

Australian Practice in International Law 2007

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I. Sovereignty, Independence, Self-Determination and Democracy

East Timor

On 12 February 2007, the Ambassador and Permanent Representative of Australia to the United Nations, Mr Robert Hill, made a statement to the United Nations Security Council concerning Timor-Leste. Extracts from the statement follow:

Timor-Leste continues to need the sustained attention and support of UN member states and the international community has responded admirably to the situation in Timor-Leste. We welcome the ongoing and broad-ranging work of the United Nations Integrated Mission in Timor-Leste (UNMIT) to address the challenges facing East Timor.

...

In the lead up to presidential and parliamentary elections in Timor-Leste, we welcome UNMIT's support for political and community reconciliation. We consider that Timor-Leste's political future is ultimately a matter for the people of Timor-Leste: Timor-Leste's political leaders need to take responsibility for resolving their differences constitutionally and peacefully. This year's presidential and parliamentary elections will be the first national elections to be managed by the Timorese themselves. The conduct of free fair and transparent elections will be a critical test of the robustness of Timor-Leste's democracy.

We welcome the United Nations provision of technical and logistical assistance to Timor-Leste for the elections and the three-person independent electoral certification team, which is monitoring the election process. We would encourage that the certification team's useful reports be acknowledged and its constructive recommendations implemented.

Australia has provided \$1.3 million to support a United Nations Development Program project aimed at strengthening electoral institutions and processes.

On 12 July 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release congratulating the newly elected members of East Timor's parliament. An extract from the release follows:

I commend all parties which contested the election for their campaigns and acceptance of the outcome. After the unrest of just twelve months ago, the successful running of this election indicates significant progress and augurs well for East Timor's future. The high level of voter participation – approximately 81 per cent – demonstrates the commitment of East Timor's people to their country's democratic future. I note that over 500 observers from 15 countries and international organisations, including Australia, were in East Timor for the elections and overwhelmingly characterised the elections as peaceful, fair and democratic.

I would also like to pay tribute to the United Nations Integrated Mission in Timor-Leste (UNMIT) and the Australia-led International Security Force (ISF) for their roles in maintaining security and supporting East Timor's transition to democracy.

On 8 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question without notice concerning the outcome of East Timor's elections. An extract from Mr Downer's response follows:

We were, on balance, very pleased with the way the East Timor elections were conducted. I think they were conducted on the whole quite peacefully, and it was great to see that expression of democracy yet again by the people of East Timor. They elected a parliament and now the president has chosen Xanana Gusmao to be the Prime Minister of East Timor as part of a CNRT party led coalition, which will have 37 seats out of 65 in the East Timor parliament. So they will have a clear majority.

Let me just make this point: there have been some outbreaks of violence over the past couple of days, seemingly in response to the appointment of Xanana Gusmao and his party and his coalition in East Timor to government. We would urge the East Timorese people to allow the parliament itself to make decisions as to where the majority should lie and, if they have constitutional issues that they wish to raise, then those constitutional issues should be raised where they are meant to be raised—in courts. But the political differences should not be played out on the streets through rock-throwing or, even worse, the use of guns, lawlessness and violence, because in the end not only will that sort of activity be counterproductive, not only is that sort of activity against the laws of East Timor, but it will do devastating damage to the overall state of East Timor and the welfare of the people of East Timor. I would hope that all East Timorese people would first and foremost put the interests of their country before all else.

We retain somewhere between 800 and 900 troops in East Timor. We have quite a number of police officers—about 50, I think—working in the United Nations police. That of course underlines the strength of our commitment to East Timor. Those people will stay there for as long as they are needed. We obviously hope that it will be possible to reduce those numbers before too long, but it is going to depend on the situation on the ground in East Timor. I repeat: I very much hope, at this time where we have seen a very successful expression of democracy in a neighbouring country that we have done so much to help, that the people of East Timor—and I mean by that all of the people of East Timor—will accept the democratic results of both the election and of the parliamentary vote, respect the constitution and respect the courts, the broader the broader institutions of the country and not resort to violence.

Fiji

On 19 June 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning parliamentary democracy in Fiji. An extract from the release follows:

The announcement today by the regime in Fiji that it has agreed in principle that a parliamentary election could be held in the first quarter of 2009 is encouraging.

Australia remains strongly of the view that the interim administration must make genuine steps toward a swift return to parliamentary democracy.

