only to countries with which it has concluded nuclear safeguard agreements. Australia has retained the right to be selective as to the countries with which it is prepared to sign nuclear safeguards agreements and to which it is prepared to export uranium. In addition, Australia will not supply uranium to any non-nuclear weapon state not party to the NPT.

Australia has concluded a network of eleven nuclear safeguards agreements (with Finland, the Philippines, the Republic of Korea, the United States of America, the United Kingdom, France, Canada, Sweden, EURATOM, Japan and the IAEA). The operation of this network is constantly monitored by the Government, including through the Australian Safeguards Office (ASO). Where Australian uranium can be and has been exported subject to one or more of the above agreements, ASO maintains a constant check through an elaborate system of notifications and reports on the disposition of all Australian uranium and subsequent generations of produced nuclear material throughout the international nuclear fuel cycle. This monitoring is supplemented by regular consultations. It should be noted that although Australia's nuclear safeguards agreement with the IAEA primarily deals with the application of safeguards in Australia required by the NPT, it also contains obligations for Australia to notify the IAEA when uranium ore concentrated is exported to another non-nuclear weapon state, or when other nuclear material under safeguards is exported to another country.

(b) International nuclear safeguards applied by the IAEA to verify non-diversion of nuclear material (including Australian uranium) from peaceful purposes within the jurisdiction of Australia's treaty partners.

The Government recognises that the Agency safeguards system is not perfect, although it provides substantial assurance that, in NPT States, the diversion of nuclear material from civil facilities is not occurring. On a technical level, there is continued improvement; both there and on other levels, the Government is committed to and working actively towards the progressive enhancement of the effectiveness of Agency safeguards.

The Government commissioned the Australian Science and Technology Council (ASTEC) to undertake a thorough review of Australia's role in the nuclear fuel cycle, taking into account its commitment to nuclear non-proliferation, to an effective NPT and to the application of the most stringent safeguards to future exports of Australian uranium. The Government's response to the ASTEC Report (tabled in the House of Representatives by the Deputy Prime Minister on 23 May) sets out the concrete and methodical program it has in mind pursuing in this regard.

Use of force—nuclear weapons—possible possession by terrorist groups—measures for prevention—Nuclear Non-Proliferation Treaty

On 31 May 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to the respective question on notice in the House of

Representatives (HR Deb 1985, 3321–3322):

(1) Will Australia be making submissions to the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons regarding means of reducing the dangers of the horizontal spread of nuclear weapons; if so, has his Department turned its attention to the dangers of nuclear devices falling into the hands of terrorist groups.

(2) What safeguards can be effected to prevent Governments from passing such devices to extra-national political groups which, in seeking to achieve their own objectives, may also be serving the political, military or religious objectives of the national government.

(1) Australia will be working actively before and at the third Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), to be held in Geneva in September 1985, to reduce further the dangers of horizontal proliferation. One particular means which Australia will be pursuing is the acceptance pursuant to Article III.2 of the treaty of fullscope safeguards as a condition of nuclear supply to non-nuclear weapon states not parties to the NPT. With regard to the second part of the question, preventing nuclear devices from falling into the hands of terrorist groups has always been one of the factors in the determination of appropriate safeguards and physical protection measures. (See Part (2) below). I have interpreted nuclear devices as meaning nuclear explosive devices.

(2) With respect to nuclear explosive devices, the three nuclear weapon states parties to the NPT have an international legally-bind obligation under Article I of the treaty not to transfer such devices or control over them to any recipient whatsoever. The two nuclear weapon states which are not parties to the NPT have a policy which reflects that approach.

The non-nuclear weapon states parties to the NPT have accepted in Article II of the treaty an international legally-binding obligation not to manufacture or otherwise acquire nuclear weapons and other nuclear explosive devices and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices. Moreover, reading Articles I and II together with the preamble and the object and purposes of the treaty, the non-nuclear weapon states parties to the NPT also are enjoined from engaging in the sort of activity from which the nuclear states are prohibited by Article I.

Parties to the Treaty of Tlatelolco which have brought that treaty into force accept an international legally-binding obligation to use nuclear material and facilities under their jurisdiction exclusively for peaceful purposes. In more specific terms, they also accept obligations to proscribe the deployment, testing, use or manufacture of nuclear weapons in their territories and to themselves refrain from the manufacture or possession of any nuclear weapon. Non-nuclear weapon states which are parties to the NPT and states which are parties to the Treaty of Tlatelolco which have brought that Treaty into force also accept international safeguards to verify their non-proliferation commitments. Safeguards are applied through an international legally-binding agreement with the IAEA. Compliance with

the obligations in the agreements are monitored and overseen by the IAEA and its Board of Governors. Safeguards verify the non-diversion of safeguarded nuclear material for peaceful purposes.

Under the operation of safeguards, as applied pursuant to obligations in the NPT and the Treaty of Tlatelolco, the international transfer of nuclear material to non-nuclear weapon states is recorded. Many suppliers, such as Australia, also have bilateral requirements including that of prior consent over re-transfers. In Australia's case, an eligible destination for end-use of Australian origin nuclear material is a country with which Australia has a bilateral nuclear safeguards agreement in force. Safeguarded nuclear material, therefore, could not be passed to extra-national groups without its detection and, in many cases, the prior consent of the supplier. In the latter instance, where suppliers have undertaken international non-proliferation commitments, such transfers would be in breach of those commitments. Certain other countries, not in any of the above categories of states, have not entered into any comparable international legal obligations concerning non-proliferation and may or may not require IAEA safeguards on their nuclear exports. In a small number of such non nuclear weapon states which have unsafeguarded nuclear facilities, the passing of nuclear material from such facilities to extra-national political groups is theoretically possible, although unlikely for national security reasons.

This possibility, nevertheless, underlines the importance of universal adherence to the NPT or, at a minimum, universal acceptance of fullscope safeguards under the IAEA—a current Australian objective as outlined in Part (1) above.

With respect to the possible illicit manufacture of nuclear explosive devices, the major nuclear suppliers and consumers have accepted international legal obligations—such as are in Australia's bilateral nuclear safeguards agreements—to apply physical protection in accordance with standards recommended by the International Atomic Energy Agency. These physical protection obligations are the principal means of preventing nuclear items falling into the hands of terrorist groups. The first NPT Review Conference in 1975 recommended the negotiation of an international convention of the physical protection of nuclear material. Negotiations on such a convention were completed in 1979. The convention has so far attracted forty signatures and twelve ratifications, nine short of the number required to bring it into force. Upon its entry into force, the convention will supplement existing bilateral arrangements. Australia signed the convention on 22 February 1985 and is actively considering the steps required for its ratification.

Use of force—nuclear weapons—nuclear capability of Australia

On 2 April 1984 the Prime Minister, Mr Hawke, said in answer to a question without notice in part (HR Deb 1984, 1164–1165):

> I can state categorically that the Government has never made any decision to acquire or develop a nuclear capability and has no intention of doing so; nor has the Cabinet or any Cabinet committee discussed the possible

development of a nuclear capability by Australia. On 22 November 1983, Cabinet made decisions on arms control and disarmament, which have been announced, and I remind the House of them:

(i) to promote measures to halt and reverse the nuclear arms race;

(ii) to uphold the international nuclear non-proliferation treaty;

(iii) to promote a comprehensive and verifiable ban on nuclear testing;

(iv) to develop the concept of a nuclear free zone in the South Pacific;

(v) to support the achievement of an agreement to ban chemical weapons;

(vi) to support the process of negotiator, and the achievement of balanced and verifiable arms control agreements;

(vii) to take an active role in pursuing arms control and disarmament measures wherever possible...

(viii) to affirm Australia's readiness to join a consensus to hold an international conference on the Indian Ocean zone of peace question.

...

I conclude by saying this: I repeat that the commitment of this Government to the Nuclear Non-Proliferation Treaty, which has been made clear in this place and in this country by me, and internationally in many forums by the Minister for Foreign Affairs, is complete and unequivocal. Mr Speaker, you will understand that the Nuclear Non-Proliferation Treaty creates a permanent and binding obligation on Australia not to acquire nuclear weapons. We will not only honour that obligation, but this Government, in this country and around the world in all relevant forums, will do all in its efforts not merely to support that but to widen its application.

On 30 May 1984 the Minister for Defence provided the following written answer to a question on notice in the Senate (Sen Deb 1984, 2093):

No weapon or weapons delivery system in the possession of the Australian Defence Force is equipped with nuclear ordnance. The standard design of many modern weapons and weapons delivery systems is such that they have been or can be modified to have a nuclear capability. This applies to various items in the Australian inventory including the FA18 aircraft on order for the Royal Australian Air Force.

On 2 April 1984 the Prime Minister stressed Australia's complete and unequivocal commitment to the Nuclear Non-Proliferation Treaty and its permanent and binding obligation on Australia not to acquire nuclear weapons.

Use of force—United State "Strategic Defence Initiative"—comparable Soviet Union program of research—Australian attitude

On 15 May 1985 the Minister representing the Minister for Defence in the Senate, Senator Gareth Evans, said in answer to a question (Sen Deb 1985, 1984):

> The United States strategic defence initiative is a Department of Defense long term research program which intends to explore the technology options available for incorporation into a possible system of ballistic missile defence.
>
> The Soviets are conducting similar research programs. These include directed energy weapons developments and improvements to the anti-ballistic missile system. It is also correct that the Soviets are continuing a major upgrading of their ballistic missile defence capabilities around Moscow. I should add, however, that the ABM system around Moscow, including the new Pushkino phased array radar, is within the limits established by the 1972 anti-ballistic missile treaty.
>
> This Government views with concern any developments that could affect the present system of global deterrence and progress on arms control. While ethical arguments were first put forward to support the SDI concept it could well be argued that progress towards disarmament is even more ethical than a defensive system. Suffice to say that at present we see contradictions and problems inherent in the SDI concept. Australia has made clear that it does not endorse SDI or its Soviet counterpart.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided a written answer in similar terms to a question in the House of Representatives: see HR Deb 1985, 4056.

On 5 June 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following in answer in part to a question on notice (HR Deb 1986, 4853):

> The Government's position is that it does not endorse the SDI or the comparable research program being undertaken in the Soviet Union.

On 20 February 1987 the Minister for Defence, Mr Beazley, provided the following answer in part to a question on notice (HR Deb 1987, 487):

> I explained on 8 April 1986 (*Hansard*, p 1797) that the Government will not be entering into negotiations to establish an umbrella agreement for SDI research, and that this will preclude Australian participation in research funded under the SDI program. This is entirely consistent with the Government's clearly stated position of not endorsing the SDI concept, believing instead in the importance of preserving and protecting the integrity of the existing regime of arms control and disarmament agreements.

Use of force—weapons—nuclear weapons—deep ocean transponders—relevance of the 1971 Seabed Treaty

On 10 September 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 377–378):

> Article I of the 1971 Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof (The Seabed Arms Control Treaty) states *inter alia* that:
>
> The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a seabed zone, as defined in Article II, any nuclear weapons or any

other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons and

The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

The States Parties to the Treaty have not interpreted Article I to have any application to the emplacement on the seabed of deep ocean transponders to monitor the impact in broad ocean areas of unarmed ballistic missiles during the tests of such delivery vehicles. A number of states have conducted test firings of unarmed ballistic missiles into broad ocean areas since the 1960s using such transponders to monitor impact. In this regard, the Final Declaration of the Second Review Conference of the Seabed Arms Control Treaty held in September 1983 stated, inter alia, that the review undertaken by the conference confirms that the obligations assumed under Article I of the Treaty have been faithfully observed by the States Parties. Australia, the United States, USSR and other States Parties endorsed this Declaration. On the basis of the foregoing, and the State practice, the Government does not consider the placement of the transponders to be contrary to Article I. It will not therefore call upon the United States to remove the transponders nor will it refer the matter to the United Nations Security Council.

Use of force—environmental modification techniques of warfare—Convention on the Prohibition—Australian ratification

On 28 August 1984 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1984, 1650–1651):

The Minister for Foreign Affairs, the Hon Bill Hayden, has signed the instrument of ratification which, when deposited with the United Nations, will make Australia a full party to the environmental modification convention.

The convention, officially known as the Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques, was signed by Australia on 31 May 1978. Countries which are party to this convention undertake not to use environmental modification techniques for waging war. Such techniques would include earthquakes, tsunamis (ie 'tidal waves'), changes in the weather or climate patterns, changes in ocean currents and changes in the state of the ozone layer or ionosphere.

While no country is able yet to produce and control for warlike purposes the phenomena the use of which the convention prohibits, the convention is intended to pre-empt new military developments and thereby make a contribution to international security. It is a useful addition to other existing multilateral arms control and disarmament treaties.

As a result of ratifying the convention Australia will be able to participate fully in the first conference to review the implementation of the convention, to be held in Geneva from 10–22 September of this year.

Use of force—nuclear weapons—Australian capability

On 11 February 1986 the Minister for Defence, Mr Beazley, provided the following answer in part to a question on notice asking whether the Government was opposed to "a nuclear component for the Australian Defence Force" (HR Deb 1986, 173):

> Yes. I would refer the honourable member to the statement made by the Prime Minister in Parliament on 2 April 1984, in which he said:
>
> > I can state categorically that the Government has never made any decision to acquire or develop a nuclear capability and has no intention of doing so; nor has the Cabinet or any Cabinet committee discussed the possible development of a nuclear capability by Australia.

Use of force—nuclear weapons—proposed nuclear free zone in the Australian Capital Territory—veto

On 11 February 1986 the Minister for Territories, Mr Scholes, provided the following answer to a question concerning the Nuclear Activities (Prohibitions) Ordinance 1983 passed by the Australian Capital Territory House of Assembly in 1984 (HR Deb 1986, 76):

> The Government has carefully considered the implications of the introduction of the proposed Nuclear Activities (Prohibitions) Ordinance in the ACT.
>
> The Government has decided that, in line with its obligations under the Nuclear Non-Proliferation Treaty, the trade in uranium for peaceful purposes and the use of radioactive materials in medical and other research activities will not be prohibited. The declaration of the ACT as a nuclear free zone could hinder such activities within the ACT.
>
> The proposed Ordinance could only be enacted as Commonwealth Law and as such would be in conflict with Government policy and international treaty obligations. For this reason, the proposed Ordinance cannot be enacted by the Government.

Use of force—nuclear weapons—nuclear conflict with the United States—whether Australia bound to assist

On 25 September 1986 the Minister for Defence, Mr Beazley, provided the following written answer to a question on notice asking whether Australia was bound to support the USA should it become involved in a nuclear conflict (HR Deb 1986, 1512):

> Australia has no binding legal obligation to provide military support to the US in those hypothetical circumstances. However should the situation arise, the Government of the day would naturally give due weight to the broad interests it shares with its US ally as well as to the specific obligations contained in the ANZUS Treaty in determining what support would be appropriate.

Use of force—nuclear weapons—legality—possible advisory opinion from the International Court of Justice

On 11 May 1987 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, was asked about the possibility of seeking a

ruling from the International Court of Justice on the legality or otherwise of nuclear weaponry. He answered in part as follows (Sen Deb 1987, 2551–2552):

> The situation is that the issued involved in getting the ICJ to make the kind of declaratory judgment involved are very complex and weighty. Whether it is practical, practicable or effective to pursue the issue through the ICJ, given the essential stumbling block—which has been, hitherto, the attitudes of the super-powers themselves—is certainly an open question. We welcome constructive efforts at this time to contribute to the debate and to think of new ways in which it can be advanced. Certainly, we will leave no stone unturned in the future, as we have in the past, in the pursuit of our disarmament objectives.

Use of force—nuclear weapons—testing—proposed comprehensive test ban treaty

On 20 November 1987 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in answer to a question (Sen Deb 1987, 2159):

> Some dramatic initiatives have been taken by the Australian delegation at the United Nations and the response has been outstandingly successful. An Australia-New Zealand resolution calling for a comprehensive test ban treaty and practical work on associated issues was adopted by an overwhelming majority in the First Committee of the United Nations General Assembly on 13 November. The resolution gained the support of 122 nations and was opposed only by the United States and France. It attracted more support than other resolutions calling for the cessation of nuclear test explosions. It included a specific call for the development of an international seismic monitoring network that would be essential to the verification regime required for a comprehensive test ban treaty. An Australian resolution on the notification of details of nuclear tests to the Secretary-General was also adopted by a large majority. The Australian delegation has been displaying conspicuous and very effective leadership in the carrying forward of these crucially important issues of principle and practice as far as disarmament is concerned.

