

III—RECOGNITION

Recognition of States—Israel—Palestine homeland

In the course of a speech on 1 February 1984 at a dinner hosted by the Jordanian Foreign Minister in Amman, the Minister for Foreign Affairs, Mr Hayden, said (Comm Rec 1984, 251):

Your Excellency, we believe that there can be no resolution of the dispute between the Arabs and Israelis until the legitimate rights of the Palestinian people are recognised.

Your Excellency, you will know too that for the Labor Government of Australia it is absolutely basic policy that we support the right of Israel to exist within secure and recognised boundaries. There can and will be no solution to the dispute between the Arabs and the Israelis which does not include a general recognition of the state of Israel.

It was against this background that on 30 September last year the Australian Government announced that it had undertaken a general review of the implications for Australia of the situation in the Middle East. The review reaffirmed the fundamental principles which guided Australia's Middle East policy, namely recognition of the urgent need to achieve a just, comprehensive and lasting settlement of the Middle East dispute; Australia's fundamental commitment to the security of Israel and its right to exist within secure and recognised boundaries and recognition of the central importance of the Palestinian issue for any settlement.

The Government acknowledged the right of self-determination for the Palestinian people including their right, if they so choose, to independence and the possibility of their own independent state. The Government recognises however, that whether such an arrangement is finally settled upon will depend on the decision of peoples of the immediate region directly concerned with the issue.

The Australian Government called on Israel to freeze the settlement program in the West Bank and reiterated its belief that these settlements were contrary to international law and were a significant obstacle to peace efforts.

Mr Hayden made a similar statement during a speech at an earlier dinner hosted by the Prime Minister of Israel in Jerusalem: see Comm Rec 1984, 250.

Recognition of governments—Democratic People's Republic of Korea

On 11 October 1984 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question in the House of Representatives (HR Deb 1984, 2257):

The Australian Government has recognised the Democratic People's Republic of Korea since 1974. It established relations in that year, but these relations were interrupted in 1975. Our position on relations with the DPRK remains as stated on 20 November 1984 and that is that Australia is not prepared to contemplate the restoration of normal relations until we are satisfied that the DPRK is prepared to abide by internationally accepted norms of behaviour and renounce hostile activities against the ROK.

The Minister for Foreign Affairs, Mr Hayden, on 21 November 1985 gave written details of the recognition of the two Koreas by various governments in a written answer to a question on notice: see HR Deb 1985, 2596–2598.

Recognition—Cambodia

On 7 July 1984 the Minister for Foreign Affairs, Mr Hayden, signed the following Executive Certificate for use in legal proceedings:

- I. WILLIAM GEORGE HAYDEN, Minister of State for Foreign Affairs, HEREBY CERTIFY that the Executive Government of Australia —
1. recognised the Government of Cambodia following the proclamation of the Kingdom of Cambodia as an independent state on 9 November 1953;
 2. facilitated on 7 November 1961 the acquisition by the Government of Cambodia of a Crown Lease in respect of all that portion of land known as Block 10, Section 3, Deakin, in the Australian Capital Territory (4 Melbourne Avenue) for the purpose of the establishment by the Government of Cambodia of a diplomatic mission in Australia;
 3. recognised the Government of the Khmer Republic following the declaration of the Khmer Republic on 9 October 1970 as the successor to the Kingdom of Cambodia;
 4. recognised the Royal Government of the National Union of Cambodia on 17 April 1975, which Government was in March 1976 renamed the Government of Democratic Kampuchea;
 5. took and continues to take all appropriate steps to protect the premises of the mission of the said Government situated at 4 Melbourne Avenue, together with its property and archives, following the cessation of diplomatic functions and the departure of diplomatic representatives of the Government of the Khmer Republic on or shortly after 17 April 1975;
 6. withdrew recognition from the Government of Democratic Kampuchea on 14 February 1981; and has recognised no Government of Kampuchea since 14 February 1981.

Recognition—Federal Republic of Germany—German Democratic Republic

On 21 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided a written answer to a question on notice in the House of Representatives on the recognition of the two Germanies by countries other than Australia: see HR Deb 1985, 2600.