Today's announcement followed the regime's consideration of a report by a team of independent technical experts on a timetable for elections in Fiji.

The report, commissioned by the Pacific Islands Forum, was released on 7 June. It concluded that elections could be held in Fiji in February/March 2009, or as early as November 2008 if the Fiji Bureau of Statistics was provided with additional resources to process census data.

Australia is willing to assist Fiji with technical and financial support for an election provided there is a serious and demonstrated commitment by the Fiji authorities to hold elections in accordance with the timetable indicated.

Iraq

On 21 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question without notice concerning the visit of the Foreign Minister of Iraq, Mr Hoshyar Zebari, to Australia. An extract from Mr Downer's response follows:

The foreign minister is a representative of a democratic government. Iraq is one of the bastions of democracy in the world and we are delighted to have that country as a member of the family of democracies in spite of the difficulties that it is enduring. The minister made it very clear that he strongly values the support of Australia for Iraq and Australia's support is deeply appreciated by the vast majority of the Iraqi people. We obviously agreed that the stakes in Iraq are high — high for the Iraqi people first and foremost, for their freedom and for the integrity of the country. The stakes are very high for the stability of the Middle East. Iraq's disintegration would cause a catastrophe. We agreed that Iraq's survival and stability is important to global security.

On 2 August 2007, the Minister for Foreign Affairs, Alexander Downer, and the Minister for Defence, Dr Brendan Nelson, issued a joint media release concerning Australian assistance to the Iraqi criminal justice system. An extract from the release follows:

The Australian Government will contribute a six member team to support the Law and Order Task Force initiative in Baghdad.

The Australian contribution will be part of a group of lawyers, investigators and court officers which will train and mentor local counterparts so that the court system can fairly and expeditiously try detainees accused of major crimes such as murder, rape, kidnapping and terrorist offences under Iraqi law.

The Law and Order Task Force has been established to create a safe and well resourced environment in which detainees charged with major crimes can be accommodated and their cases investigated and brought before the Central Criminal Court of Iraq. Strengthening the capacity of the Iraqi law and order sector is an essential component in building a stable and democratic Iraq, able to govern and protect itself.

The Task Force began operating in May and cases have already begun to be heard and investigated. The Task Force focuses on crimes committed after March 2003, with the Iraqi High Tribunal continuing to be responsible for trying serious crimes alleged to have been committed during the Saddam era.

Three lawyers from the Australian Defence Force will be in the initial team. A second group of three team members with appropriate investigatory experience is being recruited.

Northern Ireland

On 7 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning elections to be held in Northern Ireland. An extract from the release follows:

I would like to welcome the announcement by British Prime Minister Blair and Irish Taoiseach Ahern that elections will be held in Northern Ireland on 7 March, with the newly-elected Assembly to form an executive to govern Northern Ireland on 26 March.

This presents the prospect of a fully inclusive government and democratic institutions as envisaged under the Good Friday and St Andrews Agreements.

It is also an opportunity for the people of Northern Ireland to look to the future and escape the tragic enmities of history.

I recognise the long road and the difficulties that have had to be overcome to reach this point and want to congratulate Prime Ministers Blair and Ahern for their courage and determination in the pursuit of reconciliation between nationalists and unionists.

I encourage the Northern Ireland political parties to fulfill their commitments in the St Andrews Agreement to the twin pillars of power-sharing on 26 March and support for policing.

The Australian government has been a strong supporter of the peace process and Australians bear enormous goodwill towards the people of Northern Ireland and wish them well in the process of establishing accountable, democratic institutions with cross community support.

On 9 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release welcoming the restoration of the Northern Island Assembly. An extract from the release follows:

This event symbolises an extraordinary achievement in conflict resolution. It represents the rejection of inter-communal violence and the fulfillment of the desires of the people of Northern Ireland for politics conducted by peaceful means, through fully inclusive government and democratic institutions.

It vindicates all those who have worked for many years in the cause of peace.

I congratulate British Prime Minister Tony Blair and Irish Taoiseach Bertie Ahern for their persistence in pursuing negotiations through those dark times when the prospects of success were much less favourable. The political leaders of Northern Ireland are also to be saluted for their courage in taking the risk to set aside their grievances to work together for the future of Northern Ireland.

I join the many Australians with personal links to Northern Ireland in expressing the hope that this represents a brighter future with peace, stability and progress.