Use of force—nuclear weapons—testing—moratoria on testing by China and the USSR

On 27 March 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 425):

> The Minister for Foreign Affairs, the Hon Bill Hayden, today expressed his appreciation of Chinese Premier Zhao Ziyang's recent announcement that China would no longer conduct nuclear tests in the atmosphere.
>
> Premier Zhao made the pledge on 21 March at a rally in Beijing to mark the International Year of Peace. Mr Hayden said that in disarmament consultations with the Chinese in recent years Australia had encouraged China to join the existing regime of restraints on nuclear testing.
>
> Mr Hayden said that although China had not conducted a nuclear test in the atmosphere since 1980 it was the only nuclear weapon state that, until

now, had not officially stated its intention to refrain from atmospheric tests. The United States, the Soviet Union and the United Kingdom had concluded the Limited Test Ban Treaty in 1963 banning nuclear tests in the atmosphere, under water and in outer space. France, although not a party to this treaty, has conducted all its tests underground since 1975.

Mr Hayden said that universal observance of the 1963 Treaty and the 1974 Treaty limiting the yield of underground nuclear explosions to 150 kilotons would be important steps toward the conclusion of a verifiable comprehensive treaty to ban all nuclear explosions in all environments for all time. Mr Hayden reiterated that such a treaty remained a top priority for Australia.

On 8 October 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice (HR Deb 1986, 1704):

The Government welcomes any interruption of the nuclear testing programs and has welcomed the Soviet Union's unilateral moratorium on nuclear explosions. The Government agrees that the co-operation of both superpowers is essential if a comprehensive test ban treaty (CTBT) is to be concluded. The Soviet moratorium would be a positive step towards a CTBT if both parties agreed that this was a sensible way of working towards a CTBT. However, this is not the case. The Government's own position is that the most direct path to a CTBT is to address and overcome the outstanding verification problems. This view is supported by the history of the long quest for a CTBT. It is the Government's hope that the United States and the Soviet Union will be able to find some areas of common ground on the testing issue.

On 29 December 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement, in part (Comm Rec 1986, 2331):

The Minister for Foreign Affairs, the Hon Bill Hayden, commented today on the Soviet Union's announced intention to abandon its unilateral moratorium on nuclear explosions after the first United States nuclear explosion in 1987 and what this portended for the objective of a test ban.

...

Mr Hayden said that the announcement by the Soviet Union that it would end its unilateral moratorium emphasised the importance of international efforts to make possible the conclusion of a legally binding, effectively verified and consequently, durable comprehensive test ban treaty that would end all nuclear explosions in all environments for all time. Australia gave this approach high priority in its disarmament policy.

Mr Hayden recalled that while the Australian Government had welcomed the Soviet moratorium, as it would any interruption to nuclear testing, it had insisted from the outset that unilateral moratoriums were no substitute for the concrete steps needed to reach international agreement on a permanent end to nuclear testing.

Use of force—war—nuclear war—condemnation by Australia

On 21 August 1984 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer in part to a question on notice in the House of Representatives (HR Deb 1984, 90–91):

Has Australia opposed a United Nations resolution condemning nuclear war as the most monstrous crime.

(1) This apparently refers to resolution No 38/75 sponsored by the Soviet Union, one of whose operative paragraphs condemns nuclear war in these terms. Australia and 18 other countries voted against this resolution and 30 abstained. The reason for Australia's negative vote was that this Soviet draft resolution seemed essentially directed at making propaganda against the United States and its allies, not seeking to promote agreement. The Government does not believe that the UN General Assembly and the debate there on disarmament should be occasions for seeking to heighten, rather than reduce international tensions.

(2) Australia's opposition to nuclear war and its active support for measures to prevent it is not brought into question by the decision to vote against the resolution referred to in (1) above. The Government's position on this has been clearly stated in many recent public statements.

(3)(a) While Australia would endorse the 24 April 1952 US paper 'Essential Principles for a Disarmament Programme', most of these principles have been elaborated and supplemented in the drafts under consideration in the current negotiations on a comprehensive program of disarmament in the Conference on Disarmament in Geneva.

(b) Australia supports the 1973 US-Soviet agreement on the prevention of nuclear war, which remains in force.

(c) The 1928 Kellogg-Briand Pact (Treaty of Paris) was superseded by the United Nations Charter to which Australia, of course, fully subscribes.

(4) The 1961 McCloy-Zorin principles were endorsed unanimously by the UN General Assembly in Resolution 1722 (XVI) of 20 December 1961. Australia participated in that decision. These principles and the 1962 American and Soviet disarmament programs are direct antecedents of the continuing multilateral negotiations in the Conference on Disarmament (and its predecessor bodies) on a comprehensive program of disarmament. Australia has been participating actively in these talks since joining the Committee on Disarmament in 1979.

...

(6)(a) Until better systems of restraint are in place aimed at leading to nuclear arms control and disarmament, I accept that the principle of deterrence is the only practical option available to avoid serious international nuclear instability and overt nuclear conflict.

(b) I do not detect any disposition on the part of the nations of the world to accept compulsory arbitration of international disputes or international enforcement of disarmament. Australia will continue to work for the negotiation of international disarmament agreements which attract consensus since it is only through agreement by all parties concerned that any real progress can be made in the field of disarmament.

Use of force—weapons—United States MX Missile tests—implications for Australia—Tomahawk cruise missiles

On 23 May 1985 the Minister for Defence, Mr Beazley, provided the following written answer in part to a question on notice in the Senate (Sen Deb 1985, 2476):

Australia will not be providing any assistance to the MX missiles tests, nor will the joint Australia/US facilities be involved, but safety of life services, including sea rescue assistance, provided by Australia to meet its international civil maritime and aviation obligations, are available to any ship or aircraft needing them.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 4274):

The South Pacific Nuclear Free Zone Treaty would prohibit the deployment of nuclear-armed Tomahawk cruise missiles on the territory of a State party to the Treaty. Protocol I to the Treaty invites the United States, the United Kingdom and France to apply this prohibition in respect of their territories located within the zone. The Treaty does not affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas.

Use of force—nuclear tests—French tests in the Pacific—Australian protests

The Australian Government regularly protested at French nuclear tests conducted underground on Mururoa Atoll in the Pacific, and issued statements following particular explosions as follows:

- 10 May 1984: Comm Rec 1984
- 14 May 1984: AFAR, May 1984, 547
- 18 June 1984: Comm Rec 1984, 1111
- 31 October 1984: Comm Rec 1984, 2191–2192
- 6 November 1984: Comm Rec 1984, 2253
- 9 December 1984: Comm Rec 1984, 2551–2552
- 2 May 1984: Comm Rec 1985, 600
- 10 May 1985: Comm Rec 1985, 669–670
- 5 June 1985: Comm Rec 1985, 852
- 25 November 1985: Comm Rec 1985, 2174
- 27 November 1985: Comm Rec 1985, 2175
- 29 November 1985: HR Deb 1985, 4013–4014

On 23 August 1985 the Minister for Trade, Mr Dawkins, provided the following written answer in part to a question on notice in the House of Representatives (HR Deb 1985, 594–595):

Government policy remains that Australian uranium will not be supplied for end-use in France whilst that country continues the testing of nuclear weapons in the South Pacific region.

Where the Government has reason to believe that an export of uranium is intended for end-use in France it has recourse to powers available under the Customs Act and the Customs (Prohibited Exports) Regulations to prohibit the export.

On 11 September 1985 the Minister for Foreign Affairs, Mr Hayden, said in the course of answering a question without notice in the House of Representatives (HR Deb 1985, 733–734):

It was reported in the media today that French President Mitterrand will go to Mururoa to preside over a meeting of what has been described as the South Pacific Coordination Committee this Friday. The exact motive for

this visit and for the establishment and functioning of this Committee has not been described to this point. In any case, it seems that the French administration is keen to evidence a tough determination to proceed with nuclear testing in this South Pacific. I can assure honourable members and the French administration that this will be regarded as an extremely provocative act by the countries of the South Pacific which have very strong feelings of resentment and opposition to the continued testing in their region. I can assure the French administration that the opposition frequently expressed by a succession of governments of this country over more than a decade stands firmly insofar as this Government is concerned. I restate today the unequivocal opposition of the Australian Government to continued testing and, in particular, the very firm opposition in the event that reports that there is to be a test of a nuclear weapon device prove correct.

I want to state that the French are quite capable of carrying out nuclear testing in their own mainland territory. A recent report of the Office of National Assessments—a technical report—pointed out that on the basis of all the criteria which were considered by that institution, nuclear testing could take place quite safely on the Massif Central of mainland France and in Corsica.

Use of force—weapons—nuclear weapons—testing—French testing Mururoa Atoll—Kerguelen Island—Australian protests

On 14 March 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice (HR Deb 1986, 1458–1459):

> In so far as the question refers to adverse environmental effects resulting from underground nuclear explosions in the last five years, this would result primarily from the release into the atmosphere of radioactive material from an underground explosion (usually called venting) although there is also the risk of environmental contamination through more indirect channels. If an underground nuclear explosion vents and causes radio active debris to be present outside the territorial limits of the testing state it is also a violation of the Limited Test Ban Treaty of 1963 (Article I, 1(b)).
>
> The Government does not have access to authoritative information on particular instances over the last five years in which underground nuclear explosions have had adverse environmental effects, either through venting or in other ways.
>
> ...
>
> With regard to French nuclear testing on Mururoa Atoll I would draw the honourable member's attention to the following conclusions drawn by the 1983 New Zealand/Australia/Papua New Guinea scientific mission to Mururoa Atoll.
>
> > The volcanic core in which the tests take place has been severely altered in zones surrounding the detonation chambers. The balance of available data suggests that the overall integrity of the volcanics has not been impaired.
> >
> > There is no geological evidence of short-term leakage to date. The hydrology of limestones and volcanics, is such as to suggest that leakage

could occur from the detonation chambers in a time period of 500 to 1,000 years.

Venting of gaseous and volatile fission products from the underground test site does occur at the time of detonation. There is evidence that the amount is greater than would be expected simply through the back-packing of the placement bore being "less than perfect.

On 27 May 1987 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in part in answer to a question about possible plans to move French nuclear testing from Mururoa Atoll in the Pacific Ocean to Kerguelen Island in the Indian Ocean (Sen Deb 1987, 2998–2999):

> French officials have firmly denied that France has any intention to move its nuclear testing program from Mururoa Atoll and repeatedly refer to President Mitterand's authoritative statement of 3 February 1987, to which I have referred before, that Mururoa exists and will continue to exist for the purpose of carrying out nuclear testing activities. While the Government continues to monitor closely French activities and intentions in relation to nuclear testing, our assessment remains that a removal of the testing program from French Polynesia would be unattractive to France on political grounds and in view of the considerable economic cost that would be involved in relocation of facilities. As the Government has made clear on numerous occasions, we would be just as strongly opposed to French nuclear testing in the Indian Ocean as we are opposed to France's current testing in the Pacific Ocean. We simply have no evidence of the alleged French intention to store nuclear waste on the Kerguelen Islands, nor do we have any evidence that France is transporting, as has been suggested in some reports, large quantities of concrete there.
>
> In the last part of the honourable senator's question he asked about the relevance of the Convention for the Conservation of Antarctic Marine Living Resources as it bears upon the issue. Strictly speaking, the Kerguelen Islands do not fall within the area covered by that convention which, under Articles 3, 4 and 5, are also subject to the provisions of the Antarctic treaty concerning demilitarisation and preservation of the environment. The convention does not contain any provision of its own relating to demilitarisation or nuclear activities. Again I have to say that the convention is limited in scope to the conservation of Antarctic marine living resources by establishing the principles for harvesting and associated activities in the convention area. Notwithstanding all that, in the Australian Government's view, were France to undertake nuclear testing on the Kerguelen Islands its actions would certainly be contrary to the spirit of that convention and our reaction, as a government, would be governed in turn by that consideration.

Protests at individual nuclear explosions carried out by France at Mururoa Atoll were made in statements by the Minister for Foreign Affairs issued on the following dates in 1986 and 1987:

- 29 April 1986 (Comm Rec 1986, 659)
- 8 May 1986 (Comm Rec 1986, 709–710)
- 29 May 1986 (Comm Rec 1986, 837)
- 13 November 1986 (Comm Rec 1986, 2048)
- 8 December 1986 (Comm Rec 1986, 2266)

- 11 December 1986 (Comm Rec 1986, 2268)
- 8 May 1987 (Comm Rec 1987, 659)
- 21 May 1987 (Comm Rec 1987, 764)
- 9 June 1987 (Comm Rec 1987, 908)
- 23 June 1987 (Comm Rec 1987, 1013)
- 26 October 1987 (News Release M156)
- 6 November 1987 (News Release M165)
- 20 November 1987 (News Release M176)
- 1 December 1987 (News Release M182)

Use of force—nuclear weapons—non-proliferation—Australian legislation
On 23 February 1987 the Minister for Science, Mr Barry Jones, introduced the Nuclear Non-Proliferation (Safeguards) Bill 1987 into the House of Representatives, and explained the purpose of the Bill as follows (HR Deb 1987, 546–549):

> The Bill will give legislative effect to all of Australia's international non-proliferation obligations which require domestic legislation and provide a legislative basis for the operations of the Australian Safeguards Office. This Government has consistently pursued a firm policy of nuclear non-proliferation and of commitment to nuclear safeguards. This has been demonstrated by Australia's taking a leading role at the 1985 Nuclear Non-Proliferation Treaty Review Conference, our active participation in other international meetings dealing with non-proliferation and safeguards matters and support of the International Atomic Energy Agency, or IAEA. Nuclear non-proliferation is concerned with the control of fissile nuclear material, sensitive nuclear technology, such as enrichment and spent fuel reprocessing and certain materials of use in the nuclear fuel cycle, such as heavy water and reactor grade graphite. Australia's commitment to non-proliferation has been enshrined in a number of international agreements. These are the Nuclear Non-Proliferation Treaty, or NPT, our Agreement with the IAEA and Australia's bilateral nuclear safeguards agreements.
>
> The NPT is the major international Treaty concerned with non-proliferation and contains several interrelated undertakings. Essentially it is a three-way bargain among the over 120 countries which are parties to the Treaty, in which those countries without nuclear weapons undertake not to acquire them and to accept safeguards in order to verify this undertaking; the nuclear weapon states agree to work towards nuclear disarmament; and the developed nations agree to help the less developed ones obtain the benefits of nuclear energy. Australia became a party to the Treaty on 23 January 1973. In pursuance of its NPT obligations Australia signed an agreement with the IAEA on 10 July 1974 accepting IAEA safeguards on nuclear material in all nuclear activities carried out in Australia. Under this agreement a safeguards system has been established, whereby all nuclear material within Australia is controlled and accounted for by the Australian Safeguards Office which reports to the IAEA. The IAEA, for its part, verifies the reports by regular inspections of nuclear material held in Australia.
>
> The system of safeguards operated by the IAEA and national safeguards

bodies, such as the Australian Safeguards Office, is designed to verify the performance of international obligations, to deter any possibility of non-performance, and to provide assurance that those obligations are being met. Safeguards measures include maintenance and verification of detailed nuclear accounting and record keeping, and use of physical inspections, surveillance devices and special seals at nuclear installations.

The Government permits exports of Australian uranium only to countries with which Australia has a bilateral safeguards agreement. These agreements provide a detailed set of safeguards requirements designed to provide assurance that Australian origin nuclear material not only remains in the civil nuclear fuel cycle but that Australia can at all items account for it. This is achieved by ensuring that Australia's safeguards requirements apply to all transfers, processing and use of Australian uranium or derived material equivalent to the amount of uranium supplied by Australia. Currently Australia has in force 12 nuclear safeguards agreements. Apart from the agreement with the IAEA, there are 10 agreements with individual countries, and an agreement with the European Community's nuclear agency, Euratom.

