XIII. International Environmental Law

Transboundary Harm to the Environment — International Liability — Australian View

During the course of his statement concerning the Report of the International Law Commission on the Work of its Forty-Seventh session made on 20 October 1995 on behalf of the Australian Delegation to the Sixth Committee of the General Assembly of the United Nations, Mr James Baxter said the following (further extracts from the statement appear at p 495 of this volume):

> Turning now to the Eleventh Report, my delegation has some specific comments on the issue of harm to the environment. We would caution against limiting the notion of harm to the environment to so-called "use values". In certain circumstances, the intrinsic values of a landscape, such as its wilderness or aesthetic values, may be among those for which compensation for damage should be sought. In this context, my delegation would draw the attention of the Commission to the ongoing work in developing a liability annex to the protocol on environment protection to the Antarctic Treaty.
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> The Commission in 1995 provisionally adopted four new draft articles with commentary, Articles A to D. While welcoming especially the progress on Article C on liability and reparation, my delegation is concerned about three aspects. First, we remain concerned that the references to "significant" transboundary harm will serve as a means whereby genuine harm suffered is not compensated where it does not reach the possibly quite high threshold implied by the term "significant". Secondly, the use of a due diligence standard to prevent or minimise risk of transboundary harm, and the fact that this obligation is not an obligation of result (see Paragraph 4 of the Commentary to Article B in the Report), does not seem to us to be appropriate in all circumstances. My delegation accordingly welcomes the reference to "specific obligations owed to other States in that regard" in Article A, which indicates that specific treaty regimes may in fact contain obligations of result concerning measures to prevent or minimise the risk of transboundary harm. Thirdly, my delegation is concerned with the introductory words to Article C "in accordance with the present articles". The commentary indicates that those words are designed to convey the understanding that the principles of liability are treaty based. If this means the Commission considers there is no customary international law basis for the principle, my delegation strongly disagrees. Australia has long held the view that liability arises under customary law for transboundary pollution.
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> In conclusion, Mr Chairman, my delegation considers the issues which have arisen during consideration of this topic are important. We urge the Commission to devote sufficient time to them at future sessions. The issues raised are under consideration in several multilateral forums at present, including the work of Antarctic Treaty parties on a liability annex, the International Maritime Organization's development of an international convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea, the International Atomic Energy Agency's Standing

Committee on Nuclear Liability and the development of a liability and compensation protocol to the Basel Convention.

Montreal Protocol on Substances that Deplete the Ozone Layer — Implementation — Ozone Protection Amendment Bill

On 29 August 1995, in the House of Representatives, the Parliamentary Secretary to the Minister for the Environment, Sport and Territories and Parliamentary Secretary to the Minister for Employment, Education and Training, Mr Snowdon, gave the second reading speech for the Ozone Protection Amendment Bill 1995, and its cognate bills, the Ozone Protection (Licence Fees—Imports) Bill 1995 and the Ozone Protection (Licence Fees—Manufacture) Bill 1995. The following is the text of that speech (House of Representatives, *Debates*, vol 203, p 739):

> The Ozone Protection Amendment Bill 1995 will amend the Ozone Protection Act 1989 and repeal the Ozone Protection (Licence Fees—Manufacture) Act 1989 and the Ozone Protection (Licence Fees—Imports) Act 1989. The Ozone Protection (Licence Fees—Manufacture) Bill 1995 and the Ozone Protection (Licence Fees—Imports) Bill 1995 will replace the repealed licence fee acts. These bills reflect Australia's evolving obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer and exemplifies this government's long-standing commitment to the recovery of the earth's stratospheric ozone layer.
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> The Ozone Protection Amendment Bill will establish the legislative structure to enable Australia to implement effective controls on methyl bromide, HBFC and HCFC similar to those controls under the current legislation on CFC and other ozone depleting substances. The bill also repeals the current licence and quota system from 31 December 1995, consistent with Australia's obligations under the Montreal protocol, to stop the further import or manufacture of CFC, halon, methyl chloroform or carbon tetrachloride. The bill provides for exemptions, where these are permitted under the protocol, for essential uses such as medical dose inhalers and for used ozone depleting substances.
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> In 1989, when the Ozone Protection Act was originally passed, even the most optimistic forecasters could not have predicted that ozone benign technologies would be developed by industry and accepted by consumers in less than six years. Australia has effectively played its part in the global strategy to save the ozone layer. By the end of 1995 Australia will have phased out the manufacture and importation of CFC, halon, methyl chloroform and carbon tetrachloride. This is an enormous achievement, and the government recognises the efforts made by all levels of our society to date. Industry has proved that concerted, cohesive strategies do bear fruit and can succeed in reversing what was described in 1989 as one of the world's worst catastrophes. But more needs to be done if we are to consolidate all the achievements to date.
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> In 1993 and 1994 the Antarctic ozone "holes" were the biggest and deepest on record. We can expect that ozone destruction will get worse before the reversing effects of the Montreal protocol measures are evident in the stratosphere. The rate of ozone destruction is expected to peak during the next few years, then start to slow down during the early part of the 21st century. Based on these forecasts, and provided international action proceeds as planned, the ozone layer will be at its most damaged around the turn of the century and

should recover in about 50 years time. The trends are already good. Atmospheric growth rates in the troposphere of several major ozone depleting substances have slowed. This is evidence that the Montreal protocol is having its intended effect.

This is the scientific background against which recent amendments to the Montreal protocol and the proposed amendments to the Ozone Protection Act must be viewed. The amendments have been prepared in consultation with relevant Commonwealth departments, state and territory environmental agencies, conservation and community organisations and affected industry sectors.

In April 1995 the Australia and New Zealand Environment and Conservation Council, ANZECC, endorsed policies for HCFC controls. It was recognised that HCFCs would need to be used in Australia as temporary substitutes for CFCs—but only temporarily because these substances still are ozone depleting. As part of Australia's strategy for their phase-out, two different levels of controls were proposed by ANZECC. For controls on HCFC supply and production, Commonwealth legislation was recommended and, for controls on emission and use, state and territory legislation was recommended.

ANZECC's decisions followed two years of discussion between representatives of the Commonwealth, state and territory governments and industry and conservation groups on the extent and types of controls necessary to meet Australia's needs. These policies followed on from ANZECC's endorsement of the revised strategy for ozone protection, which did not include HCFC or methyl bromide recommendations.

The bills before the House are based on the policies agreed to by ANZECC, industry and conservation groups. State governments have already, or are now, preparing complementary emission controls on HCFC. In summary, the Ozone Protection Amendment Bill:

— provides that all current licences for CFC, halon, methyl chloroform and carbon tetrachloride cease on 31 December 1995;

— establishes a new system of essential use and used substances licences for ongoing uses allowed under the Montreal protocol;

— introduces a new system of controlled substances licences for HCFC and methyl bromide;

— bans HBFC exportation and manufacture; and

— establishes a trust fund into which all fees will be paid to support the administration of the act and management programs for HCFCs and methyl bromide.

Under the current Ozone Protection Act 1989, CFC, halon, methyl chloroform and carbon tetrachloride have each been subject to a licensing system and a progressive phase-out. The phase-out of these substances will be complete at the end of this year. This will have been achieved through unprecedented cooperative efforts by governments, industry and the Australian community and has set a benchmark for collaboration on environmental protection in Australia.

The proposed amendments provide that the import, export and manufacture of CFC, halon, methyl chloroform and carbon tetrachloride will be banned as of 1 January 1996, except in the limited circumstances allowed by the Montreal protocol. These exceptions are accommodated under the bill by two types of licences: an essential uses licence and a used substances licence. I will deal with each in turn.

In relation to the substances being phased out, the Montreal protocol allows for continued use in a limited number of "essential use" applications. Australian "essential uses" have been approved for the years 1996 and 1997 by the parties to the protocol. This will allow for the continued import of CFCs for metered dose inhalers and substances for laboratory and analytical uses in those years. If CFCs are still required beyond 1997, a further application for "essential uses" will be made to the protocol parties. "Essential use licences" for these uses will be issued subject to strict conditions and in accordance with the protocol guidelines and definitions.

Turning to the proposed system of used substances licences, the Montreal protocol distinguishes between new substances and recovered or recycled substances. Ozone depleting substances which have been recycled or reprocessed to the required purity specifications, or which are destined to be so recycled or reprocessed within Australia, may be imported under a used substance licence. This type of licence will also be required for the import or export of waste ozone depleting substances. The used substances licence system will replace the current restricted licence system under the act. The licences will be subject to strict conditions specifying the permitted activity and the circumstances under which it may be carried out.

In addition to the phase-out of CFC, halon, methyl chloroform and carbon tetrachloride by the end of 1995, the parties to the Montreal protocol agreed in November 1992 to phase out the use of hydrobromofluorocarbons, HBFC, by the end of 1995, to phase out hydrochlorofluorocarbons, HCFC, by the year 2030 and to freeze methyl bromide consumption from January 1995 at 1991 levels.

To enable Australia to ratify the 1992 protocol amendments, the Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations 1993 were made. Under this bill the provisions of these regulations are to be incorporated into the Ozone Protection Act. The regulations enabled controls on methyl bromide imports to commence under the act from 1 January 1995, when controls on methyl bromide came into force internationally. In the case of HCFC and HBFC, controls will come into force internationally on 1 January 1996.

Consultation with industry and other interest groups concerning the extent and types of controls necessary to meet Australia's obligations revealed a preference by industry for a more flexible approach, involving a degree of self-regulation, compared with the system which was used for CFC phase-out.

Industry has cooperated with Commonwealth and state environment agencies to set an upper limit for production and importation in Australia which ensures that Australian use of these substances is constrained, while the interim status of HCFCs as substitutes for CFC equipment is recognised. Industry is confident that manufacturing and importation activity will stay under this limit but accepts the need for government involvement if activity exceeds this limit. In contrast with the previous CFC licence and quota scheme, licences will be easier to obtain and transfer and, if government involvement through a quota system is necessary, quotas will be based on licensees' market activity.

The regulation of HCFCs and methyl bromide will be achieved under the bill by a licensing scheme. A controlled substances licence will be necessary for the importation, export and manufacture of those substances.

HCFCs are used mainly for refrigeration and air-conditioning. They are also used for foam manufacture and as aerosol propellants. In 1992 the Montreal protocol parties agreed to phase out HCFC totally by 2030, with a 90 per cent phase-out being completed by 2015. In 1993 Australia used 2,573 tonnes of HCFC. Australia has one manufacturer and approximately 11 importers of HCFC. The manufacturer has already announced that it intends to close the plant in Sydney by the end of 1995.