Solomon Islands

On 9 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued an open letter to the people of Solomon Islands that was subsequently published in the *Solomon Star*, *Island Sun*, and the *National Express* newspapers. An extract from the letter follows:

Australia has been accused of not respecting the sovereignty of Solomon Islands. In fact the whole reason for RAMSI's existence has been to support and strengthen that sovereignty. Before RAMSI, Solomon Islands' sovereignty had been seized, at the point of a gun, by bands of thugs and criminals. Since then, RAMSI has been working very hard to ensure that the people of Solomon Islands can live their lives in peace and security. We have helped Solomon Islands to build institutions capable

of delivering essential services, such as health and education, to the people. These are the basic building blocks of sovereignty.

Sovereignty, of course, entails responsibility. Leaders are responsible for ensuring they work for the benefit of their people and for listening to and respecting their people's wishes – this is particularly relevant to the re-arming debate. It is also important that governments play a constructive role in ensuring social and ethnic harmony.

Western Sahara

On 18 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning Western Sahara. An extract from Mr Downer's response follows:

The Australian Government supports a negotiated solution to the Western Sahara issue that is acceptable to all directly interested parties. Australia supports the efforts of the international community through the United Nations to assist in achieving this end.

The Australian Government abstained from the United Nations General Assembly resolution on Western Sahara in 2006 in profound regret that the parties to the resolution were unable to reach agreement concerning the question of Western Sahara. The Australian Government would have preferred a consensus resolution as is traditional on such issues.

Papua New Guinea

On 2 July 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the Papua New Guinea national elections. An extract from the release follows:

I am pleased that Australia is providing assistance to support Papua New Guinea authorities in conducting PNG's national elections. Polling has commenced over the weekend and will take place until 10 July.

Since independence, PNG has maintained a vibrant and robust democracy.

PNG faces distinctive challenges in conducting elections, such as the need to access many remote villages by air.

This year a preferential voting system is being used for the first time in a PNG general election.

Through the aid program, Australia provides long-term technical assistance to strengthen PNG's capacity to conduct elections.

This assistance includes support for the PNG Electoral Commission, voter education and financial management of the elections.

Under the Electoral Support Program in PNG, Australia has committed \$11.6 million from 2005 to 2008, including approximately \$6.9 million in 2006-07.

II. Law of the Sea

Fisheries – Illegal, unreported and unregulated fishing

On 10 December 2007, Australia's Ambassador and Permanent Representative of Australia to the United Nations in New York, Mr Robert Hill, delivered a statement

to the Sixty-Second Session of the United Nations General Assembly concerning the challenge of combating illegal, unreported and unregulated (IUU) fishing. An extract from the statement follows:

Illegal, unreported and unregulated (IUU) fishing is obviously a complicated and multifaceted problem. We must address this scourge of the oceans through a combination of increased flag State responsibility, strengthened port State measures to restrict market access for IUU catch and strong action against nationals involved in IUU fishing activities. Australia continues to take this problem very seriously and acts firmly against foreign vessels fishing illegally in Australian waters.

Australia welcomes the important progress made in the Joint Food and Agriculture Organization (FAO) and International Maritime Organization (IMO) Ad Hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters, which met for the second time in Rome in July 2007. We look forward to ongoing collaboration between the FAO and IMO, including crucial work on broadening the application of a unique vessel identifier that would deliver a permanent and more accurate method of identifying vessels, particularly in the face of efforts to disguise their identity through changed names, altered colours and fabricated call signs, even while at sea. We must continue our efforts to make life as difficult as possible for those engaged in reckless IUU activities.

Finally, Australia has a strong interest in further global development of port State measures as a tool in the fight against IUU fishing. We welcome the outcomes of the twenty-seventh Committee on Fisheries meeting, in particular the proposal to develop a legally binding instrument on minimum standards for port State measures. Such an instrument would build on the important progress that has been made regionally — for example, by CCAMLR, when Member States are now obliged to deny port access to vessels appearing on the CCAMLR list of IUU fishing vessels.

Fisheries – Management

On 10 December 2007, Australia's Ambassador and Permanent Representative of Australia to the United Nations in New York, Mr Robert Hill, delivered a statement to the Sixty-Second Session of the United Nations General Assembly concerning Regional Fisheries Management Organisations (RFMOs). An extract from the statement follows:

We welcome recent efforts by RFMOs and similar arrangements to regulate bottom fisheries in accordance with resolution 61/105. Measures adopted recently by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) are an example of best practices in this area, requiring contracting parties to submit relevant information to the CCAMLR Scientific Committee, including, where possible, initial assessments of proposed bottom fishing activities and mitigation measures to prevent significant adverse impacts on vulnerable marine ecosystems. On the basis of such information, the Scientific Committee then makes a recommendation to the Commission on whether bottom fishing should proceed.