Several aspects of Australia's obligations under the IAEA agreement and the bilateral agreements require domestic implementation through control of the possession and transport of nuclear material, nuclear equipment or nuclear technology. Until now Australia did not have domestic legislation to enforce these obligations and has relied on the Customs Act and related regulations and on co-operation from holders of nuclear items. This approach has been successful and there has never been the slightest suggestion from our bilateral partners nor from the IAEA that Australia has not complied with its nuclear safeguards obligations. However, I am sure no-one will disagree that this area is of such fundamental importance that our national safeguards system should be placed on the firmest legal footing without further delay.

It should be noted that Australia's nuclear industry is quite limited in scope compared to other industrialised countries. We are, of course, a major producer of uranium but the processing of this uranium is limited to the production of yellowcake for the export market. The activities of the mining companies, in so far as they involve the possession and transport of uranium, will be covered by the proposed legislation.

The Australian Atomic Energy Commission operates two research reactors and carries out nuclear research into the uses of radio-isotopes and radiation. It also produces radio-isotopes commercially. These activities will be continued by the Commission's successor ANSTO. Australian policy prohibits the development of further stages of the nuclear fuel cycle in Australia and, as I have stated in the second reading speech on the ANSTO Bill, future research and development activities by ANSTO will be directed towards peaceful application of nuclear science and technology other than the development of the nuclear fuel cycle. Most of this research will not involve safeguardable equipment or technology. However, any materials, equipment or technology that come under safeguards obligations will be strictly controlled and the present Bill is directed to this purpose.

The uranium mining companies and the Australian Atomic Energy Commission will be the bodies chiefly affected by the proposed legislation. Elsewhere in Australia, use or possession of safeguardable nuclear material or technology is very limited. Radio-isotopes in common use, for example, are not safeguardable and the legislation will not apply to them. However, depleted uranium which is in use in a variety of non-nuclear areas, such as shielding in radiography cameras, as counterweights in the controls of some aircraft or as ballast in technologically advanced yachts, does fall into the ambit of the Bill. The Australian Safeguards Office is currently examining how obligations relating to depleted uranium can be met with minimum inconvenience to those using this material. I take this opportunity to invite any bodies which have, or think they may have in their possession, any safeguardable nuclear material, equipment or technology, as defined in this legislation, to get in touch with the Australian Safeguards Office to see whether they might require a permit for that item, particularly for people who light up at night.

The Bill is divided into five parts. The first part contains the formal provisions of the Bill, including those relating to the constitutional basis for the Bill and the definitions. This part of the Bill also deals with commencement of the legislation. Substantive provisions are to come into force by proclamation. It is intended that, once the Bill is passed by Parliament, most of the provisions of the Bill will be brought into force as soon as the administrative procedures required to implement the legislation are put into place. However, Division 2 of the Part III of the Bill, providing for the enforcement of the Physical Protection Convention, depends for its constitutional validity on Australia's ratification of the Convention, and it is intended therefore that this portion of the legislation will be brought into force contempareously with the ratification of that Convention. The main constitutional basis of the legislation is the external affairs power. However, several other areas of Commonwealth constitutional powers are also relevant and these are enumerated in clause 8.

I draw the attention of honourable members to the definitions clause of the Bill, especially the definitions of nuclear material, associated material, associated equipment and associated technology because those definitions circumscribe the items to which this legislation will apply. Nuclear material is defined to have the same meaning as in the agreement between Australia and the IAEA. The agreement defines nuclear material to include all material of potential proliferation significance and provides for the application of safeguards to such material. The legislation, by adopting the same definition, provides for the domestic enforcement of Australia's obligations under that agreement.

The agreement with the IAEA primarily applies to use of nuclear material, and does not provide expressly for the control of equipment, technology and material usable in nuclear applications. As examples, I might quote equipment for the enrichment of uranium, nuclear reactor technology and heavy water, which is vital material for the operation of some types of nuclear reactors. However, these items are covered by Australia's bilateral agreements and therefore are required to be controlled

by this legislation. The definitions in the Bill ensure that the necessary items are brought within the coverage of the legislation.

The key element in the scheme to control nuclear items within Australia is the requirement to have permits to possess and to transport nuclear items. These provisions are set out in part II of the Bill. The permits are to be issued by the Minister while the administrative details are to be handled by the Director of the Australian Safeguards Office. The permits would be issued subject to conditions which would cover such matters as duration of the permit, the location in which the item may be kept, the uses to which the item may be put, the persons who may have access to the item, transport, transfer and disposal conditions and so on. The intention is that every aspect of the possession, use and transport of nuclear items should be strictly controlled and that nothing could be done without appropriate authorisation. In addition to the permit requirements, special authorisation is required to communicate information, strictly defined as information primarily applicable to enrichment or reprocessing of nuclear material, production of heavy water or the making of nuclear weapons, being information that is not in the public arena.

Part II of the Bill also includes a provision allowing the Minister to exempt certain material from the provisions of this legislation. Such an exemption may be made only where safeguards in relation to the nuclear material have been terminated in accordance with the IAEA Agreement. This could arise where, for example, the nuclear material has been transferred out of the country, has been consumed or diluted or is to be used in non-nuclear activities. Any exemptions under these provisions are to be tabled in Parliament and are therefore subject to the scrutiny of Parliament.

Part III of the Bill creates offences. Division I sets out the offences related to the administration of the controls established by the legislation. These offences include the possession and transport of nuclear items without a permit, breach of a condition of a permit, unauthorised communication of sensitive information and action interfering with the proper exercise of the functions of inspectors and the Director of the Safeguards Office. Appropriate monetary penalties and terms of imprisonment are provided for these offences.

Division 2 creates offences required to comply with our obligations under the Physical Protection Convention and to underscore the severity of such offences. Very substantial penalties are provided for these offences. As I mentioned earlier, this portion of the Bill will be brought into force when Australia ratifies the Physical Protection Convention.

Part IV of the Bill deals with administrative matters. A statutory position of Director of Safeguards is created by the Bill and the Australian Safeguards Office is established by statute. The Director is to be appointed by the Governor-General for a period of up to five years while the Director's staff are to be departmental officers. This arrangement will give the Director the desired amount of independence without incurring the expense of a statutory authority.

The functions of the Director shall be essentially twofold. On the one hand, the Director will be responsible for ensuring the effective operation of

the system of accounting for and control of nuclear material and items within Australia as required by the IAEA Agreement and our bilateral safeguards agreements. On the other hand, he or she will be responsible for keeping account of Australian origin uranium in other countries and monitoring the compliance of our treaty partners with the terms of the bilateral agreements. These functions have been carried out to date by the Australian Safeguards Office without legislative backing and a highly efficient and effective accounting system has been established. I would like to say, at this stage, a word of praise for the Australian Safeguards Office which has been carrying out its job most satisfactorily and, I am certain, will continue to do so under this legislation.

In addition to these primary functions, the Director will have the function of providing advice to the Minister on safeguards matters and providing a technical input into policy formulation by the relevant Departments. The Director will also be responsible for carrying out and coordinating research related to nuclear safeguards. Australia is a very strong supporter of the IAEA and, in addition to its mandatory contribution to the Agency, provides voluntary financial assistance to the continued search by the Agency to improve safeguards. This assistance usually takes the form of research done in Australia or the provision of experts to the Agency in Vienna at no cost to the Agency. The technical aspects of such assistance are carried out and will continue to be carried out by the Australian Safeguards Office in conjunction with the Australian Atomic Energy Commission and its successor the Australian Nuclear Science and Technology Organisation.

The Director will be required to furnish an annual report to the Minister to be laid before each House of Parliament. Under an amendment in the Senate accepted by the Government, the report will include information on transfers of Australian origin nuclear material to other countries. It had been intended that information of the kind contemplated in the amendment would be included in the report and the Government is happy to formalise the position. Publication of this information will serve to increase public confidence in the operation of the safeguards system and Australia's network of bilateral safeguards agreements. The Director will be assisted by inspectors whose functions will be to carry out inspections as required to ensure compliance with the provisions of the legislation and permit conditions. The inspectors will have rights of entry with the consent of an occupier of relevant premises, in accordance with an agreement or in pursuance of a warrant. They will also have the right of seizure of nuclear items in certain circumstances.

The Bill also outlines the functions of IAEA inspectors. Under the agreement with the IAEA Australia is under an obligation to allow inspection of all nuclear material subject to the agreement. These inspections are carried out by IAEA inspectors who visit Australia regularly for that purpose. The IAEA inspectors are accompanied by Australian Safeguards Office inspectors on all their inspection visits and entry to nuclear establishments is arranged by the Safeguards Office. The legislation will provide the Safeguards Office with the necessary powers to

ensure that Australia is able to comply with its obligations to the IAEA in respect of entry by IAEA inspectors.

Part V of the Bill contains miscellaneous provisions. Attention is drawn to clause 70 which provides that any powers or functions under the legislation are to be exercised in accordance with relevant international agreements. The international agreements which this Bill is intended to implement spell out in some detail Australia's international obligations. Some of these obligations require domestic law for their implementation. The scheme adopted by this Bill is not to attempt to spell out these obligations but to confer fairly general powers on the Minister and the Director which would enable them to enforce Australia's domestic obligations in so far as they required enforcement by domestic law. Clause 70 is designed to ensure that the Minister and the Director act in accordance with Australia's international obligations in carrying out their duties. I commend the Bill to the House and I tender the explanatory memorandum to the Bill.

On 31 March 1987 the Minister for Resources and Energy, Senator Gareth Evans, issued the following statement, in part (Comm Rec 1987, 468):

The major elements of legislation to give effect to Australia's international nuclear non-proliferation obligations, and to place strict controls on all nuclear materials and associated items in this country, have been proclaimed to come into effect today. The Nuclear Non-Proliferation (Safeguards) Act 1987 is an important demonstration of the Government's commitment to preventing the further spread of nuclear weapons and working toward disarmament.

The object of the Act is to give legislative effect to relevant obligations under: the Nuclear Non-Proliferation Treaty; Australia's safeguards agreement with the International Atomic Energy Agency (IAEA); Australia's bilateral nuclear safeguards agreements with ten individual countries and the European Community's nuclear agency Euratom, and the Convention on the Physical Protection of Nuclear Material (to be ratified by Australia in the near future).

Use of force—terrorism—Australian counter-measures

On 6 May 1986 the Minister for Foreign Affairs, Mr Hayden, said in answer to a question (HR Deb 1986, 3117):

Australia has repeatedly called for the more effective implementation of international legal measures against terrorist acts. Of course, we strongly support the role of international fora, such as the United Nations, in helping combat terrorism. In regard to the specific matter raised by the honourable member for Kingston, who has been quite diligent in his concern in this area, let me say that the specific measures agreed upon by the Summit Seven in Tokyo are matters which Australia has already implemented or taken steps to implement. We already have strict controls on the export of arms and munitions manufactured in Australia. We have already reduced the permitted size of the Libyan Mission in Canberra from seven to five persons. We already monitor closely the movement of persons convicted in or expelled from other countries for terrorist activities. We already have extradition

arrangements with 96 countries. A government task force is currently reviewing and extending our extradition relations. Strict visa and immigration controls already are in place. We already enjoy close working relations in the counter-terrorist field with our friends and allies. Earlier this year we initiated a new round of discussions with other countries to improve co-operation in this field.

The Australian Government firmly believes that terrorism is an unacceptable means by which to pursue political objectives and has made this position clear on numerous occasions. The fact that we are well ahead in anticipation of the decision of the Tokyo Summit I think is a convincing demonstration of that.

For a statement to Parliament by the Special Minister of State, Mr Young, on the outcome of a review of counter-terrorism in Australia, see HR Deb 1986, 17 October 1986, 2295–2299.

On 21 November 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 2153–2154):

The Minister for Foreign Affairs, the Hon Bill Hayden, has welcomed the declaration and supporting resolutions recently adopted by Ministers of the Member States of the Council of Europe taking part in a European Conference of Ministers responsible for Combating Terrorism.

The conference, held in Strasbourg on 4 and 5 November, urged closer European co-operation in the fight against terrorism, including measures to counter terrorism, involving the abuse of diplomatic or consular privileges and immunities, and terrorism, directed at diplomatic or consular representatives. Ministers also undertook to seek a common approach to states which encourage terrorism.

Mr Hayden said the declaration and accompanying resolutions were a further indication of a common resolve on the part of states menaced by the threat of international terrorism to work together against it. The Australian Government believed the key to combating terrorism lay in effective international cooperation and a common determination to bring all such activity to an end. The Government thus warmly supported the objectives of the Council of Europe as expressed in the conference declaration and resolutions of 5 November.

Use of force—terrorism—definition of "politically motivated violence" in Australian legislation

The following definition of "politically motivated violence" was inserted into the Australian Security Intelligence Organization Act by Act No 122 of 1986, assented to on 2 December 1986:

'politically motivated violence' means –

(a) acts or threats of violence or unlawful harm that are intended or likely to achieve a political objective, whether in Australia or elsewhere, including acts or threats carried on for the purpose of influencing the policy or acts of a government, whether in Australia or elsewhere;

(b) acts that –

(i) involve violence or are intended or are likely to involve or lead to violence (whether by the persons who carry on those acts

or by other persons); and

(ii) are directed to overthrowing or destroying, or assisting in the overthrow or destruction of, the government or the constitutional system of government of the Commonwealth or of a State or Territory;

(c) acts that are offences punishable under the Crimes (Foreign Incursions and Recruitment) Act 1978, the Crimes (Hijacking of Aircraft) Act 1972 or the Crimes (Protection of Aircraft) Act 1973; or

(d) acts that –

(i) are offences punishable under the Crimes (Internationally Protected Persons) Act 1976; or

(ii) threaten or endanger any person or class of persons specified by the Minister for the purposes of this sub-paragraph by notice in writing given to the Director-General.

On 12 May 1987 the Special Minister for State, Senator Tate, said in the course of an answer to a question (Sen Deb 1987, 2632–2633):

> The fact is that since 1970 in Australia there have been some 36 terrorist incidents in which people have sought to use violent terror in order to achieve political ends. Twenty-five of those incidents, though have had to do with bombings or attempted bombings. In fact, it is the possible threat of bombings as a technique of terrorist activity to which this Government has directed many resources over the past couple of years. But it is not simply a question of directing resources and trying to anticipate the type of terrorist activity that might be undertaken. There also needs to be a firm political stance in relation to the threat of terrorist activity. In that regard, I would certainly reiterate what was said by my predecessor last October in relation to terrorism. He said:
>
> > A major element of Australia's response to incidents of terrorism is a policy of no concessions, other than tactical ones, to terrorist demands.
>
> It is that firm intention of the Government not to give in to the political demands of terrorist that lies behind any particular technical or timely response by way of police or military action that we might mount.

Use of force—war—humanitarian law—Geneva Protocols on the protection of war victims—proposed ratification by Australia

On 11 March 1986 the Acting Minister for Foreign Affairs, Senator Gareth Evans, and the Deputy Prime Minister and Attorney-General, Mr Bowen, issued the following statement (Comm Rec 1986, 333):

> The Acting Minister for Foreign Affairs, Senator the Hon Gareth Evans, and the Deputy Prime Minister and Attorney-General, the Hon Lionel Bowen, announced today that Australia would soon ratify the 1977 Geneva protocols additional to the 1949 Geneva Conventions on the protection of war victims.
>
> The Ministers said that Australia had been a party to the Geneva conventions which deal with the treatment of the sick and wounded, prisoners of war and civilians in time of war, since 1958. They pointed out that the Geneva protocols extended protections spelt out in the conventions

to non-international conflicts; dealt in greater detail with matters such as civil defence; and tackled questions of the means and methods of warfare which the framers of the conventions had not felt themselves able to do. In particular, the protocols prohibited indiscriminate attacks on civilians and civilian targets and required the selection of weapons to limit the effects as far as possible to the military target they were directed at.