The amendment bill establishes an initial limit on total consumption of HCFC called the Australian cap which will gradually reduce until the current protocol phase-out in 2030 is achieved. The cap will be made up of an industry limit and a reserve limit. For 1996, these limits will be 250 ozone depleting potential tonnes and 50 ozone depleting potential tonnes respectively. The industry limit is that quantity agreed by industry as being necessary to meet the needs of existing HCFC uses and CFC uses that may convert to HCFC. The reserve limit is an amount set aside for exceptional circumstances to ensure that essential type uses are not jeopardised by an Australian cap.

Licences will be issued for a two year period and will be more easily obtained than under the current CFC scheme which was based on prior activity. The new scheme will control the total amount of HCFC imported or manufactured but will not limit the number of licensees. The CFC scheme, in comparison, limited the total number of licensees but did not limit the amount of CFC that could be imported or manufactured to less than the protocol limits.

This will allow companies wishing to participate in the HCFC market for only a short period the flexibility to enter and leave the market but will not increase the total amount of HCFC being used. Providing industry collectively imports or manufactures less than 90 per cent of the industry limit on HCFC, industry will self-regulate and the quota system will not be necessary.

If, in any year, this 90 per cent limit is exceeded, quotas will be allocated to individual importers and manufacturers. If the 90 per cent limit is exceeded the minister will be required to give notice in the *Gazette* advising that from the next HCFC period the HCFC quota system will commence. The notice will establish the base year for quota allocation and the total amount to be issued through the quota system, based on the industry limit as stated for that year in the act.

Once the quota system is triggered, it will be illegal to import or manufacture HCFC without a licence and a quota. Quotas to individual licensees will be based on the market share of each licensee in the last full calendar year preceding the commencement of the quota period. Licences will be transferable on approval of the minister and quotas will be fully transferable. If a company obtains a licence after the commencement of the first HCFC quota period, it will be up to that company to acquire a quota from existing licensees. Companies in this situation will be advised of this condition prior to any licence being issued.

Industry believes that the proposed Australian cap is realistic and adequately caters for increased use of HCFC as temporary substitutes for CFC from 1996 to 1999. To avoid the early retirement of expensive, commercial air-conditioning equipment with a long economic life, a small quantity of HCFC quota will, under the current schedule, remain available until 2030. A review of the scheme is proposed for the year 2000 to ensure that the scheme continues to meet Australia's requirements and Australia's obligations under the Montreal protocol.

Methyl bromide is a fumigant used to kill pests and diseases in soil, stored grain and quarantined primary products. In 1992 the Montreal protocol parties agreed to restrict the import and manufacture of methyl bromide to 1991 levels as from 1 January 1995. Under the protocol decision, quarantine and pre-shipment uses are exempted from the freeze. Australia imported 1,200 tonnes in 1994 and, as required by the protocol, has limited its imports for 1995 to 688 tonnes for non quarantine and pre-shipment purposes.

There is no single substance which can substitute for methyl bromide, given the wide range of applications for which it is used, but several alternatives are available for certain specific applications. At present no practical substitutes are known for a number of important applications such as quarantine; however, research into alternatives is proceeding in Australia and internationally.

Many agricultural sectors will be affected by methyl bromide restrictions. The main impacts are likely to occur in sectors which are required, under plant health standards, to have disease and pest free stock, particularly the strawberry growing industry and flowering bulb industry. These industry sectors and others which may be affected are involved in consultations with the Environment Protection Agency, with a view to each industry sector developing its own strategy for dealing with the management of methyl bromide and any further international controls. The coordination of research, information and training will all be important elements of Australia's overall strategy for reducing methyl bromide use.

Other countries which have already controlled or phased out methyl bromide, such as the Netherlands, have found suitable substitutes. The United States has announced a domestic ban on methyl bromide from the year 2001. Those countries that have already phased out claim to have found substitutes without major economic impacts.

The regulatory scheme proposed for methyl bromide has been kept as straightforward as possible because only two companies expect to continue importing. Under the bill, methyl bromide importation will be continued under a controlled substances licence. A condition of the licence will set a maximum quantity of methyl bromide that can be imported annually by the licence holder. Each importer will be allocated a share of the total amount of methyl bromide that Australia is allowed in a particular year under the Montreal protocol, based on their market activity. The licences will be issued every two years. The scheme allows for the Montreal protocol targets to be reduced if possible, although this is not proposed at this early stage of methyl bromide controls.

The bill will repeal the Ozone Protection (Licence Fees—Imports) Act 1989 and the Ozone Protection (Licence Fees—Manufacture) Act 1989 which will be replaced by the Ozone Protection (Licence Fee—Imports) Act 1995 and the Ozone Protection (Licence Fees—Manufacture) Act 1995. The new acts will allow for non-refundable fees to be levied on the activity of licensees, based on the quantity and ozone depletion potential of HCFC imported or manufactured and the amount of methyl bromide imported or manufactured. In addition, an application fee will be required. The fees will recover the costs of administering the licensing systems and fund HCFC and methyl bromide management and industry awareness programs.

The scheme is intended to be cost-neutral to the Commonwealth government. Industry has agreed, based on its experience with the CFC licensing

scheme, that the Commonwealth government, through the Environment Protection Agency, has an important information role in assisting owners of equipment with their decision to convert to alternative technologies, equipment and processes which have no impact on stratospheric ozone. Industry has also agreed that the awareness programs should be based on the principle that those companies deriving a benefit from the import or manufacture and use of ozone depleting substances should pay for the cost of programs designed to assist users of those substances to change their practices. Industry representatives have been consulted on the level of fees and have not objected to the proposals.

Consistent with those principles, industry supports the creation of a trust fund to ensure that revenue collected from licensees at the time of peak activity, between the year 1996 and the year 2000, can be spread and utilised at the times of lower activity between the years 2000 and 2030 when the need for information programs will be most critical if Australia is to minimise the economic impact of the final stages of the phase out program.

Initial activity fee levels for HCFC will be set at $2,000 per ozone depleting tonne and for methyl bromide at $900 per tonne. The bases for calculation of fees will be set out in regulations. Importers have no objections to the level of fees. There will also be a two yearly administration fee for each licence, which will be set at $10,000 per licence period until the year 2000. Fees for essential uses licences will be set at $2,000 per annum and for used substances licences at $10,000 per annum.

Australia has been at the forefront of international efforts to mitigate damage already done to the ozone layer and to minimise future damage. The Commonwealth government's approach in building an effective partnership with industry to phase out ozone depleting substances is proving to be an innovative and successful way of meeting the need for ozone protection while containing the effects on the wider community. These bills will ensure that Australia continues not only to meet its international obligations under the Montreal protocol, but also to lead by example in protecting the ozone layer through innovative and effective regulation.

Montreal Protocol on Substances that Deplete The Ozone Layer — Halons

On 18 September 1995, in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question without notice from Senator Chris Evans (WA, ALP), concerning halons. The answer was, in part, as follows (Senate, *Debates,* vol 173, p 871):

Australia ceased importing and manufacturing halons in Australia in 1992 which, of course, was ahead of our obligations under the Montreal protocol on substances that deplete the ozone layer. Australia has been at the forefront of international efforts to mitigate damage already done to the ozone layer and also to minimise future damage.

Last Friday, on the eve of International Day for the Preservation of the Ozone Layer, I launched a new program which I think is a further example of how the government, with strong cooperation from industry and state and territory governments, can continue to move beyond our international obligations and lead the way to safeguard the ozone layer. The halon withdrawal awareness campaign, which I launched last Friday, asked people to hand in their

halon fire extinguishers to their local fire stations or to a depot of the national halon bank, which is run by the Department of Administrative Services Centre for Environmental Management.

Halon fire extinguishers are easily recognised by their bright yellow colour, and I would be urging anyone who had one of those fire extinguishers to hand them into the authorities I have mentioned. We are asking people to hand in the extinguishers, and the states and territories are regulating the phase out of halon fire suppression systems, except for some essential areas where there are no proven alternatives because, of course, they are extremely potent ozone depleting substances; in fact, they are up to 16 times more destructive than CFCs.

Convention on Climate Change — First Conference of the Parties — Australian Position

On 23 March 1995, in the Senate, the Minister for Foreign Affairs, Senator Evans, answered a question without notice from Senator Loosley (NSW, ALP). The following is part the text of the question and answer (Senate, *Debates*, vol 170, p 2023):

Senator Loosley—My question is directed to the Minister for Foreign Affairs ... is he able to inform the Senate as to the position which the Australian delegation will be taking at the forthcoming Berlin Conference of the Parties to the framework Convention on Climate Change?

Senator Evans—The government has consistently taken the view that the present commitments in the framework convention on climate change are inadequate. Quite apart from the question of the adequacy of the present implied commitments for developed countries up to the year 2000, there are no obligations in the convention—expressed or implied—reaching beyond the year 2000. There are no obligations upon developing countries to contribute to the solution to this problem, although there is increasing concern about the extent of the contribution they are now making to the problem. Generally speaking, the convention as it stands will not achieve the objectives we all to want to see of stabilisation of greenhouse gas concentrations in the longer term. The main object of this first meeting of the parties in Berlin is to establish an acceptable negotiating mandate for further commitments under the convention. Australia's position is that no such mandate would be acceptable until it reaches beyond the developed countries to include all countries contributing to the problem. There are a number of ways in detail that we will be pursuing that objective.

A further important negotiating objective is to establish a workable process for joint implementation of commitments; in particular, one that would allow developed and developing countries to work together in the common good. Overall, we will be seeking outcomes that move the big problem solving effort forward, while at the same time not prejudicing our own economic, trade and foreign policy interests...

Convention on Climate Change — First Conference of the Parties — Australian Statement

On 5 April 1995, the Minister for the Environment, Senator Faulkner, as the leader of the Australian Delegation, made the following statement at the First Conference of the Parties to the Climate Change Convention in Berlin:

Australia acknowledges that there is no greater global environmental concern than the threat of climate change.

IPCC scientists agree global warming is inevitable. While there is uncertainty about the impacts, there is no doubt about the risks. Given our geographical location, we are well aware of the special vulnerability of many of the South Pacific island States.

It is the challenge of climate change that brings us together in Berlin. We are here to work together to meet this challenge, manage the impacts, and reduce the threat.

We have a framework within which to do this.

Now we need to flesh out the framework in a way that will result in a sustainable future for humankind and protect our natural environment. In Australia's view, we must leave Berlin with a clear mandate to begin negotiations on a protocol that will allow us to take the next step towards achievement of the Convention's ultimate objective.