Australia continues to work in its region towards establishing new RFMOs and adopting interim measures for bottom fisheries in accordance with resolution 61/105. As an initial sponsor with New Zealand and Chile, Australia continues to be a key player in the development of the South Pacific RFMO. We welcome the adoption this year of voluntary interim measures by participants in the negotiations to establish the South Pacific RFMO. These interim measures will apply until relevant

conservation and management measures come into force under a fully constituted South Pacific RFMO.

Moreover, Australia signed the Southern Indian Ocean Fisheries Agreement in December 2006. We encourage States to move as quickly as possible to follow the South Pacific RFMO example by adopting interim measures, pending the Southern Indian Ocean Fisheries Agreement's entry into force, conserving fish stocks and managing bottom fisheries, including mitigating potential significant adverse impacts on vulnerable marine ecosystems. We look forward to the entry into force of the Southern Indian Ocean Fisheries Agreement as soon as possible.

Law of the Sea – International Convention for the Control and Management of Ships' Ballast Water and Sediments

On 13 June 2007, the International Convention for the Control and Management of Ships' Ballast Water and Sediments, done at London on 13 February 2004, was tabled in Parliament. An extract from the National Interest Analysis follows:

IMO member countries developed this Convention in order to combat the limitations of the current guidelines on the management of ballast water, the current lack of a totally effective solution to the ballast water problem, and the serious threats posed by invasive marine species. Australia has been a member of the IMO since 1952, and has played a leading role in the development of this Convention. By becoming a party to the Convention, Australia will be able to enforce the full range of controls for the management of ships' ballast water and sediments on foreign and Australian flagged vessels on international voyages. This will also ensure that Australia's requirements are consistent with those of other countries.

Maritime Arrangements – Compulsory pilotage in the Torres Strait

On 18 December 2007, Australia's Ambassador and Permanent Representative of Australia to the United Nations in New York, Mr Robert Hill, delivered a statement to the Sixty-Second Session of the United Nations General Assembly concerning Australia's system of pilotage in the Torres Strait. An extract from the statement follows:

Australia would like to express its views on the laws applying to transit passage in international straits. Paragraph 72 of draft resolution A/62/L.27, on oceans and the law of the sea, refers to, inter alia, the need to ensure safety of navigation and the rights of transit passage.

Last year, Australia enacted measures designed to ensure the safety of navigation and the protection of sensitive sea areas, including the environmentally fragile Torres Strait. As explained previously in relevant forums, those measures are necessary in order to facilitate safe and expeditious passage through what are treacherous and narrow waters, and they were adopted in a manner entirely consistent with international law, including the Convention.

Australia unequivocally rebuts the assertion that its system of pilotage in the Torres Strait has the practical effect of denying, hampering or impairing the right of transit passage. On the contrary, the system of pilotage promotes transit passage, by ensuring that the Strait remains open by significantly reducing the likelihood of grounding. These measures were endorsed by the relevant international body, the International Maritime Organization (IMO). Matters relating to their consistency

with the Convention were fully addressed in Australia's submission and were discussed in the relevant IMO committees.

I would like to place on record this delegation's disappointment that the issue has been raised again in this forum, particularly after Australia worked exhaustively with other interested delegations to carefully draft consensus language on the issue. Australia remains convinced of the need for the system of pilotage and of its consistency with international law, and we will continue to engage constructively with others on the issue.

Maritime Arrangements – Timor Sea

On 23 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the entry into force of treaties with East Timor on the Greater Sunrise gas field and other maritime arrangements. An extract from the media release follows:

I am pleased to announce that today in Dili, Australia and East Timor conducted a formal exchange of notes to bring into force the two treaties which settle arrangements in the Timor Sea between our countries.

The International Unitisation Agreement (IUA) and the Certain Maritime Arrangements in the Timor Sea (CMATS) Treaty together provide stable legal and fiscal regimes for the exploration and exploitation of petroleum resources in the Timor Sea between Australia and East Timor to the benefit of both countries.