The Ministers said that Australia had participated actively in the drafting of the protocols and had signed them in December 1978. Since that time, the full ramifications of Australia's becoming party to them for the Australian Defence Force and for our civil defence arrangements, had been exhaustively examined by the relevant authorities. That examination had revealed no reason for Australia not to proceed to ratification. Indeed, insofar as the protocols would improve the level of international legal protections available to Australian defence personnel and civilians in any future conflict with another party to them, there was every reason to ratify and encourage other nations to do likewise. Ratification would be arranged as soon as legislation, necessary to implement certain of the provisions of Protocol I in domestic law, had been passed through Parliament.

Use of force—war—humanitarian law—Convention and Protocol for the Protection of Cultural Property in the Event of Armed Conflict

On 18 November 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question concerning the Convention above (HR Deb 1986, 3366):

Australia ratified the Convention on 19 September 1984. Before ratifying the Protocol Australia would need to enact appropriate legislation to implement the provisions of the Protocol. It will be necessary to undertake certain preparatory work before the drafting of such legislation can be undertaken.

Use of force—war—enemy property—Australian legislation

On 5 December 1986 the Minister for Finance, Senator Walsh, provided the following written answer in part to a question on notice (Sen Deb 1986, 3574):

(1) The Office of the Controller of Enemy Property was created under the National Security (Enemy Property) Regulations on 26 September 1939 to deal with all debts or other property held for, or due to, "enemy subjects" as defined in the Regulations and the Trading with the Enemy Act 1939 (as amended).

No enemy property from World War II is now held or administered by the Commonwealth. Such property, or the proceeds from its realisation, has long since been dealt with in accordance with the provisions of the relevant International Agreements and Treaties of Peace.

The Government has decided to repeal the principal legislation, the Trade with the Enemy Act 1939, and it is intended to give effect to that decision in the next Statute Law (Miscellaneous Amendments) Bill. Thus the Office of the Controller of Enemy Property, which has for some time been a purely nominal one and attached to an office occupied full-time on other normal duties, will cease to exist upon passage to that Bill.

Use of force—war—prisoners of war—possible compensation

On 2 April 1987 the Minister for Veterans' Affairs, Senator Gietzelt, said in answer to a question (Sen Deb 1987, 1728):

> The question of compensation to prisoners of war has been addressed by previous governments as it related to prisoners of war who in the early 1950s received a cash grant as part of a recognition of their suffering in Japanese prisoner of war camps. However, governments over the years have refused to accept any responsibility for Australian prisoners of war who were incarcerated in Germany concentration camps, despite representations from individual veterans.
>
> However, in recent times the Minister for Foreign Affairs and I have had consultations about rectifying what we consider to be an unresolved issue affecting a relatively small number of Australian prisoners of war who were also incarcerated in prisoner of war camps. The matter is a bit difficult to resolve, having regard to the fact that the West German Government has refused to accept any responsibilities in these matters pending a peace treaty involving the whole of Germany—that is, East Germany and West Germany—and the victorious allies. In those circumstances, the Government has to make a political decision on accepting responsibilities ourselves. The Foreign Minister, Mr Hayden, and I have discussed the matter with the Minister for Defence and we have reached a common position. I have this week, with officers of my Department, taken steps to prepare a Cabinet submission because there is general agreement within the Government that there should be some recognition of the particular sacrifices of, and circumstances affecting, those small numbers of Australian prisoners of war who were incarcerated in concentration camps during a portion of the period of World War II.

Use of force—war—war criminals—review of material relating to the entry of suspected war criminals into Australia

On 5 December 1986 the report of a Review of Material relating to the Entry of Suspected War Criminals into Australia was tabled in the Senate (PP No 1987/90). Following is an extract from the report, and its attachments, on the meaning of "war crimes" (pp 4–5, and Attachment A):

> INTERPRETATION OF TERMS OF REFERENCE
>
> 1.4 As to the meaning of the expression 'war crimes' in paragraph 4 of the Terms of Reference, I have had the benefit of a submission by the Attorney-General's Department which appears as Attachment 'A'. I agree with the Attorney-General's Department's conclusion that for the purposes of the Terms of Reference, I should have regard to the crimes defined by Article 6 of the Charter of the Nuremburg International Military Tribunal which tried the major war criminals of the European Axis powers. This referred to:
>
> (a) Crimes against peace: ...;
>
> (b) War crimes: ...;
>
> (c) Crimes against humanity: namely, murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection

with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

1.5 Attorney-General's Department also suggests that the list of crimes in the instrument of appointment referred to in section 3 of the War Crimes Act 1945 (which is attached to Attorney-General's reply) would provide guidance as to the *type* of offences to be considered by the Review, but the Review should not be confined to crimes committed in the circumstances covered by the War Crimes Act, namely, crimes against Australian residents, British subjects and citizens of allied nations. I agree with this suggestion.

ATTACHMENT A

I refer to your letter dated 30 June 1986 seeking advice as to the meaning of the expression "war crimes" in the terms of reference to your Review of material relating to the entry of suspected war criminals into Australia, and to discussions with Messrs Willheim and Burmester of this Department on 22 July 1986.

Your terms of reference define "war criminals" to mean "persons who committed war crimes related to the activities of Germany during World War II". The terms of reference do not define "war crimes".

The expression "war crimes" may be used in a narrow, technical, sense to mean crimes against the laws of war (e.g. the Fourth Hague Convention of 1907 concerning the Laws and Customs of War on Land). "War Crimes" is, however, generally understood as having a wider meaning covering not only crimes against the laws of war in this narrow, technical, sense but also crimes against peace and crimes against humanity. In the context of the Second World War (the context in which the expression is used in your terms of reference), the expression "war crimes" is used to cover all the matters within the jurisdiction of the Nuremburg Tribunal. I attach a copy of the Charter of the International Military Tribunal annexed to the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis.[1] Article 6 of the Charter conferred jurisdiction on the Tribunal

'...to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organisations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) Crimes against peace: ...;

(b) War crimes: ...;

(c) Crimes against humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime

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1 Not attached here. The Charter may be found in 82 UNTS 280, and in UKTS 1946 No 27.

within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.'

I particularly draw to your attention that Article 6 conferred jurisdiction in respect of crimes against any civilian population. It did not matter whether the crimes were "in violation of the domestic laws of the countries where perpetrated". The Tribunal did not regard acts committed before 1939 as within its jurisdiction, but its jurisdiction extended to the murder of German Jews and Jews and others from co-belligerents of Germany. Jurisdiction was exercisable by an international tribunal, on the basis that the offences were crimes against international law. (For further background on the Nuremburg Tribunal, see Brownlie, *Principles of Public International Law,* 3rd ed, 561–3, Schwelb, 'Crimes against Humanity' (1946) 23 BYBIL 178).

The scope of war crimes and crimes against humanity has subsequently been elaborated (eg the Convention on the Prevention and Punishment of the Crime of Genocide) but, in light of the temporal limitation in your terms of reference, I do not think it necessary to analyse later developments.

So far as Australia is concerned, "war crimes" has been given a statutory meaning for the purposes of the War Crimes Act 1945. Section 3 of that Act defines "war crime" to mean:

(a) A violation of the laws and usages of war; or

(b) Any war crime within the meaning of the instrument of appointment of the Board of Inquiry appointed on 3 September 1945 under the National Security (Inquiries) Regulations.

A copy of the instrument of appointment of 3 September 1945 is attached. The instrument defines "war crimes" by reference to an extensive list, which is inclusive but not exhaustive. The list is based on a list of war crimes compiled by the United Nations War Crimes Commission which itself adopted the list used by the Responsibilities Commission of the Paris Peace Conference in 1919 (see generally Schwelb, 'United Nations War Crimes Commission', (1946) 23 BYBIL 363, 366). Items (i), (xxxiv) and (xxxv) have been added to that list.

The jurisdiction of the Board of Inquiry appointed on 3 September 1945 was confined to war crimes committed "by any subjects of any State with which His Majesty has been engaged in war...against any persons who were resident in Australia prior to the commencement of (the Second World War)...or against any British subjects or against any citizen of an allied nation". I mention that the War Crimes Act itself applies "in relation to war crimes committed, in any place whatsoever, whether within or beyond Australia, against British subjects or citizens of any Power allied or associated with His Majesty in any war, in the like manner as they apply in relation to war crimes committed against persons who were at any time resident in Australia" (s.12). The Act and the jurisdiction of the Board of Inquiry do not, however, extend to crimes committed by citizens of the Axis powers against their own civilian populations.

Your Review is not, of course, established pursuant to legislation, and the War Crimes Act is not, therefore, directly applicable. Nevertheless, it seems to me to be appropriate that the Review proceed on the basis that the list of crimes in the Instrument of Appointment dated 3 September 1945, as well as

the crimes referred to in Article 6 of the Nuremburg Charter, provides guidance as to the *types* of offences that may constitute war crimes for the purposes of your definition. I do not, however, consider your Review to be confined to crimes committed in the *circumstances* covered by the War Crimes Act and the instrument of appointment dated 3 September 1945 (crimes against Australian residents, British subjects and citizens of allied nations). Your terms of reference refer to "the activities of Germany during World War II". It seems to me that these words are intended to embrace a wider range of circumstances so as to bring the scope of your Review closer to the jurisdiction of the Nuremburg Tribunal and to include, for example, crimes against the civilian populations of Germany and its allies (e.g. against German Jews).

As discussed with you, this Department would, of course, be available to give more detailed advice in relation to the circumstances of any particular act or acts.

On 24 February 1987 the Attorney-General, Mr Bowen, presented the Government's response to the report as follows (HR Deb 1987, 593–595):

In April and May of 1986 a series of serious allegations were made concerning claims that Nazi war criminals, who had evaded justice after the end of the Second World War, had managed to obtain entry into Australia and were resident here. As a consequence of these allegations and the widespread public disquiet aroused by them the Government announced on 25 June last a review of material relating to the entry of suspected war criminals into Australia. The review was conducted by Mr Andrew Menzies, a retired senior public servant. His report was presented to the then Special Minister of State on 28 November last, and, except for a small confidential part, was tabled in the Senate on 5 December last year and in the House of Representatives on 17 February this year. Mr Menzies also presented to the Special Minister of State on 28 November last a sealed envelope containing details of allegations relating to some 70 named persons, allegations which he recommended should be the subject of further investigations.

As part of the conclusions of his report Mr Menzies made a number of factual findings. Given the wide public concern over the allegations made in 1986, and the attention they attracted both in this country and overseas, I think it is important that I give further emphasis, in the Parliament, to these findings. Mr Menzies found that it was more likely than not that a significant number of persons who committed serious war crimes in World War II, have entered Australia, and some of these are now resident in Australia; that while endeavours were made to prevent the entry into Australia of persons responsible for war crimes, there were serious limitations, particularly in early years, in both the staff available for checking, and the data relied upon for those checks; that it is important to remember that the number of persons suspected of serious war crimes who have been able to enter Australia would have been a minute proportion of the enormous number of persons who migrated to Australia in the post-war years; that no evidence whatsoever has been found that an Australian officer had knowingly allowed a war criminal to migrate to Australia, nor do the facts establish the existence of any policy by any Australian government to allow or assist the entry of known or

suspected war criminals into Australia; that no person admitted into Australia under arrangements with the United Kingdom or the United States intelligence agencies, to the knowledge of Australian authorities, appears to have been the object of charges or allegations as to the commission of war crimes, although there is a possibility that, particularly before 1956, former employees of such agencies may have entered Australia without the knowledge of Australian authorities; that Australian Security Intelligence Organisation officers in a number of cases had contact with persons some time after their entry into Australia in respect of whom the review has recorded allegations of the commission of war crimes and obtained information from them for ASIO purposes not related to the war crimes allegations, but there is no evidence that ASIO was involved in the entry of any of these persons into Australia.

The Government accepts the conclusion that some persons, against whom the most serious allegations have been made, are likely to have entered Australia after the Second World War, and to be still resident here today. However, as Mr Menzies has found, their entry was achieved in the circumstances of the urgency and intensity of our post-war immigration program. Given that background, there is no value in continuing to examine the past with the idea of apportioning blame, or endeavouring to sheet home responsibility. Instead, our attention must be concentrated on the steps to be taken to ensure that suspected war criminals involved in serious crimes are brought to justice.

On 22 March 1961, the then Attorney-General, Sir Garfield Barwick, speaking in this House, said in regard to the prosecution of war crimes committed in the course of the Second World War that the chapter should be regarded as closed. Where serious war crimes are concerned this Government does not regard the chapter as closed. This Government will take appropriate action under the law to bring to justice those persons found in Australia who have committed serious war crimes. We do not intend that there should be any reduction in our normal standards of justice when dealing with such cases, or in the safeguards now available under Australian law to persons accused of serious crimes. We will take action against individuals only where charges are serious and fully supported by evidence. It is important to understand that the Government's determination to investigate allegations of war crimes, and, where appropriate, to lay charges, is not action directed against ethnic groups, and is not to be regarded in any way as a slur upon any particular ethnic group. Our actions will be taken in relation to individuals and will be based, not on their ethnic origin, but upon their behaviour.

The first recommendation in the Menzies report is that the Government should make a clear and positive statement on its attitude to the prosecution of serious war crimes. That statement I have just made. The report recommends that the Government establish a small unit in the Office of the Director of Public Prosecutions along the lines of the United States Office of Special Investigations, to conduct investigations of allegations of war crimes. The Government will be setting up a Special Investigations Unit within my portfolio, reporting directly to me. It is normal practice to separate

the investigation and prosecution functions. The Director of Public Prosecutions will, of course, conduct any prosecutions in the ordinary way, and it will be the DPP who decides whether the results of any investigation justify the bringing of a prosecution. The Unit will have responsibility for investigating, in the first place, the allegations listed and detailed by Mr Menzies and contained in the sealed envelope handed to the Special Minister of State. That envelope will be handed over to the head of the Unit. The Unit will also have responsibility for investigating any other allegations that persons resident in Australia, either now or in the future, committed war crimes during the Second World War, including the allegations received by the Government from the Simon Wiesenthal centres in the United States and Israel.

Mr Menzies, in his recommendations, placed emphasis on the possibility of extradition where investigations showed that serious charges of war crimes should be brought against particular individuals. The approach preferred by the Government is to conduct war crimes prosecutions in Australia. I would be concerned at the prospect of making special arrangements to extradite persons to countries with markedly different judicial systems. However, should there be a request for the extradition of an alleged war criminal within the context of Australia's normal extradition arrangements, it will be dealt with by me in the ordinary way, with assistance, where appropriate from the Special Investigations Unit. If extradition was not appropriate, Mr Menzies recommended that consideration be given to revocation of citizenship and deportation in appropriate cases, but he specifically declined to recommend legislative change. The Government will consider those possibilities within the context of present legislation and policy.

As a result of its inquiries, the Unit may be recommending the bringing of prosecutions. Mr Menzies has recommended that only the more serious war crimes are worthy of attention now, more than 40 years after the events. The Government agrees and the work of the Unit will be directed accordingly. For example, allegations as to membership of, or demonstrated sympathy for, various fascist organisations in Nazi controlled Europe, and allegations as to production of fascist propaganda, do not warrant attention. The Menzies report sets out the types of crimes which would always be of concern, no matter how long ago they were committed. I mention, for example, participation in police or so called 'security' units which had the task of deporting, ill-treating or murdering persons on racial or political grounds—in some cases these people worked under German orders, in other cases they operated largely independently; participation as guards or administrators in the operation of German established concentration camps or prisons at which large numbers of people were murdered or ill-treated; participation in national or local puppet governments under Nazi German direction at an executive level, allegedly involving direct responsibility for the deportation, ill-treatment or murder of persons on racial or political grounds.

So that prosecutions may be brought in Australia, it will be necessary to make amendments to the War Crimes Act 1945. The principal amendments will be as follows: To provide for the trial of war crimes before State courts

exercising Federal criminal jurisdiction or, where appropriate, Territory courts, instead of before military tribunals as is presently the case. At present, the Act arguably does not apply to serious crimes committed in the course of hostilities in Eastern Europe, in that the extraterritorial application of the Act is restricted by reference to countries allied with His Majesty. An amendment is needed to encompass war crimes committed in the course of hostilities known as the Second World War. The Act would be applicable only to persons resident in Australia, either now or in the future. Evidentiary and procedural provisions which would be inappropriate for criminal prosecutions before civil courts will be repealed. These changes will necessarily involve amendments to the criminal law having retrospective operation. The circumstances are, however, sufficiently serious to justify this course. I will be introducing amendments to the War Crimes Act as soon as possible.