In moving forward, it will be vital that we have the best available science and technical information. The Intergovernmental [P]anel on Climate Change has provided this for us in the past. Australia believes it should continue to do so in the future. We will continue to contribute to climate change science.

One of the requirements of the Convention is for parties to communicate information on national measures.

Our first national communication revealed that with our existing response measures, Australia would not meet the implied target in the Convention.

Australia's national communication showed that, without implementing any abatement measures, emissions would have grown 14 per cent from 1990 levels by the year 2000. And it showed that measures which Australia had put in place would cut that growth by half, to 7 per cent.

Madam President, we Australians pride ourselves on our persistency. We don't give up easily. Notwithstanding the reality of our heavy dependence on fossil fuels, we have said that we can do more, we are doing more and we will do more.

Last week I announced a package of additional measures which we will call Greenhouse 21C—an action plan for the 21st century. It will bring us to within 3 per cent of the implied target. This will represent an 11 per cent reduction on business as usual emissions.

We will be monitoring the effectiveness of our greenhouse response annually, and assessing the need for additional measures. Australia's approach to climate change has been a dynamic one and will continue to evolve.

The fundamental principle of our latest package of reduction measures is a national partnership between all levels of government in Australia, with industry, and with the Australian community.

We bring the same partnership approach to this Conference. Climate change is a global problem. Climate change requires a global partnership. No Party or single grouping of Parties can solve this problem alone.

Two of the key issues we are addressing—the review of the adequacy of Article 4.2(a) and (b) and joint implementation—are vitally important to the development of an effective global partnership.

On both these issues, Australia has come to Berlin with a very clear objective.

We want to ensure that there is progress. We want to see an agreement to take an effective next step towards achieving the Convention's ultimate objective.

Joint implementation would provide new opportunities to expand our global partnership, to mitigate climate change and allow for the wider application of climate change technologies. A positive outcome would see the launch of a pilot phase, which need not involve the allocation of credits. I believe this can be accomplished in a way that would provide assurances to developing country Parties, that joint implementation will not be used to avoid or shift commitments from developed country Parties.

Another important aspect of this global partnership is the participation of all parties, in accordance with their common but differentiated responsibilities and respective capabilities. While developed country parties should take the lead, developing countries should also contribute. It is clear that we will not achieve the Convention's objective without such a partnership.

Madam President, Australia agrees that the current commitments are not enough. And the first step to addressing this problem is to decide on a negotiating mandate to strengthen those commitments. And a mandate on which all Parties are agreed.

Australia considers this mandate should:

- be guided by the principles set out in Article 3 of the Convention;
- differentiate clearly between the responsibilities of developed and developing countries;
- leave open all options for achieving strengthening of commitments, such as policies, measures, targets, timetables, so that reductions of greenhouse gas emissions are achieved;
- require a protocol to be completed by 1998 at the latest; and
- provide for regular review of the protocol.

But the key element of any mandate, and the key to finding a solution to the problem we all confront, is cooperation—partnership.

Global goals require global solutions.

Some of us can and should do more than others. Some have to take the lead. But in the final analysis, we have to move forward together.

On 8 April 1995, after the conclusion of the Conference, the Minister for the Environment, Senator Faulkner, issued the following media release:

The First Conference of the Parties to the Climate Change Convention ended in Berlin yesterday on a positive note.

The Minister for the Environment, Senator John Faulkner, who was the leader of the Australian Delegation, said he was very satisfied with the outcome.

"We came here to deal with the greatest current threat to the global environment. Our objective was to reach agreement on a mandate to negotiate a protocol to the Convention. This objective has been achieved in a way which both addresses the greenhouse problem and protects our national interests."

Senator Faulkner said he was not completely satisfied with the terms of the mandate relating to the involvement of the industrialising developing countries in greenhouse reduction.

"Clearly we are not going to resolve the climate change problem without the participation of all countries. Australia believes that an effective response must involve all the major contributors to greenhouse gas emissions."

Senator Faulkner described the compromise on this issue as reasonable and one that Australia had worked to achieve in the interests of global cooperation.

"Australia strongly reaffirmed its acceptance of the leadership role of the developed countries and the need for them to strengthen their efforts to reduce emissions in their countries. Australia is moving towards stabilisation and we will regularly be reviewing our performance to ensure that our national measures are adequate. We are sensitive to the vulnerability of our South Pacific Island neighbours to the effects of climate change and we remain committed to working with them to ensure an effective global response."

"The real task now lies ahead of us is in the formulation of an effective protocol which will provide the action plan for the implementation of the Convention post–2000. Australia is committed to playing an active and responsible role in this process in order to ensure that the protocol is adequate to meet the threat."

Convention on Climate Change — Environmental Standards — Trade — Non-Tariff Barriers

On 27 February 1995, in the Senate, the Minister for Industry, Science and Technology, Senator Faulkner, answered a question upon notice from Senator Margetts (WA, Greens) concerning energy efficiency. The following is an extract from the text of the question and answer (Senate, *Debates*, vol 169, p 1007–1009):

Senator Margetts asked the Minister for Industry, Science and Technology, upon notice, on 5 July 1994: ...

(4) In the context of our commitment to at least stabilise emissions at 1990 levels, is the level of activity by the department sufficient.

(5) In the light of the Minister's response to Senator Coulter on 30 August 1993 in which the Minister claimed that he would oppose under the General Agreement on Tariffs and Trade any foreign domestic legislation, such as the United States' British thermal unit tax, which attempts to apply energy standards to all products including imports, what is the department doing to ensure that Australian products will be competitive with European products.

Senator Cook—The answer to the honourable senator's question is as follows:

(4) Australia has no binding commitment to stabilise emissions at 1990 levels. The commitment presumably referred to in this question is only an implicit target in the Framework Convention on Climate Change that requires developed countries to make efforts to return greenhouse gas emissions to earlier levels by the end of the decade.

Australia's response to climate change is coordinated and implemented through the National Greenhouse Response Strategy (NGRS). The NGRS was always intended to be a phased approach to limiting Australia's greenhouse gas

emissions. The first phase, which we are currently in, focuses on no regrets activities and improving our knowledge base. No regrets is defined as measures that have other net benefits, or at least no net costs, besides limiting greenhouse gas emissions. Future phases will include a range of measures that take into account improvements in knowledge, the outcomes of the first phase, and key economic and international developments.

The Government recognises that further action must and will be taken to implement no regrets measures to reduce greenhouse gas emissions. Departments are currently engaged in consultations with industry aimed at identifying cost effective and practical opportunities for energy efficiency improvements.

(5) The Government opposes the use of environmental standards by other countries as non-tariff barriers to trade. The best way to address global environmental problems is through multilateral negotiations, such as the Framework Convention on Climate Change, not through the use of unilateral trade restrictions which may have unforeseen and deleterious environmental and trade consequences.

The Government recognises the need for Australian industry and products to be competitive in global markets, including Europe. Over the last decade, policies have focused on diversifying our export base into the higher value and faster growing areas of world trade in manufactures and services. The policy agenda was reshaped immensely during the 1980s to enhance this transformation of our industrial structure. Attention shifted from a defensive approach based on border protection, to an outward looking program aimed at encouraging competitiveness, the achievement of best practice and sustained growth in exports.

Agreement Concerning the Peaceful Use of Nuclear Energy — Australia and Canada — Amendment — Exchange of Notes

The Department of Foreign Affairs and Trade issued the following news release on 13 April 1995:

Australia and Canada exchanged Diplomatic Notes in Ottawa on 10 April 1995 amending the Australia-Canada Agreement Concerning the Peaceful Use of Nuclear Energy (signed on 9 March 1981). The Exchange of Notes covers three key elements: the retransfer of nuclear material subject to the Australia-Canada Agreement to third countries, international obligation exchanges, and the inclusion of primary coolant pumps in the definition of equipment permitted to be transferred in accordance with the terms of the Agreement.

The Exchange of Notes dealing with retransfers provides Canada with Australian generic prior consent for the transfer, at the front end of the nuclear fuel cycle, of Australian nuclear material subject to the Agreement, beyond the jurisdiction of Canada to third countries which have an agreement in force with Australia. The consent is limited to retransfers for the specific purposes of conversion, enrichment (to less than 20 per cent in the isotope U–235), fuel fabrication, use, storage or final disposal. The granting of this generic prior consent to retransfer does not apply to U–233, uranium enriched to 20 per cent or more in the isotope U–235, plutonium, or irradiated nuclear material, each of which will continue to require Australian Government written consent on a case by case basis.

International obligation exchanges entail the non-physical transfer of identical quantities and types of nuclear material between two or more safeguards jurisdictions. An international exchange of safeguards obligations on nuclear material located in different countries thus enables material, with a particular national safeguards obligation, to be available at a specified site for processing, without physically transferring the material. The commercial advantages of this practice can include substantially reduced transportation costs. Safeguards obligations are attached to nuclear material when supplier countries place conditions on its transfer and use. Australia's obligation requirements reflect its stringent safeguards policy underpinning the export of uranium.

As international obligation exchanges involve nuclear material located in two countries, agreements covering obligation exchanges must be first concluded with both countries which, by definition, must be bilateral safeguards partners. Under the present Exchange of Notes with Canada, the Australian Government will only consider requests for an obligation exchange involving Australian obligated nuclear material on a case-by-case basis. Australia's strict safeguards requirements and non-proliferation objectives must be fully satisfied before any request is approved. The amount of nuclear material subject to Australian obligations within the network of Australia's bilateral safeguards agreements will not be reduced. An obligations exchange agreement with the United States was concluded on 19 December 1991. A similar agreement was concluded with Euratom on 8 September 1993.

The final element of the Exchange of Notes, covering the transfer of primary coolant pumps, brings the Australia-Canada Agreement into conformity with the bilateral safeguards agreements Australia has with France, Japan, Sweden, Switzerland, and the UK. Each of these agreements covers the transfer of equipment as well as nuclear material, and contains a definitional annex of items of equipment and non-nuclear materials for use in reactors covered by the agreements. The annexes are based on internationally agreed nuclear supply guidelines.