CMATS puts on hold the Parties' claims to jurisdiction and maritime boundaries in the Timor Sea for 50 years. Australia has agreed to share equally with East Timor the upstream revenues from the Greater Sunrise reservoirs, a move which will help underpin the economic independence of our neighbour.

The IUA will enable the development of Greater Sunrise, a large gas field that straddles the eastern border of the Joint Petroleum Development Area (JPDA) in the Timor Sea. Equal sharing of the upstream revenues from Greater Sunrise under CMATS could result in Australia and East Timor each receiving up to US\$10 billion over the life of the project.

The new maritime arrangements agreed with East Timor under these treaties are on top of the already generous sharing arrangements within the JPDA under the existing 2002 Timor Sea Treaty, where East Timor receives 90% of revenue from production of petroleum resources, which may be worth as much as US\$15 billion. East Timor's Petroleum Fund, set up to receive and administer the revenues it receives from oil and gas sales, now has a balance of over US\$1 billion from exploitation of resources in the JPDA.

Under the new agreements, Australia will continue to exercise continental shelf jurisdiction outside the JPDA and south of the 1972 Australia-Indonesia seabed boundary. East Timor will be able to exercise fisheries jurisdiction within the JPDA. A Maritime Commission will also be established to enable high-level dialogue on a range of important issues facing Australia and East Timor in the Timor Sea, including the management of security threats to offshore platforms and cooperation in managing fisheries resources.

III. Aviation and Space Law

Aviation – International Civil Aviation Organization – Aviation Security

On 31 August 2007, the Australian Delegation to the Thirty-Sixth Session of the Assembly of the International Civil Aviation Organization (ICAO) presented a paper titled ‘Enhancement of Fundamental Principles Concerning Confidentiality and the Non-Punitive Nature of Safety Information’. Extracts from the paper follow:

A successful aviation safety reporting and investigation system is based on a strong foundation of trust between the accident investigation authority and the aviation industry it serves. Trust engenders a free-flow of safety information, this being the foundation on which aviation safety is to be progressed. That trust is based, amongst other things, on appropriate legislated protections for the safety information regarding confidentiality and prevention from punitive use. Any exceptions to the protections must be clearly defined and operate in a manner that strikes an appropriate balance between the need for disclosure and the need to protect the safety information which underpins the safety reporting and investigation system.

Annex 13, Standard 3.1, identifies the principle that safety investigation of an accident or incident is to be non-punitive. Standard 5.12 requires that certain records in an accident investigation be protected from disclosure. Attachment E, adopted in November 2006, provides guidance for the protection of safety information from inappropriate use. Standards 3.1 and 5.12, as well as Attachment E, acknowledge that the vast majority of aviation accidents and incidents are the result of human error where no malice is intended and that protections for information from the reports and investigations of these events are appropriate.

Australia strongly supports this ideology but is also concerned to ensure that the protections do not have the result of inadvertently inhibiting the advancement of safety. The protections need to be clear and workable. The aim of this paper is to promote the need for the protection of sensitive safety information while arguing that more work may be required to ensure they can be implemented.

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Release of confidential information for purposes contrary to that which is authorised by Annex 13 has a fundamental effect on a safety investigation system. The consequences of inappropriate judicial and criminal interference into safety investigations have been more than adequately demonstrated on the international arena, as evidenced by the withdrawal of cooperation by accident investigation participants as well as the disabling of important cockpit recording devices (not to mention incarceration of aircraft crew). When safety information is shared with other nations it is done so on the premise that the principles of confidentiality and non-punitive action, as prescribed in Annex 13, are respected by the receiving State. When this is not the case, and confidential information is released or used for purposes which conflict with the principles of confidentiality and non-punitive action, the support of the aviation industry for the investigation system in the originating State is jeopardised. The result is a reduction in the effectiveness of the safety investigation system of the nation that provided the information.

Australia will continue to share information gathered through its safety investigation processes with other States as required by Annex 13. However, Australia proposes that the requirement to cooperate under Annex 13 should be balanced against the

adverse effect that the exchange of information could have on an investigation by the State exchanging the information, where the other State does not comply with the protection of information Standards in Annex 13. As reinforced by the Global Aviation Safety Roadmap (GASR), ICAO must continue in its efforts to have all nations subscribe to the non-punitive and confidentiality principles prescribed in Standards 3.1 and 5.12. However, while this point is made, Australia suggests that the detail of Standard 5.12 needs to be reviewed with the potential for amendment, as outlined below, so that the Standard is practicable and workable for the purposes of enhancing aviation safety.