Mr Menzies also recommended that the Australian Security Intelligence Organization Act 1979 should be amended to permit ASIO, in relation to persons seeking entry into Australia, to obtain and communicate information concerning the commission of war crimes. Overseas investigation may be made by the Department of Immigration and Ethnic Affairs. Once the amendments to the War Crimes Act have been made, the present provisions of the ASIO Act will allow communication of any information the Organisation has in its possession.

This Government shares the abhorrence felt by all civilised nations at the serious criminal activities committed in the course of the Second World War, and considers that justice must be done, no matter how much time has passed since the events in question. We commend Mr Menzies, and those who worked with him, for the report. The Government will ensure that investigations are conducted with seriousness and dispatch, and that, within the normal standards of our criminal justice system, suspected war criminals will be brought to trial.

War—war criminals—amendment of War Crimes Act 1945

On 28 October 1987 the Attorney-General, Mr Bowen, introduced the War Crimes Amendment Bill 1987 into the House of Representatives and explained the purpose of the Bill as follows (HR Deb 1987, 1612–1613):

On 24 February last I advised the Parliament that where there is evidence of serious war crimes being committed during World War II and there being no punishment of the offenders, the Government has a duty statement to ensure that justice is done, no matter how long since the events in question have passed. Accordingly, the War Crimes Amendment Bill 1987 is designed to ensure that any serious criminal activities committed in the course of World War II, the commission of which is established beyond a reasonable doubt, by persons who are now residents or citizens of Australia, will not go unpunished.

The Bill is confined in its operation to the period of hostilities known as World War II and provides that certain criminal acts done during that period, whether in or out of Australia, which were during that period offences under a law in a part of Australia, are serious crimes for the purposes of the Bill. It

goes on to provide that where a serious crime was committed in the course of the hostilities, in the course of an occupation of territory or, more generally, for the purposes of the war, then, subject to certain exceptions, it is a war crime punishable under the Bill by prosecution in an Australian court.

The scheme, therefore, involves the hypothetical transfer of the act alleged to constitute the offence from outside Australia to some part of Australia. Most of the serious offences described in the Bill are such as are to be found in all Australian jurisdictions, so that it will not be possible for an office to exist in relation to one jurisdiction but not another. However, deportation and internment in death camps and slave labour camps are serious crimes by virtue of an express provision to that effect. A serious crime will also be a war crime if committed in the course of political, racial or religious persecution or with intend to destroy, wholly or partially, a national, ethnic, racial or religious group.

The types of crimes which will always be of concern, no matter how long ago they were committed, include participation in police or so-called 'security units'—whether or not German controlled—which deported, ill-treated or murdered persons on racial or political grounds; and participation as guards or administrators in German-established death camps or similar places at which large numbers of persons were murdered or ill-treated.

The involvement of secondary parties in such activity either by attempting, aiding or abetting, or by being knowingly involved in the activity, is also addressed in the Bill. The exemption provided under sub-section 7(2) will exclude the operation of the provision with respect to secondary parties whose involvement is incidental or remote.

The provisions concerning deportation to and internment in death camps and slave labour camps reflect the Government's concern that the Bill should extend to persons in national or local puppet governments under nazi direction at an executive level who had direct responsibility for the deportation, ill-treatment or murder of persons on racial or political grounds. The intention is to address crimes committed during the war at what is called the 'municipal' level, involving nazi-controlled or influenced national or local puppet governments, or persons acting pursuant to, for example, an anti-semitic policy, or on behalf of a puppet regime.

A war crime is to be an indictable offence if committed within the relevant period, irrespective of whether it was committed inside or outside Australia or whether it was committed by a person acting as an individual or as a member of an organisation. The words 'member of an organisation' are intended to preclude a person distributing blame away from himself or herself by virtue of membership alone.

In the interests of justice and impartiality, the Bill makes no special provision in relation to persons who will be liable under it—beyond requiring residency or citizenship—or in relation to the standards and procedures adopted in dealing with alleged offences. No distinction is drawn, for example, between members of the Allied or Axis forces, or between persons of different races or origin. Consistent with the Government's even-handed policy, the Bill applies to any person who

commits a war crime as defined. Lest there be any confusion, the Bill specifically provides a defence where the act alleged to constitute the offence was permitted by the laws of war and was not, under international law, a crime against humanity.

Although the Bill deals with events occurring over 45 years ago, no special provision has been made with a view to changing the normal rules governing evidence and procedure—including the operation of procedures under the Evidence Act 1905 for the obtaining of evidence overseas in criminal cases. Trials will be conducted in the ordinary courts of the States and internal Territories and, as in all criminal cases, the presumption of innocence will have full force and effect.

Any evidence sought to be adduced can be fully tested by defence counsel. The question of weight to be attached to any evidence will be a matter for the trial jury, and the Government has complete confidence in the ability of our courts and the jury system to deal fairly and responsibly with such matters.

No person will be deported to any country on the basis of a simple allegation that the person has committed a war crime. Australia must, of course, honour its obligation under extradition treaties, but the intention is that Australian citizens and residents accused of war crimes be dealt with in this country and this course is open under the treaties.

Customary international law recognises the acts or omissions addressed in the Bill as war crimes. It has long provided for criminal responsibility to be imposed on persons committing the acts or omissions dealt with by the Bill, and for their punishment. The Bill therefore extends to Australian courts jurisdiction to try to punish crimes recognised at international law as war crimes.

The Bill does not create offences retrospectively. The offences described in the Bill have existed for many years and many of them are cognisable by military courts under the War Crimes Act as it presently stands.

As I have explained, the basic scheme contained in the Bill for the prosecution of persons alleged to have committed war crimes during World War II involves selecting the most serious criminal acts encompassed within international law relating to war crimes and making them triable in our criminal courts in accordance with the normal rules, procedures and standards applying to our criminal trials. The Government believes that this approach provides the most comprehensive and efficacious answer yet devised anywhere in the world to the difficulties of prosecuting alleged war criminals in a jurisdiction other than that of the place where the alleged crimes were committed. I commend the Bill to the House. I present the explanatory memorandum to the Bill.

Use of force—prohibitions in the UN Charter—availability of the International Court of Justice to resolve disputes peacefully

On 5 June 1986 the Minister for Foreign Affairs, Mr Hayden, provided the following answer in part to a question on notice (HR Deb 1986, 4877–4879):

Article I of the United Nations Charter lists the purposes of the Organisation. The article does not address as such the specific obligations of member

states, although the purposes of the organisation should guide the conduct of all members. Other articles of the Charter create specific duties such as Article 2(4) which requires member states to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations, and Article 33 which requires parties to a dispute to seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

All members of the United Nations are under an obligation to act in accordance with the Charter. The Charter contains mechanisms, particularly through the Security Council, to determine whether a state has acted in breach of certain key provisions of the Charter.

Australia seeks to abide by the Charter in its foreign relations and considers that all member states should do likewise. Australia regrets it when member states do not abide by the Charter, but does not maintain a record of cases in which individual states do or do not observe particular articles of the Charter.

The Australian Government has consistently advocated that the United Nations system, including the International Court of Justice, should be maintained as a force for peace and stability. The Government has not proposed any multilateral alternatives to the UN system and believes that what is required is for all states to observe their existing obligations. The Government has also encouraged resort to the International Court as a forum for the peaceful settlement of international legal disputes. It has done so by example, through acceptance of the compulsory jurisdiction of the Court, and also by actively seeking to make the International Court the forum for settling legal disputes between parties to multilateral treaties when such disputes cannot be resolved by negotiation or other peaceful means.

APPENDICES

Treaties signed, ratified or acceded to by Australia during the years 1984 and 1985

Bilateral Treaties

Date and place of instrument	Description	Entry into force	Notes and references to printed text
AUSTRIA			
30 August 1985 Vienna	Protocol amending the Treaty concerning Extradition done at Canberra on 29 March 1973	1 February 1987	The Protocol entered into force when Notes were exchanged on 18 November 1985 pursuant to Article 6. Aust TS 1987 No 3.
BELGIUM			
20 March 1984 Canberra	Protocol amending the Agreement between Australia and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	20 September 1986	The Protocol entered into force when Notes were exchanged on 12 March 1985 and 5 September 1986 pursuant to Article V. Aust TS 1986 No 25.
4 September 1985 Brussels	Treaty on Extradition	19 November 1986	The Treaty entered into force when Notes were exchanged on 20 October 1986 pursuant to Article 16. Aust TS 1986 No 24.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
BRITAIN			
29 May 1985 Canberra	Exchange of Notes constituting an Agreement amending the Agreement for Air Services between and through their respective Territories, 1958, as amended	29 May 1985	Aust TS 1985 No 17.
CHINA			
17 May 1984 Beijing	Agreement on Agricultural Co–operation	17 May 1984	Aust TS 1984 No 14.
7–10 August 1984 Beijing–Canberra	Agreement on Economic and Technical Co–operation in the Iron and Steel Industry	10 August 1984	Aust TS 1984 No 28.
7 September 1984 Beijing	Agreement relating to Civil Air Transport	7 September 1984	Aust TS 1984 No 20.
14 September 1984 Beijing	Protocol on a Program of Co–operation in Agricultural Research for Development	14 September 1984	Aust TS 1984 No 23.
12–16 April 1985 Beijing–Canberra	Exchange of Notes constituting an Agreement on the establishment of additional Consulates–General in their respective countries	16 April 1985	Aust TS 1985 No 9.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
22 November 1985 Beijing	Agreement between the Government of Australia and the Government of the People's Republic of China for the Avoidance of Double Taxation of Income and Revenues Derived by Air Transport Enterprises from International Air Transport	14 November 1986	The Agreement entered into force when Notes were exchanged on 5 and 14 November 1986 pursuant to Article 4. Aust TS 1986 No 33.
JAPAN			
30 October 1984 Canberra	Subsidiary Agreement concerning Japanese Tuna Long–line Fishing	1 November 1984	The Subsidiary Agreement entered into force in accordance with Article IX on 1 November 1984. Aust TS 1984 No 29.
1 May 1985 Canberra	Exchange of Notes constituting an Agreement concerning co–operation on the project for the Geostationery Meteorological Satellite–3 System	1 May 1985	Aust TS 1985 No 14.
31 October 1985 Canberra	Subsidiary Agreement concerning Japanese Tuna Long–Line Fishing	1 November 1985	The Agreement entered into force in accordance with the provisions of Article IX. Aust TS 1985 No 26.
26 November 1985 Canberra	Exchange of Notes constituting an Agreement further extending the Agreement on Co–operation in Research and Development in Science and Technology	26 November 1985	Aust TS 1985 No 28.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
KOREA—REPUBLIC OF			
12 July 1982 Canberra	Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	1 January 1984	The Agreement entered into force when notes had been exchanged pursuant to Article 28 on 16 November 1983. Aust TS 1984 No 2.
16 October 1984 Canberra	Subsidiary Agreement concerning Squid Jigging by Fishing Vessels of the Republic of Korea	1 October 1984	The Subsidiary Agreement entered into force in accordance with Article X. Aust TS 1984 No 19.
28 November 1985 Canberra	Subsidiary Agreement between the Government of Australia and the Government of the Republic of Korea concerning Squid Jigging by fishing vessels of the Republic of Korea	1 October 1985	The Agreement was deemed to have entered into force on 1 October 1985 in accordance with the provisions of Article X. Aust TS 1985 No 31.
MALTA			
9 May 1984 Malta	Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	20 May 1985	The Agreement entered into force when notes were exchanged pursuant to Article 27 on 20 May 1985. Aust TS 1985 No 15.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
NAURU			Aust TS 1984 No 34.
2–3 February 1984 Nauru	Exchange of Notes constituting an Agreement to amend the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Nauru relating to Air Services 1969 as amended	3 February 1984	
FINLAND			
7 June 1984 Helsinki	Treaty concerning Extradition	23 June 1985	The Treaty entered into force when instruments of ratification were exchanged pursuant to Article 23(2) on 22 March 1985. Aust TS 1985 No 8.
12 September 1984 Canberra	Agreement and Protocol for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	28 March 1986	The Agreement entered into force when Notes were exchanged on 17 and 25 February 1986 pursuant to Article 27. Aust TS No 6.
10 September 1985 Helsinki	Protocol amending the Treaty concerning Extradition done at Helsinki on 7 June 1984		The Protocol will enter into force upon an exchange of Notes.
FRANCE			
15 July 1985 Paris	Agreement relating to the Exchange and Communication of Classified Information	15 July 1985	Aust TS 1985 No 20.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
GERMANY—FEDERAL REPUBLIC OF			
8 May 1984 Canberra	Treaty concerning Extradition		The Treaty will enter into force on ratification.
IRELAND			
2 September 1985 Dublin	Treaty on Extradition		The Treaty will enter into force upon an exchange of Notes.
ITALY			
14 December 1982 Canberra	Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	5 November 1985	The Convention entered into force when instruments of ratification were exchanged on 5 November 1985 pursuant to Article 29. Aust TS 1985 No 27.
26 September 1984 Rome	Economic and Commercial Co–operation Agreement between the Government of Australia and the Government of the Republic of Italy	26 September 1984	Aust TS 1984 No 26.
26 August 1985 Milan	Treaty on Extradition		The Treaty will enter into force upon an exchange of Notes.
NETHERLANDS			
5 September 1985 The Hague	Treaty on Extradition		The Treaty will enter force upon an exchange of Notes.
NORWAY			
27 March 1985 Melbourne	Agreement for the Exchange of Money Orders	27 May 1985	Aust TS 1985 No 11.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
9 September 1985 Oslo	Treaty concerning Extradition	2 March 1987	The Treaty entered into force when Notes were exchanged on 2 December 1986 pursuant to Article. Aust TS 1987 No 3.
PAPUA NEW GUINEA			
18 December 1978 Sydney	Treaty concerning Sovereignty and Maritime Boundaries in the Area between the two Countries, including the area known as Torres Strait, and related matters	15 February 1985	Aust TS 1985 No 4.
SINGAPORE			
18–24 July 1985 Singapore	Exchange of Notes constituting an Agreement to Terminate the Agreement concerning the Provision of Treatment in Singapore Hospitals for Asian Residents of Christmas Island 1968	16 October 1985	The Agreement entered into force in accordance with the provision in the Notes. Aust TS 1985 No 32.
SWEDEN			
14 August 1985 Stockholm	Agreement on the Protection of Classified Information of Defence Interest	15 August 1985	Aust TS 1985 No 21.
6 September 1985 Stockholm	Protocol amending the Treaty concerning Extradition done at Stockholm on 20 March 1973	6 October 1985	The Protocol entered into force in accordance with Article 3. Aust TS 1985 No 24.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
UNITED ARAB EMIRATES 6 March 1985 Canberra	Agreement on Trade and Economic Relations	9 September 1985	The Agreement entered into force when Notes were exchanged on 28 July and 9 September 1985 pursuant to Article IX. Aust TS 1985 No 34.
UNITED STATES OF AMERICA			
17 February 1984 Canberra	Exchange of Notes constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the United States of America regarding Future Management and Operation of the Joint Geological and Geophysical Research Station at Alice Springs	17 February 1984	Aust TS 1984 No 9.
10 April—10 May 1984 Canberra	Exchange of Notes constituting an Agreement concerning Access to the Repair and Maintenance Facilities of Australian Ports to United States Fishing Vessels	10 May 1984	Aust TS 1984 No 17.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
16 April—11 May 1984 Canberra	Exchange of Notes constituting an Agreement to extend the Agreement relating to Scientific and Technical Co–operation between the Government of the Commonwealth of Australia and the Government of the United States of America	16 April 1984	The Agreement entered into force in accordance with the provisions of the Notes. Aust TS 1984 No 15.
16 July—18 October 1984 Canberra	Exchange of Notes constituting an Agreement concerning the Use of Balloon Launching Facilities in Australia	18 October 1984	Aust TS 1984 No 32.
5–9 November 1984 Canberra	Exchange of Notes constituting an Agreement on Employment Opportunities for Dependents of Officials Overseas	9 November 1984	Aust TS 1984 No 33.
18 October—11 December 1984 Canberra	Exchange of Notes constituting an Agreement further extending the Agreement relating to Scientific and Technical Co–operation of 16 October 1968	16 October 1984	The Agreement entered into force in accordance with the provisions of the Note. Aust TS 1984 No 36.
16 January 1985 8 April 1979 Vienna	Exchange of Letters between the Government of Australia and the Government of the United States of America constituting an Agreement concerning Trade in certain Steel Products, with attached Arrangement	16 January 1985	Aust TS 1985 No 6.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
25 January—24 July 1985 Canberra	Exchange of Notes constituting an Agreement relating to the Launching of Long Duration Balloon Flights Beyond Australia for Scientific Purposes	24 July 1985	Aust TS 1985 No 23.
7 March 1985 Washington	Agreement concerning the Furnishing of Launch and Associated Services for Australia's National Satellite System	7 March 1985	Aust TS 1985 No 7.
2 August 1985 Washington	Exchange of Notes constituting an Agreement concerning the application of the Agreement concerning Peaceful Uses of Nuclear Energy	2 August 1985	Aust TS 1985 No 22.
15 October 1985—10 January 1986 Washington	Exchange of Notes constituting an Agreement to renew and amend the Agreement relating to Scientific and Technological Cooperation singed at Canberra on 16 October 1968	16 October 1985	The Agreement was deemed to have entered into force on 16 October 1985 in accordance with the provision in the Notes. Aust TS 1985 No 33.