Korean Peninsula Energy Development Organisation — Australian Contribution

On 28 February 1995, the Minister for Foreign Affairs, Senator Evans, issued the following news release:

> Australia will make a one-off contribution of USD 5 million (or AUD 6.6 million) to the Korean Peninsula Energy Development Organisation (KEDO), the international consortium being formed to provide lightwater nuclear reactors and conventional energy assistance to North Korea (the Democratic People's Republic of Korea—DPRK).
>
> KEDO is the centrepiece of the US-DPRK Agreed Framework which was concluded in October 1994, in response to concern about North Korea's possible development of a nuclear weapons capability. The Agreed Framework embodies commitments by the DPRK to freeze permanently the operation of its existing plutonium-producing graphite moderated research reactor, seal its plutonium reprocessing facility, provide for the safe storage and eventual shipment out of the DPRK of spent fuel rods unloaded from its nuclear reactor and halt the construction of the two new graphite reactors. The International Atomic Energy

> Agency (IAEA) has verified that since the signing of the Agreed Framework, the DPRK is complying with these commitments.
>
> In return for these commitments, the DPRK will receive assistance from KEDO to construct two new lightwater type nuclear-powered reactors to meet its energy needs. In addition, the Agreed Framework calls for KEDO to provide shipments of heavy oil to North Korea until the lightwater reactors come on stream.
>
> The Agreed Framework, of which KEDO is an integral part, provides the foundation for a resolution to the nuclear issue on the Korean Peninsula. It will make an important contribution to global and regional security, and offers the best basis currently available of resolving the issue of the highest security significance for Australia.
>
> Australia's decision to make this contribution, made in Cabinet last night, is a reflection of the immense importance we place on supporting practical means to improve security on the Korean Peninsula. It is also a reflection of Australia's strong commitment to nuclear non-proliferation and the prominent role we have played in working for a resolution of this issue in recent years.
>
> KEDO will be a multilateral organisation with more than twenty countries invited to participate...

An instrument of acceptance to the Agreement on the Establishment of the Korean Peninsula Energy Development Organization was deposited for Australia at New York on 24 October 1995, pursuant to Article V(b), which allows additional states that support the purposes of the Organization and offer assistance to become members of the Organization, following approval by the KEDO Executive Board. This occurred in March 1995. The instrument was deposited subject to the following declarations:

> With reference to Article VI, the Government of Australia accepts the authority of the Executive Board to carry out the functions of the Organization subject to the condition that the Government of Australia shall not be bound by decisions of the Executive Board which directly affect Australia or its interests, unless and until the Government of Australia explicitly accepts those decisions.
>
> With reference to Article VII, the Executive Board should use its best endeavours to call extraordinary meetings of the General Conference when a meeting is requested by a significant proportion of the Members.
>
> With reference to Article XIV, the Government of Australia shall not be bound by any amendments to the Agreement to which it has not lodged express acceptance with the Executive Director of KEDO.
>
> Nothing in the Government of Australia's status or participation as a Member shall create any liability whatsoever for the Government of Australia from any act or omission of the Organization, its employees, agents or contractors, or from any accident whatsoever occurring at premises under the control or operation of the Organization.

The Agreement entered into force for Australia on 24 October 1995.

Spent Nuclear Fuel — Australian Agreements

On 31 January 1995, in the Senate, the Minister for Foreign Affairs, Senator Evans, answered a question upon notice from Senator Margetts (WA, Greens).

The following are extracts from the text of the question and answer (Senate, *Debates*, vol 169, p 180):

> Senator Margetts asked the Minister for Foreign Affairs, upon notice, on 31 October 1994:
>
> (1) What control mechanisms does Australia have over spent nuclear fuel from the Republic of Korea which contains Australian uranium and might be reprocessed by a third party...
>
> (2) What control mechanisms does Australia have over spent nuclear fuel from Japan which contains Australian uranium and might be reprocessed by a third party...
>
> (3) What control mechanisms does Australia have over spent nuclear fuel from any country which contains Australian uranium and might be reprocessed by a third party...
>
> (4) What control would Australia have over Korean spent nuclear fuel containing Australian uranium and reprocessed in Korea itself.
>
> (5) What control would Australia have over Japanese spent nuclear fuel containing Australian uranium and reprocessed in Japan itself.
>
> (6) What control would Australia have over spent nuclear fuel containing Australian uranium in any country which is to be reprocessed in that country without being transferred to any other.
>
> (7) (a) What are the agreements between the Australian Government and the following Governments for the latter countries' retransfer of plutonium containing Australian uranium: Germany, Japan, South Korea, North Korea, Belgium, United Kingdom, United States of America, France, Sweden, Finland, Canada, Philippines and Egypt; and
>
> (b) for these same countries, please detail whether each individual consignment of plutonium to be retransferred has to be agreed to by Australia; if not, what are the conditions and terms of the agreements, the ratio of agreement per consignment for each country.
>
> Senator Gareth Evans—The answer to the honourable senator's question is as follows:
>
> (1) Spent nuclear fuel containing Australian Obligated Nuclear Material (AONM) in the Republic of Korea (ROK) remains subject to the provisions of the Agreement between Australia and the ROK concerning Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material, which entered into force on 2 May 1979. Under Article VIII of this Agreement, AONM subject to this Agreement may not be reprocessed within the ROK or transferred to a third country without the prior written consent of the Australian Government.
>
> Requests for such consent would be considered on a case-by-case basis. No such request has been made in respect of reprocessing.
>
> (2) Spent nuclear fuel containing AONM in Japan remains subject to the provisions of the Agreement between Japan and Australia for Cooperation in the Peaceful Uses of Nuclear Energy, which entered into force on 17 August 1982. Pursuant to Annex B (the Reprocessing Settlement) and the Implementing Arrangement of the Australia/Japan Agreement, Australia exercises its prior consent rights on a programmatic basis so that AONM may be reprocessed in

Japan or in an eligible third country as part of a long term nuclear fuel cycle program. A condition of this programmatic consent is that the facility in which reprocessing will take place is included within the Delineated and Recorded Japanese Nuclear Fuel Cycle Program (DRJNFCP). The DRJNFCP is an integral part of the Australia/Japan Agreement and the provisions of the Implementing Arrangement which outline the DRJNFCP are of treaty status and are published (along with the Agreement) in the Australian Treaty Series (No. 22 of 1982).

Australia has also given programmatic consent to certain retransfers of AONM subject to the Australia/Japan Agreement within the Delineated and Recorded Japanese Nuclear Fuel Cycle Program. In accordance with arrangements established in 1992, Japan notifies Australia of such retransfers, including those of spent fuel containing AONM, approximately six months in advance of each transfer.

(3) Australian uranium may only be exported or retransferred to countries with which Australia has bilateral nuclear safeguards agreements. These agreements lay down stringent conditions for the use and transfer of AONM. Within Australia's network of bilateral nuclear safeguards agreements, five agreements (those with Euratom, France, Japan, Sweden and Switzerland) contain reprocessing settlements, allowing those treaty partners to retransfer and reprocess AONM under a programmatic consent regime based on conditions previously agreed to by the Australian Government. The remainder of Australia's bilateral nuclear safeguards agreements, except that with the Russian Federation, require prior written consent from Australia to be sought on a case-by-case basis before reprocessing of AONM could take place. To date no such consent has been sought. The agreement with the Russian Federation does not provide for reprocessing and only covers toll processing on behalf of third parties at the "front end" of the nuclear fuel cycle; that is conversion, enrichment and fuel fabrication.

(4) Refer to the answer to question (1).

(5) Refer to the answer to question (2).

(6) Refer to the answer to question (3).

(7) (a) and (b) Retransfers of AONM including Australian Obligated Plutonium (AOPu) either in irradiated nuclear fuel assemblies, or as plutonium dioxide powder or as mixed uranium and plutonium oxides (MOX) either in powdered form or in fabricated fuel assemblies, are subject to the conditions contained in the relevant bilateral nuclear safeguards agreements outlined in (1), (2) and (3) above.

Australia does not have a bilateral safeguards agreement with North Korea (DPRK) and therefore that State is not eligible to have AONM exported or retransferred to it.

Transboundary Movements of Hazardous Waste — Australian Obligations — Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 1995 — Failure to Pass through Senate

On 29 June 1995, the Minister for the Environment, Sport and Territories, Senator Faulkner introduced into the Senate the Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 1995 (Senate, *Debates*, vol 172, p 2090). The purpose of the Bill was to amend the Hazardous Waste

(Regulation of Exports and Imports) Act 1989 in order to bring that Act into closer conformity with Australia's obligations under international instruments relating to the control of transboundary movements of hazardous waste. On 30 November 1995, further amendments to the Bill were discussed in the Senate (Senate, *Debates*, vol 177, p 4665). However, due to the fact that the Parliament was prorogued, the Bill was not passed. It was subsequently passed in similar terms by the new Government on 29 May 1996, in the form of the Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996.

Basel Convention — Amendment — Statement by Australia

At the final plenary meeting of the Third Conference of the Parties, held in Geneva from 18 to 22 September 1995, a consensus decision was taken to amend the Basel Convention to incorporate the essence of the ban decision of March 1994. The following is the Australian statement made by Ms Penny Wensley, Australian Ambassador to the Environment, on 22 September 1995, following the adoption of the amendment decision:

> Mr President,
>
> Australia urged at the very beginning of this week that we should work to achieve outcomes that could command consensus support on all issues, including on this contentious issue of the proposed amendment to the Convention.
>
> For our part we have worked strenuously to achieve a good spirit in the negotiations and to find consensus, believing a consensus outcome to be in the best interests of the Convention and all its Parties. We were ready to support the compromise text circulated in document UNEP/CHW.3/L.5/Add.1 subject to having the opportunity to see the text and verify our understanding of the compromises proposed in it.
>
> Australia's essential position ever since negotiation began on Decision II/12, has been to strengthen the Convention and its processes to provide greater protection to those countries vulnerable to unwanted hazardous wastes. Our commitment to this objective is evident not only in the support my government has always given to the Basel Convention, but also in Australia's signature last week of the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region.
>
> We have, however, a number of concerns about the text which has been agreed upon, concerns which my government wishes to register.
>
> It sets in motion an amendment process in advance of the clarification of the definitions which are essential if Parties are to have a common understanding of exactly what is prohibited. It is essential that the Technical Working Group ensure that this work is completed before the amendment enters into force, and is equipped with all the resources necessary to enable this.
>
> Australia, and probably a number of other Parties—and here I note the statement just made by Canada on this matter—will only consider ratifying the amendment when the work on the definition of hazardous characteristics is completed to our satisfaction. We are, however, pleased to see that such commodities as ferrous scrap and unmixed paper, and the majority of wastes on

the OECD Green List which pose no threat to public health or amenity, would not be covered by this prohibition.

A second area of concern to us—as I signalled at the commencement of our work—was the simplistic differentiation between groups of countries. Australia is pleased to see that arbitrary distinctions between Parties are no longer part of the text of the Convention itself. The placement of a list of Parties in the Annex provides a mechanism through which other Parties can be similarly listed if they wish. On this point, Mr President, I note the statement made a few moments [ago] by the representative of Liechtenstein indicating its wish to be placed on the list and assume that this will be reflected in the final version of our text.