Recognition—“Republic of China”

On 21 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives on the recognition of the “Republic of China” (HR Deb 1985, 2613–2614):

Countries:

According to information currently available, the countries which recognise the authorities on Taiwan as the ‘Republic of China’ are:

Costa Rica
Dominica

Dominican Republic
El Salvador
Guatemala
Haiti
Paraguay
St Christopher and Nevis
St Lucia
St Vincent and the Grenadines
Saudi Arabia
Solomon Islands
Honduras
Republic of Korea
Malawi
Nauru
Nicaragua
Panama
South Africa
Swaziland
Tonga
Tuvalu
Uruguay
Vatican City

International Organisations:

The authorities on Taiwan no longer have any membership of United Nations bodies. They still have membership of the Asian Development Bank and the International Cotton Advisory Council. They also claim membership of the International Union for the Publication of Tariffs; the Permanent Court of Arbitration; the International Committee of Military Medicine and Pharmacy; the International Office of Epizootics; the Asian Productivity Organisation; the Afro-Asian Rural Reconstruction Organisation and the Asian and Pacific Council. The authorities on Taiwan further claim to be represented on 280 non-governmental international organisations.

Recognition of States—Tibet and China

On 20 October 1987 the Minister for Foreign Affairs and Trade, Mr Hayden, said in part in answer to a question without notice (HR Deb 1987, 1080):

Australia condemns abuses of human rights wherever and whenever they occur. While Australia acknowledges that Tibet is part of China, the Government and people of Australia remain deeply concerned that ethnic Tibetans should be treated according to internationally accepted standards of human rights. The concern of the Australian Government in all of these respects has been registered with the Chinese Government.

Recognition of governments—Fiji—non-recognition of the military authorities—recognition of the authority of the Governor-General

Following the military coup in Fiji on 14 May 1987, the Acting Minister for Foreign Affairs and Trade, Senator Gareth Evans, was asked what government

or authority the Australian Government recognised as either the *de jure* or *de facto* government of Fiji. He answered (Sen Deb 1987, 3285–3286):

As to the question of Australia's recognition of the present Government in Fiji, vested as it is effectively in the person of the Governor-General, we have indicated that our position is one of non-recognition of the Fijian regime or the Fijian Government in the present circumstances. That is likely to remain the case for the foreseeable future, but beyond that I do not think it is appropriate for me to comment further. It is a matter, obviously, for ongoing review by the Government of Australia as the situation unfolds.

Following a second coup on 25 September, led by Colonel Rabuka, the Diplomatic Corps in Suva was called to a meeting with the military authorities. On 28 September, the Minister for Foreign Affairs and Trade, Mr Hayden, issued the following statement (Ministerial News Release No M133):

The Minister for Foreign Affairs and Trade, Mr Bill Hayden, said today he had decided that Australia should be represented at the meeting of the Diplomatic Corps in Suva with Colonel Rabuka this afternoon. Mr Hayden had, however, instructed the High Commissioner (Mr John Piper) in Suva that he was to send the Counsellor (Mr Peter Stanford) to the meeting.

In attending the meeting (1600 hrs Suva time—1400 AEST) Mr Stanford made clear to Colonel Rabuka that his attendance did not constitute recognition of any Government in Fiji.

Mr Hayden instructed that Mr Stanford make the following points:

1. Express the Australian Government's particular concern for the safety and well-being of all Australian citizens in Fiji.
2. Express the hope that those exercising power in Fiji at the moment would not engage in Government harassment of Australian journalists.
3. Raise the question of the welfare of the many detainees, including Dr Bavandra and express the Australian Government's hope that they will be released quickly.
4. Express Australia's hope for an early return to proper constitutional processes, making clear that until that is achieved, Australia continues to accept that executive authority lies with the Governor-General.

Mr Hayden said that the decision to have Mr Stanford attend the meeting was taken after consultation with other Governments which had been invited to attend and after consultation with the Governor-General, Ratu Sir Penaia Ganilau. Sir Penaia had encouraged attendance, Mr Hayden said, as this would offer us the opportunity to underscore Australia's support for his executive authority.

On 6 October 1987 the Prime Minister, Mr Hawke, said in part in answer to a question without notice concerning Fiji (HR Deb 1987, 747–748):

The central point that I would convey to the honourable member is that we will continue to say that the only source of legitimate authority that we recognise in Fiji is the Governor-General.