Multilateral Treaties

Date and place of instrument	Description	Entry into force	Notes and references to printed text
14 May 1954 The Hague	Convention for the Protection of Cultural Property in the Event of Armed Conflict	7 September 1957	Signed for Australia 14 May 1956. Instrument of ratification deposited by Australia 19 September 1984. Entered into force for Australia 19 December 1984 in accordance with Article 33 para 2. Aust TS 1984 No 21.
20 June 1956 New York	Convention on the Recovery Abroad of Maintenance	25 May 1957	Instrument of accession deposited by Australia 12 February 1985. Entered into force for Australia 14 March 1985 in accordance with Article 14 para 2. Aust TS 1985 No 12.
5 December 1958 Paris	Convention concerning the International exchange of Publications 1958	23 November 1961	Instrument of acceptance deposited by Australia 15 June 1985. Entered into force for Australia 15 June 1985. Aust TS 1985 No 2.
5 December 1958 Paris	Convention concerning the Exchange of Official Publications and Government Documents between States	30 May 1961	Instrument of acceptance deposited by Australia 15 June 1984. Entered into force for Australia 15 June 1985. Aust TS 1985 No 3.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
19 December 1966 New York	International Covenant on Civil and Political Rights	23 March 1976 (for all provisions except article 41 which entered into force 28 March 1979)	Signed for Australia 18 December 1972. Instrument of ratification, with reservations and declarations deposited for Australia 13 August 1980. Entered into force for Australia 13 November 1980. On 6 November 1984 Australia withdrew reservations and declarations made upon ratification with the exception of reservations to Article 10 paras 2(a), (b) and 3, Article 14 para 6 and Article 20[1]. Aust TS 1980 No 23; UKTS No 6 of 1977; Cmnd 6702; UNTS 999p 171.

1 WHEREAS on the thirteenth day of August one thousand nine hundred and eighty, the Government of Australia ratified, for and on behalf of Australia and subject to certain reservations and declarations the International Covenant on Civil and Political Rights opened for signature at New York on the nineteenth day of December one thousand nine hundred and sixty–six;
THE GOVERNMENT OF AUSTRALIA having considered its reservations and declarations whereby WITHDRAWS the same with the exception of the following reservations:
ARTICLE 10
In relation to paragraph 2(a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraphs 2(b) and 3 (second sentence) the obligations to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned.
ARTICLE 14
Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of Article 14 may be by administrative procedures rather than pursuant to specific legal provision.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
29 November 1969 Brussels	International Convention on Civil Liability for Oil Pollution Damage	19 June 1975	Signed for Australia 17 December 1970. Instrument of ratification with objection, deposited by Australia 7 November 1983. Entry into force for Australia 5 February 1984. Aust TS 1984 No 3; UKTS 106 of 1975; Cmnd 6183.
29 November 1969 Brussels	International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969	6 May 1975	Signed for Australia 17 December 1970. Instrument of ratification with declaration, deposited by Australia 7 November 1983. Entry into force for Australia 5 February 1984. Aust TS 1984 No 4; UKTS 77 of 1975; Cmnd 6056.
1 June 1970 The Hague	Convention on the Recognition of Divorces and Legal Separation	24 August 1975	Instrument of accession deposit ed by Australia 24 September 1985. Entered into force for Australia 23 November 1985. Aust TS 1985 No 25.

ARTICLE 20
Australia interprets the rights provided for by Article 19, 21 and 22 as consistent with Article 20; accordingly, the Commonwealth and the constituent states, having legislated with respect to the subject matter of the Article in matters of practical concern in the interests of public order (order public), the right is reserved not to introduce any further legislative provision on these matters.
IN WITNESS WHEREOF, I, WILLIAM GEORGE HAYDEN, Minister of State for Foreign Affairs, have hereunto set my hand and affixed my seal.
DONE at Canberra this twentieth day of October, one thousand nine hundred and eighty–four.
(signed) BILL HAYDEN

Date and place of instrument	Description	Entry into force	Notes and references to printed text
29 December 1972 London, Mexico City, Moscow, Washington	International Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter	30 August 1975	Signed for Australia 10 October 1973, instrument of ratification deposited by Australia 21 August 1985 at London, Mexico City, Moscow and Washington. Entered into force for Australia 20 September 1985. Aust TS 1985 No 16; UKTS No 45 of 1976.
2 November 1973 London	Protocol relating to Intervention on the High Seas in Cases of Pollution Substances other than Oil 1973	30 March 1983	Instrument of Accession deposited by Australia 7 November 1983. Entry into force for Australia 5 November 1984. Aust TS 1984 No 5; UKTS 27 of 1983; Cmnd 8924.
10 June 1974 Brussels	Annex D1 (concerning rules of origin) to the International Convention on the Simplification and Harmonization of Customs Procedures		Instrument of acceptance excluding Recommended Practices Nos 5 and 12, deposited by Australia 5 March 1984. Entry into force for Australia 5 June 1984. Aust TS 1984 No 13.
14 November 1974 Paris	Statutes of the International Centre for the Registration of Serial Publication as amended at Paris on 12 October 1976	21 January 1976	Instrument of accession deposited by Australia 22 October 1984. Entered into force for Australia 22 October 1984. Aust TS 1984 No 30.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
22 May 1975 Buenos Aires	Annex E1 (concerning Customs transit) to be International Convention on the Simplification and Harmonization of Customs procedures		Instrument of acceptance deposited by Australia 5 March 1984. Entered into force for Australia 5 June 1984. Aust TS 1984 No 18.
23 June 1975 Geneva	Convention (No 142) concerning Vocational Guidance and Vocational Training in the Development of Human Resources		Instrument of ratification deposited by Australia 10 September 1985. Entered into force for Australia 9 September 1986. Aust TS 1986 No 2.
17 May 1976 Geneva	Amendments to Articles 24 and 25 of the Constitution of the World Health Organization	20 January 1984	Instrument of acceptance deposited by Australia 30 March 1977. Aust TS 1984 No 11.
19 November 1976 London	Protocol to the International Convention on Civil Liability for Oil Pollution Damage 1969	8 April 1981	Instrument of accession deposited by Australia 7 November 1983. Entry into force for Australia 5 February 1984. Aust TS 1984 No 3; UKTS No 26 of 1981; Cmnd 8238.
10 December 1976 New York	Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques	5 October 1978	Signed for Australia 31 May 1978. Instrument of ratification deposited by Australia 7 September 1984, on which date the Convention entered into force for Australia in accordance with Article IX para 4. Aust TS 1984 No 22.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
17 November 1977 London	Amendments to the Convention on the Inter–Governmental Maritime Consultative Organization relating to the Institutionalization of the Committee on Technical Co–operation in the Convention	10 November 1984	Instrument of acceptance deposited by Australia 29 May 1980. Aust TS 1984 No 27.
14 June 1978 Brussels	Annex A3 (concerning Customs formalities applicable to commercial means of transport) to the International Convention on the Simplification and Harmonization of Customs Procedures	18 March 1982	Instrument of acceptance deposited by Australia 22 October 1981. Aust TS 1985 No 5.
26 June 1978 Geneva	Convention (No 150) concerning Labour Administration, Role, Function and Organisation	11 October 1980	Instrument of ratification deposited by Australia 10 September 1985. Entry into force for Australia 9 September 1986. Aust TS 1986 No 3.
7 July 1978 London	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers	28 April 1984	Signed for Australia 29 November 1979. Instrument of ratification with statement, deposited by Australia 7 November 1983. Aust TS 1984 No 7.
20 September 1978 Alofi	Amendments to the Agreement Establishing the South Pacific Bureau for Economic Co–operation	23 May 1985	Instrument of ratification deposited by Australia 30 April 1979. Aust TS 1985 No 30.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
8 April 1979 Vienna	Constitution of the United Nations Industrial Development Organization	21 June 1985 (see Art 25)	Signed for Australia 3 March 1980. Instrument of ratification, with declaration, deposited by Australia 12 July 1982. Aust TS 1985 No 19.
15 November 1979 London	Amendments to Article 17, 18, 20 and 51 of the Convention on the Inter–Governmental Maritime Consultative Organization	10 November 1984	Instrument of acceptance deposited by Australia 10 November 1980. Aust TS 1984 No 31.
21 December 1979 Brussels	Protocol amending the International Convention relating to the Limitation of Liability of Owners of Seagoing Ships dated 10 October 1957	6 October 1984	Signed for Australia and instrument of ratification deposited by Australia 30 November 1983. The Protocol entered into force in accordance with Article VI. Aust TS 1984 No 24.
10 October 1980 Geneva	Convention on Prohibitions or Restrictions on the use of Certain Conventional Weapons which may be Excessively Injurious or to have Indiscriminate Effects, with annexed Protocols	2 December 1983	Signed for Australia 8 April 1982 Instrument of ratification deposited by Australia 29 September 1983. Including acceptance of Protocols I, II, and III. Entry into force for Australia 29 March 1984. Aust TS 1984 No 6.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
1 October 1982 Geneva	International Agreement on Jute and Jute Products 1982	9 January 1984 (provisional)	Instrument of Accession deposited by Australia 12 April 1984. The Agreement entered into force provisionally for Australia 12 April 1984. Aust TS 1984 No 12.
6 November 1982 Nairobi	International Telecommunication Convention	1 January 1984	Signed for Australia 6 November 1982. Instrument of ratification deposited by Australia 12 January 1984. Aust TS 1984 No 35.
29 March 1983 London	Agreement Establishing the Association of Tin Producing Countries	16 August 1983	The Agreement was signed with reservation, for Australia 22 November 1983. Entered into force for Australia 21 January 1984. Aust TS 1984 No 10.
14 June 1983 Brussels	International Convention on the Harmonized Commodity Description and Coding System		Signed for Australia 26 June 1984. The Convention is not yet in force.
18 March 1983 Geneva	Final Acts of the World Administrative Radio Conference for the Mobile Services (MOB–83)	15 January 1985	Instrument of approval deposited by Australia 25 March 1985.
16 December 1983 Bangkok	Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific	22 October 1985	Instrument of acceptance, with statement, deposited by Australia 23 September 1985. Aust TS 1985 No 34.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
5 July 1984 Geneva	International Sugar Agreement 1984	4 April 1985	Signed for Australia and instrument of ratification deposited by Australia 31 December 1984. Aust TS 1985 No 10.
20 August 1984 Vienna	Second Agreement to extend the Agreement Establishing the Asian Regional Co–operative Project on Food Irradiation	11 April 1985	Instrument of acceptance deposited by Australia 11 April 1985. Aust TS 1985 No 13.
24 September 1984 Vienna	Amendment of Article VI A 1 of the Statute of the International Atomic Energy Agency		Instrument of acceptance deposited by Australia 14 August 1985. The Amendment is not yet in force.
10 December 1984 New York	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment		Signed for Australia 10 December 1985. The Convention is not yet in force.
26 June 1985 London	Agreement Establishing an International Foot and Mouth Disease Vaccine Bank	26 June 1985	Signed for Australia 26 June 1985. Aust TS 1985 No 19.
6 August 1985 Rarotonga	South Pacific Nuclear Free Zone Treaty	11 December 1986	Signed for Australia on 6 August 1985. Instrument of ratification deposited by Australia on 11 December 1986. Aust TS 1986 No 32.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
13 September 1985 Geneva	Final Acts of the First Session of the World Administrative Radio Conference of the International Telecommunication Union on the Use of the Geostationary Satellite Orbit		Signed for Australia on 13 September 1985. The Acts are not yet in force.
4 December 1985 Bangkok	Final Acts of the Fifth Congress of the Asian–Pacific Postal Union		Signed for Australia on 4 December 1985. The Acts are not yet in force.

International Organisations

Date and place of instrument	Description	Entry into force	Notes and references to printed text
31 January 1984 Geneva	Exchange of Notes Constituting an Agreement to amend the Agreement between the Patent Office of the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the Establishment and Function of the Patent Office of the Government of Australia as an international Searching and International Preliminary Examining Authority under the Patent Cooperation Treaty	1 March 1984	The Agreement entered into force in accordance with the terms of the Notes. Aust TS 1984 No 8.
30 March—23 July 1984 Canberra–Hobart	Exchange of Notes constituting an Agreement to Extend the Interim Agreement between the Government of Australia and the Commission for the Conservation of Antarctic Marine Living Resources concerning certain Privileges and Immunities of the Commission	23 July 1984	Aust TS 1984 No 16.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
19 September 1984 Washington	Agreement between the Governments of Australia, New Zealand and the United States of America in cooperation with the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas relating to the Conduct of a Joint Programme of Marine Geoscientific Research and Mineral Resource Studies of the South Pacific Region—Second Phase	19 September 1984	Aust TS 1984 No 25.