Australia is concerned to ensure that the application of the prohibition remains tuned to its key objective—ensuring that transboundary movements of hazardous wastes do not, as required by the Convention, entail a high risk of not constituting environmentally sound management.

For this reason, we are pleased that the Technical Working Group will be developing technical guidelines to assist those Parties and States which might benefit from assistance in ensuring that transboundary movements cannot derogate from environmentally sound management. Such guidelines will, I am sure, be particularly helpful, especially to developing countries. The guidelines could also eventually be helpful to those Parties and States wishing to conclude agreements on arrangements, including under Article 11, concerning the transboundary movement of hazardous waste.

Australia considers Article 11 to be an important provision of this Convention. It enables those countries wishing to enter into bilateral, multilateral or regional agreements or arrangements to do so. We do not consider that the text we have just adopted removes that right. Australia will remain in close contact with other States, especially our regional neighbours, on this subject.

Mr President,

Australia is, as I have said, deeply committed to strengthening the Convention so as better to protect the vulnerable. We must not now lose enthusiasm for this objective. The work we have done here is by no means the answer to the problems vulnerable countries face —it does not deal with domestic disposal needs, waste minimisation or capacity-building. Nor does it adequately address the legitimate developmental needs of developing countries. It is, in essence, a half measure—and it cannot work without the commitment of effort and resources, especially from those who sponsored its adoption as a Convention amendment.

We now look to all those who have supported the adoption of this decision to the realisation of its true objectives. We, for our part, we will not shirk that responsibility.

Basel Convention — Import and Export of Scheduled Wastes — Australian Attitude

On 20 November 1995, the Minister for Small Business, Customs and Construction, Senator Schacht, presented in the Senate the Government's Response to the Report of the Senate Standing Committee on the Environment, Recreation and the Arts on Waste Disposal. The following is an extract from the text of the report (Senate, *Debates*, vol 175, p 3293):

IMPORT OF SCHEDULED WASTES

Recommendation 10

The Committee recommends that a permanent ban on the import and export of scheduled wastes be implemented except in cases where technologies are developed which recycle them into useful products which are not hazardous (Paragraph 9.35).

Australia is committed to meeting its obligations under the Basel Convention, including that it will take appropriate measures to:

> Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is considered in a manner which will protect human health and the environment against the adverse effects which may result from such movement (article 4.1d).

The Government considers that Australia's stockpiles of scheduled wastes should be treated within its own borders. Accordingly exports of these materials will only be approved under exceptional circumstances, such as where the wastes proposed for export would otherwise pose a significant risk of injury to human health or the environment, and where the importing country possesses facilities where the waste can be treated without damage to human health or the environment.

Approval of imports of scheduled wastes would be limited to:

> importation of waste in very small quantities for scientific purposes; or
>
> importation where Australia has developed technology to treat a particular waste and where treatment is not available in the originating country and the treatment to these wastes within Australia would have an overall positive impact on the environment.

Although there is a limited number of technologies currently available to treat scheduled wastes in Australia, there is a range of emerging technologies likely to be available within a few years.

Regional Convention of the Transboundary Movement of Hazardous Waste — Australian Signature

The Minister for Foreign Affairs, Senator Evans, issued the following news release on 17 September 1995:

> On Saturday, 16 September, Senator Evans signed the Regional Convention of the Transboundary Movement of Hazardous Waste (known as the Waigani Convention) when it opened for signature.
>
> The ceremony for signing of the Convention took place at Port Moresby following the meeting of the South Pacific Forum.
>
> This Convention was an initiative of Papua New Guinea. From the outset Australia has provided significant contributions to the development of this Convention.
>
> The Waigani Convention is an important milestone in the protection of the environment of the South Pacific region.

The main purpose of this Convention is to impose a ban on the importation of all hazardous and radioactive wastes from outside the Convention Area to Pacific Island Developing Parties.

This Convention also ensures that any transboundary movements of hazardous wastes within the Convention Area are completed in a controlled and environmentally sound manner.

Under this Convention the main obligation on Australia will be to impose a ban on all exports of hazardous and radioactive wastes to all Forum Island countries as set out in the Convention.

The signing of this Convention shows Australia's support for its South Pacific neighbours. It also shows Australia's genuine commitment to the protection of vulnerable countries from unwanted hazardous waste.

Transboundary Pollution — Lead Use — Australian Position

On 2 February 1995, in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question upon notice from Senator Coulter (SA, Australian Democrats). The following is an extract from the text of the question and answer (Senate, *Debates*, vol 169, p 469):

Senator Coulter asked the Minister for the Environment Sport and Territories upon notice, on 18 October 1994:

(1) Has the following recommendation of the Australian delegation to the Organisation for Economic Co-operation and Development (OECD) November 1993 lead meeting been totally ignored by the Government—"It is recommended that Australia continue to take a close and active interest (in the OECD Lead Control Act) issue including through thorough preparation for the Canadian Workshop in collaboration with environment interests".

(2) Can the Minister explain the apparent reluctance by the Environment Protection Agency, and therefore the Australian delegation, to support OECD co-operation on a lead risk reduction strategy and reluctance to support an OECD Council Act on lead...

(6) Will the Minister table the Australian input into the OECD lead workshop held in Canada in September 1994...

Senator Faulkner—The answer to the honourable senator's question is as follows:

(1) No. The recommendation referred to was made in the report of the Australian Delegation to the OECD Chemicals Group and Management Committee Working Group on the Development of a Council Act on Risk Reduction of Lead held in November 1993. The Environment Protection Agency is the lead agency of the Australian delegation. The exact wording was "including through thorough preparation for the Canadian Workshop in collaboration with environment interests, industry and technical experts."

The recommendation was not a formal undertaking by or to government, but one of a number of suggested courses of action leading up to the Canadian Workshop. It was made before the scope and nature of the Workshop were fully known. When the OECD Secretariat circulated the Terms of Reference for the Workshop in February 1994 it was clear that it was to be a fact finding rather than an overall policy making forum. The Workshop was convened:

to examine transboundary problems associated with some ten categories of products/uses of lead, including lead shot and fishing sinkers, faucets, crystal and ceramic ware, plastics, paint, and gasoline;

to consider practical options to control lead exposure, including the use of lead substitutes; and

to evaluate the potential implications of such solutions.

In gathering the required technical information the EPA and other Commonwealth agencies responsible for briefing the Australian delegation to the Workshop consulted extensively with industry, particularly with lead end users. NGOs were not consulted at this stage because the overall Australian position on a possible Council Act on lead had not altered since the February 1994 meeting of the OECD Chemicals Group and Management Committee. The EPA did consult with NGOs in reaching consensus on an Australian position before the February meeting.

(2) The EPA fully supports OECD activities which engender international co-operation in reducing health and environmental risks due to exposure to lead, particularly co-operative activities leading to information exchange and technology transfer. One such undertaking has been the publication of the "OECD Risk Reduction Monograph No. 1: Lead". The EPA co-ordinated the substantial contribution made by Australian government's industry and environment interests. With respect to an OECD Council Act on lead, Australia does not support prescriptive international pollution control or abatement measures unless there is clear evidence that the pollution being addressed has significant transboundary effects. Australia's view is that lead risk reduction is primarily a national issue due to the differing nature of problems faced by Member countries and differing social, economic and environmental conditions and priorities.

The only transboundary issues of concern to emerge from the Canadian Workshop were bird shot and fishing sinkers, lead in petrol, and trade in consumer products that pose a direct risk of exposure (ceramic foodware). The latter problem arises largely from articles traded by non-OECD countries. The issue of lead shot and fishing sinkers is a regional one, largely between Canada and the USA. Transboundary pollution from lead in petrol is primarily a problem within Europe and, in Australia's view, best dealt with through such forums as the United Nations Economic Commission for Europe...

(6) I have made available to Senator Coulter a copy of Australia's input to the Canadian Workshop, a paper entitled "The Rationale for OECD Risk Reduction on Lead: Some Issues for Consideration". Further copies are available from the Senate Table Office...

The issue of whether or not to have an OECD Lead Council Act was not resolved at the November meeting. Instead, it was decided to form two Working Groups; one to develop a draft Council Act and the other to develop an alternative strategy. Outcomes of each are to be considered by the OECD at its Joint Meeting in June/July 1995.

Convention to Combat Desertification — Signatories

On 6 March 1995, in the House of Representatives, the Minister representing the Minister for Foreign Affairs, Mr Bilney, answered a question upon notice

from Mr Hollis (Throsby, ALP) (House of Representatives, *Debates*, vol 170, p 1652). The text of the question and answer follow:

> Mr Hollis asked the Minister representing the Minister for Foreign Affairs, upon notice, on 7 February 1995:
>
> Which states signed the Desertification Convention at UNESCO's Paris headquarters on 14–15 October 1994.
>
> Mr Bilney—The Minister for Foreign Affairs has provided the following answer to the honourable member's question:
>
> The United Nations Convention to Combat Desertification in those Countries experiencing Serious Drought and/or Desertification, particularly in Africa, was signed for the following eighty-five states in Paris on 14–15 October 1994:
>
> Algeria, Angola, Argentina, Armenia, Australia, Bangladesh, Benin, Bolivia, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Cote d'Ivoire, Croatia, Cuba, Denmark, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Haiti, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Korea, Republic of, Lebanon, Lesotho, Libya, Luxembourg, Madagascar, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Netherlands, Niger, Norway, Pakistan, Peru, Portugal, Saint Vincent and the Grenadines, Senegal, Seychelles, Spain, Sudan, Sweden, Switzerland, Syria, Tanzania, Togo, Tunisia, Turkey, United Kingdom, United States of America, Zaire, Zambia, Zimbabwe.
>
> In addition the Convention was signed for the European Community.

International Tropical Timber Agreement — Australian Decision to Ratify

The following is the text of a media release issued by the Minister for Resources, Mr Beddall, on 7 December 1995:

> On 7 December 1995, the Federal Minister for Resources, Mr David Beddall, announced Australia's commitment to the International Tropical Timber Agreement, 1994 (ITTA). The ITTA is the successor agreement to the International Tropical Timber Agreement, 1983 (1983 ITTA). It provides a framework for Governments to work together to achieve trade in tropical timber from sustainably managed forests by the year 2000. Mr. Beddall announced that:
>
> > "The new Agreement provides a framework for International Tropical Timber Organization (ITTO) members to work together to ensure that by the year 2000, all tropical timber traded internationally is sourced from sustainably managed forests".
>
> Mr Beddall said that the decision to ratify the ITTA is consistent with the Government's policy objectives and is a positive demonstration of the Government's continued strong support for international measures to achieve sustainable forest management practices.
>
> Mr Beddall also announced that the Government will commit $347,000 a year, effective from 1996/97, towards Australia's membership of the ITTO. He said:

> "Australia's four year funding commitment will also support projects designed to encourage the sustainable management of tropical forest resources.
>
> "The new Agreement will promote technology transfer and technical cooperation, and provides further opportunities for Australia to export its forest management expertise and technology to assist the sustainable management of forest resources, particularly in developing countries.
>
> "It will also provide a forum for discussions on policies relating to the trade of tropical timber, particularly the promotion of non-discriminatory trade practices.
>
> "While the Agreement focuses on timber from tropical forests, it also allows information to be shared on forest management and trade, and consultation on the links between tropical and non-tropical timber trade."