Military coups took place in Fiji on 14 May and 25 September 1987. On 7 October 1987 the Australian Prime Minister, Mr Hawke, said in answer to a question without notice (HR Deb 1987, 855–866):

As the Minister for Foreign Affairs and Trade said this morning, we continue to recognise the Governor-General of Fiji as the only source of legitimate

constitutional authority in Fiji. We do not recognise the actions of Colonel Rabuka. I can inform the House and the honourable member that this morning I rang the Governor-General of Fiji, Sir Penaia Ganilau, and informed him directly of our support. I found, as I had during a similar call that I made to the Governor-General last Friday, that the Governor-General continues firmly and unequivocally to assert his authority and to reject the pretensions of Colonel Rabuka.

I repeat that it is not for us to seek to tell the people of Fiji how they should get out of this political crisis, or to lay down any detailed blueprint for a political outcome. It is critical that a solution be found in Fiji which restores the parliamentary system, which protects the basic human rights of all the people of Fiji and which permits a reversal of the economic decline which unquestionably threatens economic tragedy for that country and its people.

Recognition—Palestine Liberation Organization—relevance of concept

On 7 May 1986 the Minister for Foreign Affairs, Mr Hayden, said in the course of written answers to questions on notice (HR Deb 1986, 3321):

The Australian Government maintains its refusal to accord international status to the Palestine Liberation Organisation while it maintains its denial of Israel's right to exist. The Government does acknowledge, however, that the PLO represents the opinion of a significant proportion of the Palestinian people. Accordingly, Australian diplomatic representatives abroad, including Ambassadors, are authorised to have informal contacts with PLO representatives and are thereby able to keep the Government fully informed of developments in the Middle East.

In view of the significant role of the PLO, and the need for Australia to maintain a full understanding of developments in the Middle East, particularly while a member of the Security Council, there can be advantage in the Foreign Minister taking the opportunity to speak with senior PLO representatives. For instance, during my attendance at last year's session of the United Nations General Assembly, I met the PLO representative to the United Nations, Mr Terzi, to discuss developments in the Middle East. Such meetings in no way indicate a change of Government attitude towards the PLO.

The Prime Minister, Mr Hawke, made plain in Parliament in 28 November 1985 that my meeting implied no change in the policy of the Government on the matter. He said that 'there is no change in the policy and the attitude of the Government to the PLO' (*Hansard*, p. 3905). The Government's policy is well known, and has been stated on many occasions.

In any case, in strict terms the doctrine of 'recognition' in international law can have no relevance to the PLO. The doctrine of 'recognition' is a legal rule applying only to the acceptance of governments and states. It has no technical meaning if applied to international organisations, or to national liberation movements or their representatives.

While a government may have dealings with such entities for a particular purpose, such as accepting the presence of their representatives within

national territory or at an international conference, such dealings have no relevance to 'recognition' as used in international law.

Recognition—of Governments—Australia's change of policy

Australia changed its policy on recognition of foreign governments on 19 January 1988. The text of the announcement, which will appear in the digest of Australian Practice in International Law for 1988 in due course, is also reproduced here:

The Minister for Foreign Affairs and Trade, Mr Bill Hayden, today announced that Australia has changed its policy on recognition of foreign governments.

Mr Hayden said that his Department had for some time been conducting a review of Australian policy on the question of formal recognition of governments. As a result of the review, the Government had now decided that the practice of formally recognising or withholding recognition of foreign governments should be abandoned.

From now on the Australian Government will not extend formal recognition, whether *de facto* or *de jure*, to new governments taking power in other countries. Instead, Australian authorities will conduct relations with new regimes to the extent and in the manner which may be required by the circumstances of each case.

Mr Hayden said that successive Australian Governments had been concerned for a number of years about the public presentation of Australia's practice of extending formal recognition to foreign governments which come to power otherwise than by normal constitutional processes.

The decision whether to recognise or not recognise such a regime had at times led to misunderstandings and complications in any dealings Australia might need to have had with the new regime for consular or other purposes.

In the first place, the extension of recognition to a new regime was often misinterpreted in the public mind as denoting Australia's approval of that regime. Second, existing practice had forced successive Australian governments to make a simple black and white choice between recognition and non-recognition. This had created practical difficulties, particularly in a rapidly evolving situation when flexibility on Australia's part might have suited Australia's interests better.

The adoption of the new policy will make it easier for the Government to indicate to a new regime to what extent it is prepared to do business with it, and to do so in a less dramatic way than sometimes occurs under the present practice.

The new policy is consistent with the practice of other major Western countries.

The Government will not take any steps under the new policy to establish formal relations with either Afghanistan or Kampuchea.