Treaties signed, ratified or acceded to by Australia during 1986 and 1987
Bilateral Treaties

Date and place of instrument	Description	Entry into force	Notes and references to printed text
AUSTRIA			
30 August 1985 Vienna	Protocol amending the Treaty concerning Extradition done at Canberra on 29 March 1973	1 February 1987	The Protocol entered into force when Notes were exchanged on 18 November 1985 pursuant to Article 6. Aust TS 1987 No 6.
8 July 1986 Vienna	Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income		The Agreement will enter into force upon an exchange of Notes
BELGIUM			
20 March 1984 Canberra	Protocol amending the Agreement between Australia and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	20 September 1986	The Protocol entered into force when Notes were exchanged on 12 March 1985 and 5 September 1986 pursuant to Article V. Aust TS 1986 No 25.
4 September 1985 Brussels	Treaty on Extradition	19 November 1986	The Treaty entered into force when Notes were exchanged on 20 October 1986 pursuant to Article 16. Aust TS 1986 No 24.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
BRITAIN			
28 February 1986 Canberra	Exchange of Letters constituting an Agreement to amend the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland to provide for the Establishment and Operation in Australia of a Large Optical Telescope 1969	28 February 1986	Aust TS 1986 No 4.
21 March 1986 London	Agreement on Health Services	1 July 1986	The Agreement entered into force on 1 July 1986 pursuant to Article 5. Aust TS 1986 No 13.
29-31 December 1986 London	Exchange of Notes constituting an agreement to amend the Agreement on Social Security between the Government of Australia and the Government of Great Britain and Northern Ireland 1958 as amended	9 February 1986	Aust TS 1987 No 5.
CANADA			
7 August 1986 Vancouver	Exchange of Notes constituting an Agreement for sharing Consular Services Abroad	7 August 1986	Aust TS 1986 No 18.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
CHINA			
22 November 1985 Beijing	Agreement for the Avoidance of Double Taxation and Revenues Serviced by Air Transport Enterprises from International Air Transport	14 November 1986 (and has effect in respect of the profits and revenues derived on or after 1 October 1984)	The Agreement entered into force when Notes were exchanged on 5 and 14 November 1986 pursuant to Article 4. Aust TS 1986 No 31.
20 October 1986 Canberra	Agreement for the Protection of Migratory Birds and their Environment		The Agreement will enter into force upon an exchange of Notes.
2-22 December 1986 Canberra-Beijing	Exchange of Notes constituting an Agreement to amend the Trade Agreement between the Government of Australia and the Government of the People's Republic of China 1973	22 December 1986	Aust TS 1986 No 33.
FINLAND			
12 September 1984 Canberra	Agreement and Protocol for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income	28 March 1986	The Agreement entered into force when Notes were exchanged on 17 and 25 February 1986 pursuant to Article 27. Aust TS 1986 No 6.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
GERMAN FEDERAL REPUBLIC			
14 April 1987 Bonn	Treaty concerning Extradition		The Treaty will enter into force upon an exchange of Notes.
20 August 1987 Canberra	Exchange of Notes constituting an Agreement on the Launching of Sounding Rockets	20 August 1987	Aust TS 1987 No 12.
GREECE			
13 April 1987 Athens	Treaty on Extradition		The Treaty will enter into force upon an exchange of Notes.
INDIA			
26 February 1975 New Delhi	Agreement on Co-operation in the Fields of Science and Technology	26 February 1975	Aust TS 1975 No 10; UNTS 975 p 147. Terminated 15 October 1986 pursuant to Article X(1) of the Agreement of 15 October 1986 (see below).
15 October 1986 Canberra	Agreement on Co-operation in the Field of Science and Technology	15 October 1986	Aust TS 1986 No 16.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
INDONESIA			
3 June—16 August 1986 Jakarta	Exchange of Notes constituting an Agreement to amend the Agreement for Air Services between and beyond their respective Territories 1969	16 August 1986	Aust TS 1986 No 23.
ITALY			
9 January 1986 Rome	Reciprocal Agreement in the Matter of Health Assistance		The Agreement will enter into force upon an exchange of instruments of ratification.
23 April 1986 Rome	Agreement providing for reciprocity in matters relating to Social Security		The Agreement will enter into force upon an exchange of instruments of ratification.
JAPAN			
21 March 1986 Canberra	Exchange of Notes constituting an Agreement between the Commonwealth of Australia and Japan relating to Air Services	21 March 1986	Aust TS 1986 No 7.
30 October 1986 Canberra	Subsidiary Agreement concerning Japanese Tuna Long-line Fishing	1 November 1986	Aust TS 1986 No 28.
30 September 1987 Canberra	Exchange of Notes constituting an Agreement to amend the Agreement relating to Air Services 1957 as amended	30 September 1987	Aust TS 1987 No 17.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
29 October 1987 Canberra	Subsidiary Agreement concerning Japanese Tuna Long-Line Fishing	1 November 1987	The Subsidiary Agreement entered into force on 1 November 1987 pursuant to Article IX. Aust TS 1987 No 20.
KOREA—REPUBLIC OF			
26 February—20 August 1986 Canberra	Exchange of Notes constituting an Agreement to amend the subsidiary Agreement concerning Squid Jigging by Fishing Vessels of the Republic of Korea	21 January 1986	The Agreement entered into force in accordance with the provisions of the Notes. Aust TS 1986 No 17.
16 December 1986 Canberra	Subsidiary Agreement concerning Squid Jigging by Fishing Vessels of the Republic of Korea	1 October 1986	Aust TS 1986 No 30.
10 December 1987 Canberra	Subsidiary Agreement concerning Squid Jigging by Fishing Vessels of the Republic of Korea	1 October 1987	The Subsidiary Agreement entered into force in accordance with the provisions of Article X. Aust TS 1987 No 25.
LUXEMBOURG			
23 April 1987 Luxembourg	Treaty on Extradition		The Treaty will enter into force upon an exchange of Notes.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
NETHERLANDS			
30 June 1986 Canberra	Second Protocol Amending the Agreement between Australia and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income with Protocol		The Protocol will enter into force upon an exchange of Notes.
5 September 1985 The Hague	Treaty on Extradition	1 February 1988	The Treaty entered into force when Notes were exchanged on 18 December 1987 pursuant to Article 17.
30 June 1986 Canberra	Second Protocol Amending the Agreement between Australia and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income with Protocol	1 May 1987	The Protocol entered into force when Notes were exchanged on 8 December 1986 and 31 March 1987 pursuant to Article 3. Aust TS 1987 No 22.
NEW ZEALAND			
2 April 1986 Rotorua	Agreement on Medical Treatment	1 July 1986	The Agreement entered into force when Notes were exchanged on 27 June 1986 pursuant to Article 6(1). Aust TS 1986 No 15.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
5 October 1986 Melbourne	Agreement providing for Reciprocity in Matter relating to Social Security	1 October 1987	The Agreement entered into force when Notes were exchanged on 29 September 1987 pursuant to Article 24. Aust TS 1987 No 18.
30 May 1987 Apia	Agreement between the Government of Australia and the Government of New Zealand on Seismic Monitoring Cooperation	30 May 1987	Aust TS 1987 No 10.
NORWAY			
26 June 1872 Stockholm	Treaty for the Mutual Surrender of Fugitive Criminals		Instruments of ratification exchanged 28 August 1873. Applie to Australia (including the Territories of Papua and Norfolk Island). Extended to the Mandated (now Trust) Territory of New Guinea, together with the Supplementary Agreement of 18 February 1907, from 13 December 1929, by Notes exchanged with the Norwegian Government in 1927 1929. Hertslet 14 p 527; SP 63 p 175. Article 2 has been supplemented by the Agreement of 18 February 1907 below. Terminated 2 March 1987 pursuant to Article 24 para 2 of the Treaty of 9 September 1985 (see below).

Date and place of instrument	Description	Entry into force	Notes and references to printed text
18 February 1907 Christiania	Supplementary Agreement respecting the Mutual Surrender of Fugitive Criminals		The Agreement maintains the Treaty of 1873, so far as Norway is concerned, and supplements Article 2 of the Treaty. Applies to Australia (including the Territories of Papua and Norfolk Island) and was extended to the Mandated (now Trust) Territory of New Guinea from 13 December 1929. UKTS No 19 of 1907 (Cd 3606); Hertslet 25 p 964; SP 100 p 552.
9 September 1985 Oslo	Treaty concerning Extradition	2 March 1987	The Treaty entered into force upon an exchange of Notes on 2 December 1986 pursuant to Article 24. Aust TS 1987 No 3.
PORTUGAL			
21 April 1987 Lisbon	Treaty on Extradition		The Treaty will enter into force upon an exchange of Notes.
SOUTH AFRICA			
2 April 1970 Pretoria	Agreement relating to Air Services	2 April 1970	Aust TS 1970 No 6. Australian notice of termination was given on 31 October 1986. In accordance with Article 12 the Agreement will terminate twelve months thereafter.
SPAIN			
22 April 1987 Madrid	Treaty on Extradition		The Treaty will enter into force upon ratification.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
SWITZERLAND			
28 January 1986 Bern	Agreement concerning the Peaceful Uses of Nuclear Energy		The Agreement will enter into force upon an exchange of Notes.
UNION OF SOVIET SOCIALIST REPUBLICS			
20 November 1986 Canberra	Agreement on Co-operation in Agriculture	20 November 1986	Aust TS 1986 No 27.
1 December 1987 Moscow	Agreement on Co-operation in Space Research and the Use of Space for Peaceful Purposes	1 December 1987	Aust TS 1987 No 27.
1 December 1987 Moscow	Agreement on Co-operation in the Field of Medical Science and Public Health	1 December 1987	Aust TS 1987 No 26.
UNITED STATES OF AMERICA			
5 January 1987 Canberra	Exchange of Notes constituting an Agreement concerning the conduct of Equatorial Mesoscale Experiment (EMEX)	5 January 1987	Aust TS 1987 No 7.
5 January 1987 Canberra	Exchange of Notes constituting an Agreement concerning the conduct of the Stratosphere Troposphere Exchange Project (STEP)	5 January 1987	Aust TS 1987 No 7.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
2-3 April 1987 Port Moresby	Exchange of Notes constituting an Agreement on Access to the Australian Fishing Zone	3 April 1987	Text of the Notes will be published when the Agreement on Fisheries between certain Pacific Island States and United States enters into force.
1 September 1987 Canberra	Exchange of Notes constituting an Agreement on the Launching of Sounding Rockets	1 September 1987	Aust TS 1987 No 13.
8 October—12 November 1987 Washington	Exchange of letters constituting an Agreement relating to the limitation of Australian export of Meat to the United States	12 November 1987	Aust TS 1987 No 21.
22 December 1987 Washington	Exchange of Notes constituting an Agreement to amend the Air Transport Agreement between the Government of Australia and the Government of the United States of America 1946	22 December 1987	Aust TS 1987 No 24.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
17 June 1925 Geneva	Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare	8 February 1928	Instrument of accession deposited by Australia 22 January 1930. On 25 November 1986 Australia withdrew reservations made on accession.
21 November 1947 New York	Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations		Instrument of accession deposited by Australia 9 May 1986. Aust TS 1962 No 13; UKTS No 69 of 1959; Cmnd 855; UNTS 33 p 261.
12 May 1954 London	International Convention for the Prevention of the Pollution of the Sea by Oil	26 July 1958	Instrument of acceptance deposited by Australia 29 August 1962. Entered into force for Australia 29 November 1962. Instrument of denunciation deposited by Australia 14 October 1987, with effect from 14 October 1988. Aust TS 1962 No 7; UKTS No 56 of 1958; Cmnd 595; UNTS 327 p 3.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
1 July 1955 Brussels	Convention on the Nomenclature for the Classification of Goods in Customs Tariffs 1950 as amended	11 September 1959	Instrument of accession deposited by Australia 18 April 1973. Entry into force for Australia 18 July 1973. On 22 September 1987 Australia gave notice of its intention to withdraw from the Convention with effect from 22 September 1988. Aust TS 1973 No 18; UKTS No 29 of 1960; Cmnd 1970; UNTS 347 p 142.
1 July 1959 Vienna	Agreement on the Privileges and Immunities of the International Atomic Energy Agency		Instrument of acceptance deposited by Australia 9 May 1986. The Agreement entered into force for Australia 9 May 1986. Aust TS 1986 No 10; UKTS No 27 of 1962; UNTS 374 p 147.
5 October 1961 The Hague	Convention on the Conflicts of Laws relating to the Form of Testamentary Dispositions	5 January 1964	Instrument of accession, with declaration, deposited by Australia 22 September 1986. Entry into force for Australia 21 November 1986. Aust TS 1986 No 20.
9 April 1965 London	Convention on Facilitation of International Marine Traffic	5 March 1967	Instrument of accession deposited by Australia 28 April 1986. Entry into force for Australia 27 June 1986. Aust TS 1986 No 12.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
22 April 1968 London, Moscow and Washington	Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space	3 December 1968	Signed for Australia 22 April 1968. Instrument of ratification deposited by Australia 18 March 1986. Entry into force for Australia 18 March 1986. Aust TS 1986 No 8; UKTS No 56 1969; Cmnd 3997; UNTS 672 p 119.
1 June 1972 London	Convention for the Conservation of Antarctic Seals	11 March 1978	Signed for Australia 5 October 1972. Instrument of ratification deposited by Australia 1 July 1987. Entry into force for Australia 31 July 1987. Aust TS 1987 No 11; UKTS No 45 of 1978; Cmnd 7209.
14 January 1975 New York	Convention on Registration of Objects Launched into Outer Space	15 September 1976	Instrument of accession deposited by Australia 11 March 1986. Entry into force for Australia 11 March 1986. Aust TS 1986 No 5; UKTS No 70 of 1978; Cmnd 7271; UNTS 1023 p 15.
23 June 1975 Geneva	Convention (No. 142) concerning Vocational Guidance and Vocational Training in the Development of Human Resources	19 July 1977	Instrument of ratification deposited by Australia 10 September 1985. Entry into force for Australia 9 September 1986. Aust TS 1986 No 2.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
28 April 1977 Budapest	Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, as amended	19 August 1980	Instrument of accession deposited by Australia 7 April 1987. The Treaty entered into force for Australia on 7 July 1987. Aust TS 1987 No 9.
9 June 1977 Nairobi	Convention concerning Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences	22 May 1980	Instrument of accession, including Annexes I and II deposited by Australia 3 November 1986. Entry into force for Australia 3 April 1987. Aust TS 1987 No 4.
30 September 1977 Montreal	Protocol on the Quadrilingual Text of the Convention on International Civil Aviation (Russian language text)		Instrument of accession deposited by Australia 2 December 1987. The Protocol is not yet in force.
17 February 1978 London	Protocol of 1978 relating to International Convention for the Prevention of Pollution from Ships 1973, as amended	6 October 1983	Signed for Australia 30 May 1979. Instrument of ratification deposited by Australia 14 October 1987. Entr into force for Australia 14 January 1988.
14 March 1978 The Hague	Convention on the Celebration and Recognition of the Validity of Marriages		Signed for Australia 9 July 1980. Instrument of ratification, with declaration, deposited by Australia—29 December 1987. The Convention is not yet in force.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
26 June 1978 Geneva	Convention (No 150) concerning Labour Administration: Role, Function and Organisation	11 October 1980	Instrument of ratification deposited by Australia 10 September 1985. Entry into force for Australia 9 September 1986. Aust TS 1986 No 3.
8 April 1979 Vienna	Constitution of the United Nations Industrial Development Organization	21 June 1985 (see Art 25)	Signed for Australia 3 March 1980. Instrument of ratification deposited by Australia 12 July 1982. Aust TS 1985 No 19. Instrument of denunciation deposited by Australia 24 December 1987 with effect from 1 January 1989.
22 June 1979 Bonn	Amendment to Article XI(3)(a) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora		Instrument of acceptance deposited by Australia 1 July 1986. The Amendment is not yet in force.
5 December 1979 New York	Agreement Governing the Activities of States on the Moon and Other Celestial Bodies	11 July 1984	Instrument of acceptance deposited by Australia 7 July 1986. Entry into force for Australia 6 August 1986. Aust TS 1986 No 14.
21 December 1979 Paris	Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the Europe Region	19 February 1982	Instrument of accession, with a statement, deposited by Australia 6 August 1986. Entry into force for Australia 6 September 1986. Aust TS 1986 No 19.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
3 March 1980 Vienna	Convention on the Physical Protection of Nuclear Material	8 February 1987	Signed for Australia 22 February 1984, Instrument of ratification deposited by Australia 22 September 1987. Entry into force for Australia 23 October 1987. Aust TS 1987 No 16.
25 October 1980 The Hague	Convention on the Civil Aspects of International Child Abduction	1 December 1983	Signed for Australia and instrument of ratification deposited by Australia 29 October 1980. Entry into force for Australia 1 January 1987. Aust TS 1987 No 2.
3 December 1982	Protocol to amend the Convention on Wetlands of International Importance especially as Waterfowl Habitat	1 October 1986	Instrument of accession deposited by Australia 12 August 1983. Aust TS 1986 No 26.
14 June 1983 Brussels	International Convention on the Harmonized Commodity Description and Coding System	1 January 1988	Signed for Australia 26 June 1984. Instrument of ratification deposited by Australia 22 September 1987.
10 May 1984 Montreal	Protocol relating to an amendment to the Convention on International Civil Aviation [Article 3 bis]		Instrument of ratification deposited by Australia 10 September 1986. The Protocol is not yet in force.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
25 May 1984 Rarotonga	Memorandum of Understanding to confer upon the Committee for Mineral Resources in South Pacific Offshore Areas status as an Intergovernmental Organisation		Instrument of accession with declaration, deposited by Australia 8 September 1986. Entry into force for Australia 8 October 1986. Aust TS 1986 No 22.
22 March 1985 Vienna	Vienna Convention for the Protection of the Ozone Layer		Instrument of acceptance deposited by Australia 16 September 1987. The Convention is not yet in force.
17 June 1985 Geneva	Convention (No 160) concerning Labour Statistics	9 April 1988	Instrument of ratification deposited by Australia 9 April 1987.
6 August 1985 Rarotonga	South Pacific Nuclear Free Zone Treaty	11 December 1986	Signed for Australia 6 August 1985. Instrument of ratification deposited by Australia 11 December 1986. Aust TS 1986 No 32.
20 September 1985 London	Agreement on CAB International	4 September 1987	Signed for Australia 8 July 1986. Instrument of ratification deposited by Australia 31 July 1986. Aust TS 1987 No 19.
16 October 1985 London	Amendments to the Convention on the International Maritime Satellite Organization (INMARSAT)		Instrument of acceptance deposited by Australia 30 March 1987. The amendments are not yet in force.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
16 October 1985 London	International agreement on the Use of Inmarsat Ship Earth Stations within the Territorial Sea and Ports		Signed for Australia 2 April 1987. The Agreement is not yet in force.
14 March 1986 London	Wheat Trade Convention	1 July 1986	Instrument of accession deposited by Australia 27 June 1986.
12 May 1986 Geneva	Amendments to articles 24 and 25 of the Constitution of the World Health Organisation		Instrument of acceptance deposited by Australia 25 February 1987. The amendments are not yet in force.
24 June 1986 Brussels	Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System	1 January 1988	Signed for Australia, without reservation as to ratification, 22 September 1987.
26 September 1986 Vienna	Convention on Early Notification of Nuclear Accident	27 October 1986	Signed for Australia 26 September 1986. Instrument of ratification deposited by Australia 22 September 1987. Entry into force for Australia 23 October 1987. Aust TS 1987 No 14.
26 September 1986 Vienna	Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency	26 February 1987	Signed for Australia 26 September 1986. Instrument of ratification, with declaration, deposited by Australia 22 September 1987. Entry into force for Australia 23 October 1987. Aust TS 1987 No 15