Mr Beddall said that by assisting other countries to improve their forest management through the new Agreement, Australia's growing reputation in conservation and sustainable forest management will be enhanced.

International Tropical Timber Agreement — Australian Timber Imports — Nations with Sustainable Yields

The following extracts are from a newspaper article published in *The Australian* on 8 December 1995, at p 5:

> The Federal Government plans to ban timber imports from countries with lax logging controls, to shield Australia's forestry industry from cheap imports.
>
> The Minister for Resources, Mr Beddall, said Australia would buy timber only from nations with "sustainably managed" forests.
>
> Federal Cabinet would decide when to impose the ban, he said, in line with the United Nations' International Tropical Timber Agreement, which Australia signed in New York on Wednesday.
>
> "We won't import timber that's not from a sustainable yield." Mr Beddall told *The Australian.*
>
> "We've got world best practice forestry in this country, so why should we import any timber from someone who hasn't?"...
>
> Mr Beddall said the definition of "sustainable" logging would have to be scientifically based, and agreed upon internationally...

Convention on Biodiversity — Second Conference of the Parties — Australian Statement

The following are extracts from the text of the statement made on 14 November 1995 by the Minister for the Environment, Senator Faulkner, at the Second Conference of the Parties to the United Nations Convention on Biodiversity, held in Jakarta:

> Mr President, Fellow Ministers, Ladies and Gentlemen,
>
> Australia welcomes the holding of this Conference in Indonesia, one of the world's twelve mega-diverse nations...

Like Indonesia, Australia is deeply committed to the Biodiversity Convention and the effective implementation of its objectives. For many years, the Australian Government has placed a very high priority on biodiversity conservation.

As required by the Convention, Australia has developed a national strategy for the conservation of our biological diversity and is implementing a variety of programs to deliver on these commitments.

Mr President, we want clear decisions and concrete outcomes from this Second Conference of the Parties. We are very pleased to see the emphasis which has been given in the work program to coastal and marine issues. Australia has always had a strong focus on the conservation of biodiversity in our marine environment.

Integrated coastal and marine management is a key issue for this Conference and we support the establishment of an expert group on marine and coastal biodiversity. We also welcome the priority at this Conference on the protection of coral reefs.

We share the widespread concern over the destructive practices which threaten fragile marine habitats—in particular, the use of cyanide in the Live Coral reef fish trade.

Australia was one of the founding parties in the International Coral Reef Initiative. We urge other governments to support the Call and Framework for Action. We warmly welcome Indonesia's commitment to the Initiative.

Mr President, the Australian Government has actively promoted partnership on biodiversity. We will only achieve the full potential of the Biodiversity Convention if we fully engage all those necessary to its successful implementation, including NGOs and the private sector.

In Australia we also place particular importance on developing a partnership with Aboriginal people. This has proven invaluable in the protection of environmentally significant areas such as Kakadu and Uluru National parks. The joint management arrangements at these parks are seen as models both nationally and internationally. Australia recently celebrated a decade of joint management with the indigenous community at Uluru.

Australia is actively engaged in seeking appropriate measures which will deal equitably with the rights of our indigenous peoples in relation to biodiversity. This is an important matter to be resolved in the global context as a key objective of the Convention. The Australian Government is happy to provide initial funding for the employment of an indigenous person within the Secretariat.

The issue of genetic resources, of fair and equitable sharing of benefits from the use of traditional practices and indigenous knowledge, and protection and encouragement of customary use of biological resources in accordance with traditional cultural practices, are ones which we consider to be extremely important.

Mr President, another priority for the Conference is to reach agreement on an achievable medium term work program. As part of Australia's contribution to the medium term work program of the Conference of the Parties, I am pleased to announce that Australia will host an OECD workshop on economic incentives for the conservation of biodiversity early in 1996...

Mr President, Australia welcomes the progress made at this Conference on biosafety. We are ready to join a consensus on the establishment of a working group to negotiate a protocol, as part of the international action on this matter, and look forward to playing a constructive role on this issue.

I am also aware of an ongoing debate over the financing of the work of the Convention. Australia advocates the Global Environment Facility as the permanent financial mechanism for the Convention.

The establishment of an effective Clearing House Mechanism is also a key outcome of this Conference of the Parties, and we believe that the ready exchange of information and experience is essential if the Parties to the Convention are to achieve their national goals. Australia can claim a particular expertise in biodiversity technology and information exchange...

Mr President, this Convention is about the protection of the world's biodiversity. Before closing, I feel compelled to speak about an issue which poses an enormous threat to biodiversity—the issue of nuclear testing.

The Australian Government's opposition to nuclear testing by France and China has been strong and unequivocal, and we are working closely with the countries of our region to put an end to it.

Mr President, there is no human activity more out of keeping with the spirit and intention of this Convention than nuclear testing. It should cease now and allow our focus to return exclusively to the central purpose of the Convention—biodiversity protection.

Biodiversity Conservation — Australian View

World Environment Day was celebrated on 5 June 1995. On that day in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question without notice from Senator Carr (Vic, ALP), concerning World Environment Day. The following is an extract from the text of the answer (Senate, *Debates*, vol 171, p 760):

Senator Faulkner—... I was able to announce this morning the establishment of a biodiversity conservation program—a $17 million program—which will help drive forward the implementation of Australia's national strategy for the conservation of biological diversity...

The government does regard biodiversity conservation as an important environmental priority because Australia is one of 12 countries that is outstandingly rich in biological diversity, and it is the only developed country in the world to be classified as mega diverse. Biodiversity is also a genetic resource, which provides us with essentials like food, medicines and industrial products. These resources and their relative health also influence and determine rainfall, climate, the productivity of our soils, the ability of the environment to cope with pollution and the delicate balance of oxygen and carbon dioxide in the atmosphere.

Although Australia is rich in biodiversity, since 1788 we have lost about 50 per cent of our rainforests, 43 per cent of our forests and 60 per cent of our coastal wetlands in southern and eastern Australia. About 79 plant, 20 mammal and nine bird species have been lost, and 90 per cent of our medium-sized mammals are either extinct, endangered or vulnerable. This type of situation is mirrored right around the world.

Along with a range of other initiatives already in place, the biodiversity conservation program I have announced today recognises that the protection of our biodiversity can only be achieved cooperatively. The program will provide support for integrated approaches to biodiversity protection, including the implementation of bioregional planning across the country, joint projects with industry and other key stakeholders, incentive programs, and training...

Protection of Bird Species — International Obligations

On 30 March 1995, in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question upon notice from Senator Bell (Tas, Australian Democrats) concerning Australia's obligations with respect to the protection of bird species, and bird hunting. The following are extracts from his answer (Senate, *Debates*, vol 170, p 2661):

Under the Ramsar Convention the Federal Government has obligations to ensure that listed wetlands are managed so as to maintain their ecological character. Where listed wetlands occur within the jurisdiction of a State or Territory Government, that Government is responsible for ensuring Australia's obligations are met under the Ramsar Convention. Such an arrangement is consistent with the Intergovernmental Agreement on the Environment.

As with land and resource management, primary responsibility for wildlife management lies with the State and Territory Governments. Accordingly, in Australia hunting of wildlife is controlled by the relevant State or Territory wildlife authorities which closely monitor waterfowl populations and, where appropriate, take steps to protect certain species, reduce bag limits, restrict or declare open seasons.

Australia is signatory to a number of other international treaties and agreements concerned with the protection of migratory species of birds. The Convention on the Conservation of Migratory Species of Wild Animals (also known as CMS or as the Bonn Convention) aims to secure the conservation of endangered or threatened species which undergo cyclic and predictable migrations across one or more national boundaries. As with the Ramsar Convention, implementation of CMS in Australia is the purview of the State and Territory Governments, consistent with the Intergovernmental Agreement on the Environment.

CMS takes two approaches to protect migratory species, each reflected in a separate Appendix to the Convention text:—Appendix I lists those migratory species which are in danger of extinction throughout all or significant portions of their ranges. The taking of any species listed on Appendix I is prohibited. Australia does not have any migratory birds listed on Appendix I. Appendix II lists species which would benefit from international co-operation. Australia has some 64 species of migratory birds listed on Appendix II. Most of these species are shorebirds and are not subject to hunting in Australia. Only one species of duck is listed; the Radjah Shelduck, Tadorna radjah. The distribution of this species is limited to northern Australia. It is not hunted in either the Northern Territory or Queensland and duck hunting is banned altogether in Western Australia.

Australia has bilateral Migratory Bird Agreements with the Governments of Japan and the People's Republic of China respectively. Article II of both Agreements, makes provision for the establishment of hunting seasons within

sustainable limits, for birds protected by the Agreement. Only two species of duck are listed under both Agreements, the Northern Shoveler, Anas clypeata and the Garganey, Anas querquedula. Both species are protected and are not hunted.

Convention on International Trade in Endangered Species of Wild Fauna and Flora — Conference of Parties — Australian Position

On 8 June 1995, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question upon notice from Senator Woodley (Qld, Australian Democrats) concerning the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) meeting held in Florida in 1994. The following are extracts from the text of the question and answer (Senate, *Debates*, vol 171, p 1181):

Senator Woodley asked the Minister for the Environment, Sport and Territories, upon notice, on 11 May 1995:

(4) Did the Australian delegation propose a change to the status of the saltwater crocodile under CITES; if so: (a) what was this change; and (b) will this change enable the exporting of skins from crocodiles killed in the wild in Australia.

(5) Could indications be given of the following proposals which were raised at the meeting and what position Australia took on each of those that were raised: (a) a proposal by South Africa to lessen protection for African elephants and allow trade in elephant skin and hides; (b) a lessening of protection of the southern white rhino, allowing trade in live rhinos or dead sport-hunted rhinos; (c) changes to free up the importation of leopard and cheetah skins; (d) a lessening of protection for the minke whale; and (e) listing threatened timber species under CITES.