Aviation – International Civil Aviation Organization – Transparency in International Air Services

On 31 August 2007, the Australian Delegation to the Thirty-Sixth Session of the Assembly of the International Civil Aviation Organization (ICAO) presented a paper titled 'Transparency in International Air Transport Services'. Extracts from the paper follow:

Transparency refers to the publication and sharing of information. In the context of air services this means ensuring that accurate information about the sector, in particular the content of air services agreements and arrangements, is available and easily understood by stakeholders.

The paper's proposals are underpinned by States' obligation to register their air services agreements and arrangements with ICAO, as per Article 81 and 83 of the Convention on International Civil Aviation (Chicago, 1944) (Chicago Convention).

In the context of ICAO, greater transparency in the sector can be achieved by the distribution of accurate and timely air services agreements and associated arrangement information through the ICAO instruments: the World Air Services Agreement (WASA) Database and the Database of Aeronautical Agreements and Arrangements (DAGMAR). States may also pursue unilateral measures to disseminate information about air services and participate in other multilateral forums engaged in the aviation sector.

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The States unilaterally have demonstrated a willingness to pursue transparency in the sector and record its development. These measures can be responsive and targeted and often more accessible to local aviation industry participants and the broader community. Likewise international forums like the WTO will continue to engage in the sector and need accurate statistical information to guide the activities of its Members.

ICAO is best poised to be both the repository for information about air services agreements and associated arrangements and also to disseminate such information widely. However if States do not revisit and amend their ICAO registrations, the long term viability of the practice, and the merit of the DAGAMAR and the WASA database is diminished and may be supplanted by other international organisations such as the WTO, or private sector organisations. If States do not register information ICAO itself may also become sidelined from development discussion and debate.

To achieve transparency in the sector without delay, States should therefore utilise both the ICAO instruments and unilateral measures available to them to publish and

share information about their air services agreements and associated arrangements. Key measures available to them to consider include:

- Registration of air services agreements and associated arrangements with ICAO;
- Domestic publication of air services agreements and associated arrangements; and
- Update of data inputs to WTO Quantitative Air Services Agreements Review.

Space – Registration of Space Objects

On 19 December 2007, the Permanent Mission of Australia to the United Nations (Vienna) notified the United Nations Secretary-General of the launch of a commercial satellite by the Australian Government in October 2007. An extract from the notification follows:

The Australian Permanent Mission to the United Nations Office in Vienna presents its compliments to the Secretary-General of the United Nations and, in accordance with Article IV of the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex), has the honour to furnish information concerning the Optus D2 satellite launched by the Government of Australia in October 2007.

IV. International Criminal Law

International Criminal Court

On 6 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, delivered a speech to an International Criminal Court Regional Advocacy Seminar in Canberra. Extracts from the speech follow:

Let me say how much I appreciate the chance to speak about the International Criminal Court because I see its establishment as a major landmark for the international community and for international justice.

More than two-thirds of the world's nations have signed or ratified the Court's Rome Statute, highlighting the weight of the Court in the international criminal justice system. And Japan has just deposited its instrument of accession to the Rome Statute, which will make it the 105th state party.

.....

We need a better way of ensuring that the most serious of international crimes do not go unpunished. And the International Criminal Court represents this new international system of justice.

Indeed, the kinds of criminal offences that are included in the Rome Statute are not new and there is nothing controversial about them. The international community has long condemned atrocities like genocide, crimes against humanity and war crimes. These atrocities are an affront to us all. And it's important to note that the Geneva Conventions, on war crimes, are the first ever international treaties to obtain universality, with Nauru's accession in 2005.

But what's been missing has been a mechanism to ensure those who commit atrocities do not enjoy impunity—in cases where the country in question is unwilling or unable to investigate or prosecute those crimes.

That's why the International Criminal Court is so important. As the world's first permanent international criminal court, the creation of the ICC represents a landmark in international relations.

The Rome Statute reflects a remarkable international consensus about the need for a permanent international body vested with jurisdiction over the most serious international crimes.

....

Every country faces difficult choices as they engage with the international community. But I believe the International Criminal Court is now too important to ignore. It is not a distant body – it can have a direct effect on peace and stability and the rule of law. By joining now you get a seat at the table in shaping international law. You raise your international profile. And you would send a strong signal of your support for the rule of law and human rights.