Date and place of instrument	Description	Entry into force	Notes and references to printed text
24 November 1986 Noumea	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region		Signed for Australia 24 November 1987. The Convention is not yet in force.
25 November 1986 Noumea	Protocol for the Prevention of Pollution of the South Pacific Region by Dumping		Signed for Australia 24 November 1987. The Protocol is not yet in force.
25 November 1986 Noumea	Protocol concerning co-operation in Combating Pollution Emergencies in the South Pacific Region		Signed for Australia 24 November 1987. The Protocol is not yet in force.
9 February 1987 Canberra	Agreement to Terminate the Nauru Island Agreement 1919	9 February 1987	Aust TS 1987 No 8.
8 March 1987 Geneva	Final Acts of the 2nd Session of the World Administrative Radio Conference for the Allocation of H.F. Bands Allotted to Broadcasting		Signed for Australia 8 March 1987. The Acts are not yet in force.
2 April 1987 Port Moresby	Treaty on Fisheries between the Governments of Certain Pacific States and the Government of the United States of America		Signed for Australia 2 April 1987. The Treaty is not yet in force.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
2 April 1987 Port Moresby	Agreement among Pacific Island States concerning the Implementation and Administration of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America		Signed for Australia 2 April 1987. The Agreement is not yet in force.
2 April 1987 Port Moresby	Agreed Statement on Observer Programme	2 April 1987	Signed for Australia 2 April 1987.
16 June 1987 Suva	Agreement concerning an International Trust Fund for Tuvalu	16 June 1987 with the exception of Article 5, 7, 12 and 16; Articles 7, 12 and 16 entered into force 11 August 1987. Article 5 is not yet in force	Signed for Australia without reservation as to ratification 16 June 1987.
30 September 1987 Montreal	Protocol on the Authentic Quadrilingual text of the Convention on International Civil Aviation 1944		Instrument of acceptance deposited by Australia 2 December 1987. The Protocol is not yet in force.
5 October 1987 Geneva	Second Geneva (1987) Protocol to the General Agreement on Tariffs and Trade	1 January 1988	Instrument of acceptance deposited by Australia 17 December 1987.
16 October 1987 Geneva	Final Acts of the World Administrative Radio Conference for the Mobile Services		Signed for Australia 16 October 1987. The Acts are not yet in force.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
4 March—8 May 1986 Rome–Canberra	Exchange of Letters constituting an Agreement between the Government of Australia and the Multinational Force and Observers (MFO) concerning the extension of Australian Participation in the MFO	8 May 1986	Aust TS 1986 No 9.
2 June 1986 Washington	Agreement between the Government of Australia and the International Bank for Reconstruction and Development and International Development Association for the cofinancing of Development Projects	2 June 1986	Aust TS 1986 No 11.
8 September 1986 Hobart	Headquarters Agreement between the Government of Australia and the Commission for the Conservation of Antarctic Marine Living Resources	8 September 1986	Aust TS 1986 No 21.

Date and place of instrument	Description	Entry into force	Notes and references to printed text
11 November 1987 Geneva	Agreement between the Government of Australia and the World Intellectual Property Organisation in relation to the functioning of the Patents Office of the Government of Australia as an International Searching and International Preliminary Examining Authority under the Patents Co–operation Treaty	1 January 1988	The Agreement entered into force on 1 January 1988 pursuant to Article 9.

APPENDIX III

Australian legislation enacted during 1984 and 1985 concerning matters of international law

Aliens Act Repeal Act 1984 (No 119 of 1984)

An Act to repeal the Aliens Act 1947 and for related purposes.

Australia Act 1986 (Act No 142 of 1985)

An Act to bring constitutional arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, independent and federal nation.

Australia (Request and Consent) Act 1986 (Act No 143 of 1985)

An Act to request, and consent to, the enactment by the Parliament of the United Kingdom of an Act entitled the "Australia Act 1986".

Australian Citizenship Amendment Act 1984 (No 129 of 1984)

An Act to amend the Australian Citizenship Act 1948, and for related purposes.

Christmas Island Administration (Miscellaneous Amendments) Act 1984 (No 120 of 1984)

An Act to amend certain laws in connection with reforms of the administration of the Territory of Christmas Island and for other purposes.

Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Act 1984 (No 46 of 1984)

An Act to amend certain laws in connection with the Act of Self-Determination by certain residents of the Territory of Cocos (Keeling) Islands.

Consular Privileges and Immunities Act 1972

- **Consular Privileges and Immunities (Malaysian Education Offices) Regulations (Repeal) (1985 No 266)**

Regulations to repeal those provisions which conferred certain privileges and immunities on Malaysian Education Offices which had since become Consulates-General.

Extradition (Commonwealth Countries) Amendment Act 1985 (Act No 17 of 1985)

An act to amend the Extradition (Commonwealth Countries) Act 1966.

Extradition (Foreign States) Amendment Act 1985 (Act No 18 of 1985)

An Act to amend the Extradition (Foreign States) Act 1966 [Note: Many regulations were made under this Act during 1984 and 1985].

Foreign Proceedings (Excess of Jurisdiction) Act 1984 (No 3 of 1984)

An Act to make provision in relation to the evidence that may be given in certain foreign proceedings, to provide a right of action in Australia in respect of the enforcement outside Australia of certain foreign judgments, and for related purposes.

Foreign States Immunities Act 1985 (Act No 196 of 1985)

An Act relating to foreign State immunity.

Income Tax (International Agreements) Amendment Act 1984 (No 125 of 1984)

An Act to amend the Income Tax (International Agreements) Act 1953 to give effect to double taxation agreements with Belgium and Malta.

International Development Association (Further Payment) Act 1984 (No 137 of 1984)

An Act to approve the making by Australia of a further Payment to the International Development Association.

International Development Association (Special Contribution) Act 1985 (Act No 11 of 1985)

An Act relating to the making by Australia of a special contribution to the International Development Association.

International Organisations (Privileges and Immunities) Act 1963—Regulations

Regulations to confer upon international organisations certain privileges and immunities under the Act

- Association of Tin Producing Countries (Privileges and Immunities) Regulations (SR 1984 No 85).
- Commission for the Conservation of Antarctic Marine Living Resources (Privileges and Immunities) Regulations (Amendment) (SR 1984 No 216).
- INTELSAT (Privileges and Immunities) Regulations (SR 1984 No 283).
- International Jute Organization (Privileges and Immunities) Regulations (SR 1984 No 52).
- International Sugar Organization (Privileges and Immunities) Regulations (Amendment) (SR 1984 No 463).
- International Tropical Timber Organization (Privileges and Immunities) Regulations (SR 1984 No 477).
- South Pacific Forum Fisheries Agency (Privileges and Immunities) Regulations (SR 1984 No 476).
- World Tourism Organisation (Privileges and Immunities) Regulations (SR 1984 No 276).
- Commission for the Conservation of Antarctic Marine Living Resources (Privileges and Immunities) Regulations (Amendment) (1985 No 327).

- Common Fund for Commodities (Privileges and Immunities) Regulations (1985 No 20).

Passports Amendment Act 1984 (No 168 of 1984)

An Act to amend the Passports Act 1938.

Registration of Deaths Abroad Act 1984 (No 169 of 1984)

An Act to provide for the registration of deaths of Australian citizens who have died abroad and of certain other persons.

Sex Discrimination Act 1984 (No 4 of 1984)

An Act relating to discrimination on the ground of sex, marital status or pregnancy or involving sexual harassment, and to give effect within Australia to the Convention on the Elimination of All Forms of Discrimination Against Women.

Torres Strait Fisheries Act 1984 (No 23 of 1984)

An Act relating to fisheries in certain waters between Australia and the Independent State of Papua New Guinea.

Torres Strait Treaty (Miscellaneous Amendments) Act 1984 (No 22 of 1984)

An Act to amend certain Acts in consequence of the signing of the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978 and for other purposes.

APPENDIX IV

Australian legislation during the years 1986 and 1987 concerning matters of international law

Asian Development Fund Act 1987 (No 178 of 1987)

An Act to authorise a further contribution by Australia to the Asian Development Bank for the purposes of the Asian Development Fund.

Antarctic Treaty (Environment Protection) Act 1980–

Antarctic Seals Conservation Regulations (1986 No 398)

Regulations to give effect within Australia to the Convention for the Conservation of Antarctic Seals.

Crimes at Sea Act 1979–

Crimes at Sea Regulations (1987 No 286)

Regulations declaring that Australia has jurisdiction under international law in relation to waters the subject of the Sea Installations Act 1987.

Extradition (Commonwealth Countries) Act 1966

- **Extradition (Commonwealth Countries) Regulations (Amendment) (1986 No 216)**

Extradition (Foreign States) Act 1966

- **Extradition (Federal Republic of Germany) Regulations (Amendment) (1986 No 296)**
- **Extradition (Finland) Regulations (Amendment) (1986 No 32)**
- **Extradition (Kingdom of Belgium) Regulations (1986 No 304)**
- **Extradition (Kingdom of the Netherlands) Regulations (1987 No 328)**
- **Extradition (Norway) Regulations (1987 No 29)**
- **Extradition (Physical Protection of Nuclear Material) Regulations (1987 No 187)**
- **Extradition (Republic of Austria) Regulations (Amendment) (1987 No 3)**

Family Law Act 197

- **Family Law (Child Abduction Convention) Regulations (1986 No 85)**

  Regulations to give effect within Australia to the Convention on the Civil Aspects of International Child Abduction.

Foreign States Immunities Act 1985

- **Foreign States Immunities Regulations (1987 No 77)**
  Regulations in relation to the taxation liabilities of foreign States.

Human Rights and Equal Opportunity Commission Act 1986 (No 125 of 1986)

An Act to establish the Human Rights and Equal Opportunity Commission, to make provision in relation to human rights and in relation to equal opportunity in employment, and for related purposes.

International Development Association Act 1987 (No 179 of 1987)

An Act to authorise a further contribution by Australia to the International Development Association.

International Financial Institutions (Share Increase) Act 1986 (No 143 of 1986)

An Act relating to the purchase of additional shares of the capital stock of the International Bank for Reconstruction and Development and of the International Finance Corporation.

International Fund for Agricultural Development Act 1987 (No 180 of 1987)

An Act to authorise a further contribution by Australia to the International Fund for Agricultural Development.

International Organizations (Privileges and Immunities) Act 1963

- **Asian Development Bank (Privileges and Immunities) Regulations (amendment) (1986 No 70)**
- **Commonwealth Secretariat (Privileges and Immunities) Regulations (Amendment) (1986 No 77)**
- **European Economic Community (Declaration as an Overseas Organization) Regulations (1986 No 184)**
- **Intergovernmental Committee for Migration (Privileges and Immunities) Regulations (1986 No 69)**
- **International Atomic Energy Agency (Privileges and Immunities) Regulations (Amendment) (1986 Nos 68 and 72)**
- **International Court of Justice (Privileges and Immunities) Regulations (Amendment) (1986 No 73)**
- **International Exhibitions Bureau (Privileges and Immunities) Regulations (Amendment) (1986 No 239)**
- **South Pacific Bureau of Economic Cooperation (Privileges and Immunities) Regulations (Amendment) (1986 No 74)**
- **South Pacific Commission (Privileges and Immunities) Regulations (Amendment) (1986 No 75)**
- **South Pacific Nuclear Free Zone Consultative Committee (Privileges and Immunities) Regulations (1986 No 359)**

- **Specialized Agencies (Privileges and Immunities) Regulations (1986 No 67)**
- **Specialized Agencies (Privileges and Immunities) Regulations (Amendment) (1986 No 240)**
- **Tuvalu Trust Fund (Privileges and Immunities) Regulations (1987 No 241)**
- **United Nations (Privileges and Immunities) Regulations (1986 No 66)**
- **United Nations (Privileges and Immunities) Regulations (Amendment) (1986 No 241)**

Lemonthyme and Southern Forests (Commission of Inquiry) Act 1987 (No 13 of 1987)

An Act to give effect in part to Australia's obligations under the UNESCO Convention for the Protection of the World Cultural and Natural Heritage.

Mutual Assistance in Criminal Matters Act 1987 (No 85 of 1987)

An Act relating to the provision and obtaining of international assistance in criminal matters.

Nuclear Non-Proliferation (Safeguards) Act 1987 (No 8 of 1987)

An Act to make provision in relation to the non-proliferation of nuclear weapons and to establish, in accordance with certain international treaties and agreements to which Australia is a party, a system for the imposition and maintenance of nuclear safeguards in Australia, and for related matters.

Protection of Movable Cultural Heritage Act 1986 (No 11 of 1986)

An Act to protect Australia's heritage of movable cultural objects, to support the protection by foreign countries of their heritage of movable cultural objects, and for related purposes.

Protection of the Sea Legislation Amendment Act 1986 (No 167 of 1986)

An Act to amend the Navigation Act 1912, the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 and certain other Acts in relation to the protection of the sea from pollution.

Sea Installations Act 1987 (No 102 of 1987)

An Act relating to certain installations outside Australia's territorial sea.

South Pacific Nuclear Free Zone Treaty Act 1986 (No 140 of 1986)

An Act to give effect to certain obligations that Australia has as a party to the South Pacific Nuclear Free Zone Treaty, and for related purposes.

Legislation concerning matters of international law repealed during the years 1986 and 1987

International Finance Corporation Act 1955

- **International Finance Corporation Regulations**

International Organizations (Privileges and Immunities) Act 1963 -

- **International Organizations (Declaration) Regulations**
- **International Organizations (Privileges and Immunities) Regulations**
- **International Organizations (Privileges and Immunities of Specialized Agencies) Regulations**
- **Preparatory Meeting to the Twelfth Antarctic Treaty Consultative Meeting (Privileges and Immunities) Regulations**
- **Privileges and Immunities (Organizations associated with the Asian and Pacific Council) Regulations**
- **South East Asia Treaty Organization (Privileges and Immunities) Regulations**
- **Twelfth Antarctic Treaty Consultative Meeting (Privileges and Immunities) Regulations**

International Trade Organization Act 1948

Patents Act 1952 -

- **Patents (Patent Co-operation Treaty Regulations) Regulations**

South East Asia Collective Defence Treaty Act 1954

Trading with the Enemy Act 1939

Treaty of Peace (Bulgaria) Act 1947

Treaty of Peace (Finland) Act 1947

Treaty of Peace (Hungary) Act 1947

Treaty of Peace (Italy) Act 1947

Treaty of Peace (Japan) Act 1952

Treaty of Peace (Romania) Act 1947