(6) What measures are used to enforce CITES.

(7) What are the criteria to list and de-list species under CITES and were these criteria changed at the Florida meeting; if so: (a) what were the changes made; and (b) what was the Australian delegation's position on the changes.

(8) Have any recent changes to CITES or the rules governing CITES enabled expanded commercial trade in any endangered species; if so, what are they and what has the Australian Government's position been on these changes.

(9) Is it a fact that there are circumstances where developing commercial markets for particular species of wildlife assists in the preservation of that species; if so, what are such circumstances.

Senator Faulkner—The answer to the honourable senator's question is as follows:

(4) In accordance with Article XV of the Convention, a proposal to change the listing of the Australian population of saltwater crocodile (Crocodylus porosus) was lodged with the CITES Secretariat in June 1994.

(4)(a) The proposal sought an unqualified listing of the Australian population of C. porosus on Appendix II to the Convention, in recognition of the improved conservation status of the species. Since 1985, the Australian population of C. porosus has been listed on Appendix II to the Convention, subject to criteria for ranching which were established by the Third Meeting of Conference Parties.

(4)(b) The change to an unqualified listing of C. porosus on Appendix II to CITES will only allow the export of skins from saltwater crocodiles killed in the wild if the existing management programs are amended to permit this activity. Any changes to the current management arrangements for saltwater crocodiles in Australia will require approval by the Commonwealth under the provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982, if exports are to take place. The Act provides for a public consultation process to be undertaken before a Commonwealth decision is made.

(5)(a) The Republic of South Africa submitted a proposal to transfer the South African population of African elephant from Appendix I to Appendix II. The Australian position was to offer the proposal support, conditional on the concerns raised by the CITES panel of experts being met, and the new listing being annotated "for trade in non-ivory products only". As South Africa amended the proposal so that these two conditions were satisfied, Australia spoke in favour of the proposal. The proposal was not voted upon, as it was withdrawn by South Africa.

(5)(b) The Republic of South Africa submitted a proposal to transfer the South African population of southern white rhinoceros from Appendix I to Appendix II. The Australian position was to oppose this proposal as submitted, but South Africa subsequently amended the proposal to read ". . . for the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and hunting trophies". Australia abstained from voting.

(5)(c) Export quotas for leopard were granted to a number of African countries at the Seventh (1989) and Eighth (1992) Meetings of the Conference of Parties. The CITES Secretariat submitted a draft resolution for consideration by the Ninth Meeting of the Conference of Parties which sought to improve the reporting requirements for the export of leopard hunting trophies and skins under the quota system. The proposal included a mechanism to suspend imports from any country granted an export quota that had not met its reporting requirements. Australia supported the proposal.

No proposals were submitted which related specifically to the cheetah, although Namibia submitted a draft resolution relating to trade in hunting trophies of species listed in Appendix I and another relating to application and interpretation of quotas for species included in Appendix I (the cheetah is listed in Appendix I, with annual export quotas approved for Botswana, Namibia and Zimbabwe). Australia opposed any wording in the former resolution which would restrict the capacity of an importing country to adopt stricter domestic measures as provided for in Article XIV of the Convention, and voted in favour of a proposed amendment to adopt wording consistent with the text of the Convention. Australia abstained from voting on the latter proposal as Australia was not able to implement the proposed resolution without legislative amendments.

(5)(d) Norway submitted a proposal to transfer the Northeast Atlantic and the North Atlantic central stocks of minke whale from Appendix I to Appendix II. Australia voted against the proposal.

(5)(e) Several proposals seeking the inclusion of various species of tropical timbers in Appendix II were submitted for consideration by the Ninth Meeting of the Conference of Parties. In addition, the United Kingdom submitted a draft resolution which aimed to address some of the technical and practical problems

associated with applying the CITES framework to timber species. The Australian position was to pursue the initiative of the United Kingdom, preferring to defer consideration of listing additional timber taxa in the Appendices until the implementation problems which had already been identified had been addressed. Nevertheless, a voting position for Australia was formed on each timber proposal, based on the biological and trade criteria for listing species in the Appendices.

In accordance with the proposal by the United Kingdom, the Conference of Parties established a working group to investigate the implementation of CITES for timber species. A member of the Australian delegation was appointed to chair the working group. The group will liaise closely with other relevant international organisations such as the International Tropical Timbers Organisation, and is to report to the next Meeting of the Conference of Parties in 1997.

The decisions of the Conference of Parties on individual proposals related to timber species are summarised in the Report of the Australian Delegation.

(6) In Australia, CITES is implemented through the provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982, which is administered by the Australian Nature Conservation Agency. The Act provides for the appointment of inspectors to enforce the Act. Any officer of the Australian Customs Service, any member of the Australian Federal Police, and any member of the police force of an External Territory is an inspector under the Act. In addition, a number of personnel who are employed by State conservation agencies have also been appointed as inspectors under the Act.

(7) Criteria were established in 1976 at the First Meeting of the Conference of Parties to assist the Parties make decisions in relation to proposals to amend Appendices I and II to the Convention. The criteria establish standards of information required on the biological status and trade status of a species proposed for inclusion in Appendix I or Appendix II. Appendix I of the Convention includes all species threatened with extinction which are, or may be, affected by trade. Appendix II includes all species which, although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilisation incompatible with their survival and other species, which must be subject to regulation in order that trade in specimens of the aforementioned species may be brought under effective control.

(7)(a) The Ninth Meeting of the Conference of Parties made extensive changes to the Criteria for Amendment of Appendices I and II, to address various inadequacies in the original criteria which had become apparent since 1976. The new criteria are detailed in the Report of the Australian Delegation.

(7)(b) Australia adopted a negotiating position aimed principally at achieving an acceptable outcome that most Parties (including both developing and developed countries) were able to endorse. Australia supported the development of objective criteria for evaluating the suitability of taxa for inclusion in the Appendices to CITES, providing that such criteria represented a genuine advancement over the original criteria. Australia also supported the inclusion of precautionary measures in the new criteria.

A member of the Australian delegation was appointed to chair a working group to resolve differences among Parties over the revised criteria. The product of the working group was a consensus document which was adopted by

Committee 1 with 81 votes in favour to none against, and subsequently ratified in Plenary Session. Australia abstained from voting, indicating its desire to be seen to be impartial in the process.

(8) Apart from amendments to the Appendices, there have been no recent changes to the text of the Convention.

Resolutions and decisions of Meetings of the Conference of Parties are made to guide Parties in the implementation of the Convention. They are not binding on Parties, but, as they represent a consensus view, it is usually in the best interests of Parties to abide by them.

Some of the resolutions and decisions made by the Meetings of the Conference of Parties may, simplistically, be interpreted as having enabled expanded trade in some specimens of species which are classified as being endangered, in cases where such trade will not be to the detriment of the wild population, such as animals that have been legitimately bred in captivity and plants which have been artificially propagated.

The Report of the Australian Delegation includes copies of all resolutions and decisions of that Meeting. In relation to each of these resolutions and decisions, Australia adopted a negotiating position which favoured an increase in the effectiveness of the Convention, so that species are given a level of protection commensurate with their conservation status.

(9) The development of commercial markets for wildlife products may assist in the preservation of the harvested species and other wildlife by providing a landholder with an alterative or supplementary means of productive land-use. It may act as an incentive for the landholder to maintain areas of natural habitat on the property which may, in the absence of such an incentive, be alienated for agriculture or other forms of land use inimical to all but the most hardy species of wildlife.

For such use to contribute to the long-term survival of the harvested species, the harvest must be conducted in accordance with the principles of ecological sustainability ie. at a level which may be sustained by the wild population without adversely affecting the species' role in the ecosystem, or the ecosystem itself. A sound, scientifically-based monitoring mechanism should be in place to detect any adverse ecological impacts of such harvesting, and the management regime needs to be sufficiently robust to respond to any adverse ecological impacts that are detected. The harvesting should comply with national and international legal obligations and policies, and also provide for the protection of wildlife from avoidable cruelty and suffering, where the harvested wildlife is an animal.

Convention on International Trade in Endangered Species of Wild Fauna and Flora — Convention on Biological Diversity — Australian Obligations — Wildlife Protection (Regulation of Exports and Imports) Amendment Bill

On 9 May 1995, in the Senate, Senator Faulkner, the Minister for the Environment, Sport and Territories, gave the second reading speech explaining the Wildlife Protection (Regulation of Exports and Imports) Amendment Bill 1995. The following is the text of the speech (Senate, *Debates*, vol 171, p 43):

The Wildlife Protection (Regulation of Exports and Imports) Act 1982 (the act) is part of a global network of legislation, with the goal of protecting biological diversity and maintaining ecological processes and systems.

The proposed amendments will enhance the extent to which Australia discharges its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity. The amendments will provide an improved administrative framework, strengthen measures against illegal wildlife trafficking, and make the Australian Nature Conservation Agency's service to client groups more effective. They will also support a national approach to the conservation of Australia's biodiversity and improve arrangements for regulating the commercial use of wildlife.

The proposed amendments have been developed after extensive consultations with State and Territory governments, industry and non-government organisations and are in accord with the Intergovernmental Agreement on the Environment.

The changes have largely arisen from recommendations of the Ley Report which reviewed the act, having particular regard to Australia's obligations under CITES. The proposed amendments will implement Appendix III of CITES, relating to species identified by a Party as under regulation to prevent or restrict exploitation, and needing the co-operation of others in the control of trade. They will also enable a more flexible approach to controlling private non-commercial trade in species identified under Appendix II of CITES, species identified as although not endangered, requiring trade regulation.

A number of wildlife export industries in Australia are subject to the act, which currently provides for the establishment of management and controlled specimens programs, the development of which are undertaken in close consultation with State and Territory agencies. The amendments will include the requirement that any proposals for the commercial utilisation and international trade in native wildlife are subject to appropriate legislative and regulatory regimes in the relevant State or Territory. Management programs may only be approved where the Minister for the Environment, Sport and Territories is satisfied that to ensure protection of the species, appropriate regulatory measures, monitoring and assessment procedures are in place for the proposed harvesting activity.

Management programs will be subject to time limitations, as it is vital that harvesting of wild native plants and animals are [sic] reviewed on a regular basis. Therefore, the amendments will establish a maximum period of five years between such reviews, with the flexibility to establish shorter periods, should it be considered necessary.

Through the introduction of special conditions for permits for export of native animals under interzoological garden transfer, Australian zoos will be better able to manage their animal populations. The well developed Australasian Species Management Program will be assisted by these measures, which will also facilitate participation in international breeding programs involving endangered species.

The risks of detection and prosecution to those associated with wildlife smuggling will increase as a combined result of improved administrative measures and enforcement efforts. Continuation of co-operative work

undertaken by the Australian Nature Conservation Agency, the Australian Quarantine Inspection Service, the Australian Customs Service, State and Federal Police, and State wildlife agencies will ensure these changes are effective. Overall, they will improve operating efficiency without compromising the protection of wildlife and the Australian environment.

The proposals include improved enforcement powers of inspectors appointed under the act by strengthening powers of seizure, improving powers of search of premises and conveyances, providing powers to conduct frisk searches of suspect persons, enabling seizure of specimens. These provisions are consistent with the Criminal Code Bill 1994 and the recently amended Crimes Act 1914, while taking into account the rights of the individual. Penalties have also been made consistent with Commonwealth policy regarding introduction of penalty units.

In addition to the substantial penalties currently available for illegally importing and exporting wildlife, the amendments propose a new offence. Any person illegally importing or exporting live animals may be subject to a potential two year imprisonment term, if found guilty of cruel treatment to the animal. This will ensure that the treatment of the animals involved in such crimes is subject to consideration by the courts.

The Government is also concerned that the establishment of self-sustaining populations of exotic birds in the Australian wild could have disastrous effects on native wildlife populations. Further, it may only take one bird infected with an exotic disease, and which has been smuggled into Australia, to contaminate thousands of aviary held or wild native birds. These are serious risks which require a comprehensive approach.

A central measure in the bill to addressing these concerns is the introduction of a national exotic bird registration scheme. The scheme was developed along with close consultation with the aviculture industry, bird keepers and the States and Territories. Registration will provide an inventory of exotic birds currently housed in Australia that have environmental or pest potential, and those that are endangered internationally.

A national inventory created under the scheme will provide an agreed list of exotic birds in Australia that will enable for the first time, the means to properly manage exotic birds. Whilst providing a national focus, the proposed amendments allow the States and Territories the flexibility to impose additional measures if they so desire. The scheme will support and assist the legal trade in exotic birds within Australia. The uncertainty and risks associated with the purchase of many birds will be substantially reduced, by eliminating doubt as to the legal origin of the bird.

An advisory committee to the Minister for the Environment, Sport and Territories will be established to examine the ongoing effectiveness of the registration scheme and to provide advice on proposed variations to the list of birds proposed for registration. This committee will comprise of [sic[representatives of government, conservation, and private and professional aviculture.

The Amendment bill also proposes tighter controls on the export of birds as household pets by providing for a limit of two birds that may be taken out of Australia by a person leaving to take up permanent residence overseas.

international cooperation to stem the illegal wildlife trade has become more effective. Australia has an excellent international reputation for its positive involvement in conservation issues, and will be further extending its support to other countries in this respect, with the creation of a new offence whereby it will be illegal to import wildlife specimens contrary to the conservation laws of a foreign country, where a breach of the overseas law involves trade with Australia and where the foreign country requests assistance. This will enable Australia to assist with international enforcement of wildlife laws of other countries.

Mr President, the environmental problems of the globe, which include a range of threats to biodiversity and the survival of many species of wildlife, will only be addressed through national and international cooperative measures. This Government is providing leadership and support in meeting the national and international challenge of protecting biological diversity and maintaining ecological processes and systems. The Wildlife Protection Amendment Bill is a step forward in meeting that challenge and a further example of the Government's commitment to ensuring an ecologically sustainable future.

World Heritage Committee — Inscription of Sites

On 27 March 1995, in the House of Representatives, the Minister representing the Minister for the Environment, Sport and Territories, Mr Brereton, answered a question upon notice from Mr Hollis (Throsby, ALP), concerning the Eighteenth Session of the World Heritage Committee. Extracts from the text of the question and answer follow (House of Representatives, *Debates*, vol 200, p 2217):

Mr Hollis—(2) What decisions were made at the session on nominations to the (a) World Heritage List and (b) List of the World Heritage in Danger.

(3) Did the committee review any Australian properties already inscribed on the World Heritage List.

Mr Brereton—The Minister for the Environment, Sport and Territories has provided the following answer to the honourable member's question:

(1) ... the 18th session of the World Heritage Committee ... was held in Phuket, Thailand, 12–17 December 1994. Dr Warren Nicholls, Director, World Heritage Unit, Department for the Environment, Sport and Territories attended on behalf of Australia.

The following people accompanied Dr Nicholls as observers: Dr Tony Press, Australian Nature Conservation Agency, Darwin; Ms Barbara Tjkatu, Ms Kunbry Peipei and Mr Tony Tjamiwa, representing the traditional owners of Uluru-Kata Tjuta; Mr Yami Lester, of the Uluru-Kata Tjuta Board of Management, and Mr Jon Willis from the Mutitjulu Community Inc.

(2) (a) The World Heritage Committee decided to inscribe the following eight natural heritage sites on the World Heritage List:

The Australian Fossil Mammal Sites (Riversleigh/Naracoorte) (Australia)
Los Katios National Park (Colombia)
Arabian Oryx Sanctuary (Oman)
Donana National Park (Spain)
The Bwindi Impenetrable National Park (Uganda)
The Rwenzori Mountains National Park (Uganda)

Canaima National Park (Venezuela)
Ha-Long Bay (Vietnam)

The World Heritage Committee decided to inscribe the following 21 cultural heritage sites on the World Heritage List:

The Mountain Resort and its Outlying Temples (China)
The Potala Palace, Lhasa (China)
The Temple of Confucius, the Cemetery of Confucius (China)
The ancient building complex in the Wundang Mountains (China)
The Pilgrimage Church of St. John of Nipomuk at Zelena Hora in Zdar nad Sazavou (Czech Republic)
Jelling Mounds, Runic Stones and Church (Denmark)
Petajavesi Old Church (Finland)
The Historical Church Ensemble of Mtskheta (Georgia)
Bagrati Cathedral and Gelati Monastery (Georgia)
The Collegiate Church, Castle, and Old Town of Quedlimburg (Germany)
Volklingen Ironworks (Germany)
Vicenza, the City of Palladio (Italy)
Historic Monuments of Ancient Kyoto (Japan)
The Old Town of Vilnius (Lithuania)
The City of Luxembourg: its old quarters and fortifications (Luxembourg)
The earliest 16th century Monasteries on the slopes of Popocatepetl (Mexico)
The Lines and Geoglypths of Nasca and Pamapas de Jumana (Peru)
The Church of the Ascension, Kolomenskoye (Russian Federation)
The Rock Carvings in Tanum (Sweden)
Skogskyrkogarden (Sweden)
The City of Sanfranbolu (Turkey)

Australia's Uluru-Kata Tjuta National Park, inscribed on the World Heritage List as a natural site in 1987, was designated a cultural landscape.

An extension to the existing World Heritage site, the "Central Eastern Rainforest Reserves", was approved.

(b) The World Heritage Committee placed the Virunga National Park in Zaire on the List of the World's Heritage in Danger.

(3) The Committee reviewed the following Australian properties:

Great Barrier Reef
Shark Bay
Willandra.

World Heritage Listing — Australian Sites

On 24 October 1995, in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question upon notice from Senator Tierney (NSW, Liberal Party). The following is an extract of the text of the question and answer (Senate, *Debates*, vol 174, p 2411):

Senator Tierney asked the Minister for the Environment, Sport and Territories, upon notice, on 1 September 1995:

(1) What Australian areas have World Heritage status...

Senator Faulkner—The answer to the honourable senator's question is as follows:

(1) The areas in Australia which have been placed on the World Heritage List are:

Kakadu National Park
Great Barrier Reef
Willandra Lakes Region
Lord Howe Island Group
The Tasmanian Wilderness
Central Eastern Rainforest Reserves (Australia)
Uluru-Kata Tjuta National Park
Wet Tropics of Queensland
Shark Bay, Western Australia
Fraser Island
Australian Fossil Mammal Sites (Riversleigh/ Naracoorte).

Biosphere Reserves — Australian Sites

On 20 November 1995, the Minister representing the Minister for Foreign Affairs in the House of Representatives, Mr Bilney, answered a question upon notice from Mr Hollis (Throsby, ALP), concerning the Thirteenth Session of the International Co-ordinating Council of the Programme on Man and the Biosphere (MAB), which was held in Paris, from 12–16 June 1995. The following are extracts from the question and answer (House of Representatives, *Debates*, vol 205, p 3268):

Mr Hollis asked the Minister representing the Minister for Foreign Affairs upon notice, on 20 September 1995: ...

(2) Which Australian sites have been included in the MAB network of biosphere reserves since the answer to question No. 518 (*Debates*, 20 February 1991, p 1067) and at which session was each included.

Mr Bilney—The Minister for Foreign Affairs has provided the following answer to the honourable member's question: ...

(2) No new Australian sites have been included in the MAB network of biosphere reserves. At the 13th Session of the MAB Council on 12–16 June 1995 a large-scale extension to an existing Australian biosphere reserve was considered. The addition of the Calperum Pastoral Lease to Danggali Biosphere Reserve was approved and it was agreed that the whole site should now be known as the Bookmark Biosphere Reserve.

Mr Bilney also included the following extract as part of his answer:

Mr Hollis asked the Minister representing the Minister for Foreign Affairs and Trade, upon notice, on 22 January 1991: ...

(1) Which states in UNESCO's electoral Group IV sent representatives or observers to the eleventh session (12–16 November 1990) of the International Co-ordinating Council of the Programme on Man and the Biosphere (MAB)...

(3) Which Australian sites have been included in MAB's network of biosphere reserves, and on what dates.

Dr Blewett—The Minister for Foreign Affairs and Trade has provided the following answer to the honourable member's question:

(1) Electoral Group IV was represented at the eleventh session of the International Co-ordinating Council Program on Man and the Biosphere by Australia, China, Democratic People's Republic of Korea, Indonesia, Japan, Mongolia, Pakistan and Thailand...

(3) Dates of when Australian sites were included in the MAB network of biosphere reserves are as follows:

Croajingolong — 1977
Danggali Conservation Park — 1977
Kosciusko National Park — 1977
MacQuarie Island Nature Reserve — 1977
Prince Regent River Nature Reserve — 1977
Southwest National Park — 1977
Unnamed Conservation Park of South Australia — 1977
Uluru (Ayers Rock-Mount Olga) National Park — 1977
Yathong Nature Reserve — 1977
Fitzgerald River National Park — 1978
Hattah-Kulkyne National Park and Murray-Kulkyne Park — 1981
Wilson's Promontory National Park — 1981.