On 1 November 2007, the International Legal Adviser to the New Zealand Ministry of Foreign Affairs and Trade, Mr Gerard Van Bohemen, delivered a statement to the United Nations on behalf of Canada, Australia and New Zealand (CANZ). Extracts from the statement follow:

Since its creation just five years ago the International Criminal Court has made important progress. There are now 105 States Parties to the Rome Statute of the International Criminal Court. The Office of the Prosecutor is currently investigating crimes in four situations. Arrest warrants have been issued against alleged perpetrators in three of these situations. In January this year, the Court confirmed charges of war crimes against Thomas Lubanga Dyilo, a former Congolese militia leader. We await his trial, the first ever before the International Criminal Court, due to start in early 2008.

...

CANZ acknowledges, however, that the International Criminal Court continues to face major challenges. Perhaps the most significant of these arises from the fact that the Court is heavily reliant on support and assistance from States and, on occasion, on international organisations and others, in order to fulfill its mandate under the Rome Statute.

This is well-illustrated by the current situation with the six outstanding arrest warrants for the Darfur and Uganda investigations. The Court can succeed only if perpetrators believe it has the power to act. This requires the cooperation of all States to give effect to arrest warrants and assist with other on-going investigations.

...

Universal ratification of the Rome Statute is also crucial to the Court's success. If we are to ensure that the perpetrators of the most world's most egregious crimes are denied a safe haven, we must step up our collective efforts to promote the universality of the Rome Statute. In that regard, CANZ welcomed the adoption at last year's Assembly of States Parties of the Plan of Action for achieving universality and full implementation of the Rome Statute. Since then, we have also welcomed Japan as a party to the Rome Statute. We hope that Japan's accession will encourage further States to join, particularly States from Asia.

CANZ has continued its efforts at the regional level to encourage further ratification. Australia, for example, recently took the opportunity presented by the Prosecutor's visit in August to Australia, to convene a regional seminar attended by 70 officials

from the Asia-Pacific, including Ministers and senior government officials, to promote accession to the Rome Statute.

International Criminal Tribunals

On 12 October 2007, the Canadian Delegation delivered a statement to the Sixty-Second Session of the Sixth Committee of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ). Extracts from the statements follow:

Allow me to begin by paying tribute to the International Criminal Tribunals for the former Yugoslavia and Rwanda. Their work has contributed to ensuring greater accountability for those who commit war crimes, crimes against humanity and genocide. In doing so, they have developed a body of jurisprudence on multiple questions of international criminal law that is unprecedented. These two international criminal tribunals paved the way for other international criminal tribunals, including the International Criminal Court.

....

CANZ fully supports the implementation of the completion strategies of both tribunals. We also welcome efforts to refer cases involving intermediate and lower-ranking accused to national jurisdictions as part of the Tribunals' completion strategy. In this regard, we would note that all referred cases should be conducted in full compliance with the highest standards of due process. We encourage the international community to help strengthen national justice systems, where required, in support of the overall completion strategy. With respect to national justice systems, we especially welcome Rwanda's decision to formally abolish the death penalty which will further enhance the development of human rights.

In order for the Tribunals to complete their work, however, it is imperative that all remaining indictees be surrendered. We note with satisfaction that this past year has seen the arrest and transfer of Vlastimir Đorđević and Zdravko Tolimir to the ICTY. More must be done, however, including the immediate surrender of Radovan Karadzic, Ratko Mladic and Felicien Kabuga. States that continue to provide protection to these fugitives from international justice undermine not only our common fight against impunity, but their own commitment to the rule of law.

Mutual Assistance in Criminal Matters – Thailand

On 13 June 2007, the Treaty between Australia and the Kingdom of Thailand on Mutual Assistance in Criminal Matters, done at Kuala Lumpur on 27 July 2006, was tabled in both Houses of Parliament. Extracts from the accompanying National Interest Analysis follow:

The purpose of the Treaty is to better enable Australia and the Kingdom of Thailand to assist each other in the investigation, prosecution and suppression of crimes including terrorism, drug trafficking, fraud, money laundering and people trafficking. Australia has similar mutual assistance treaties with 26 other countries and is also a party to a number of multilateral agreements that impose mutual assistance obligations.

Mutual assistance treaties allow Australia to provide and obtain formal assistance in criminal investigations and prosecutions. Mutual assistance treaties are also used to recover the proceeds of crime.

.....

The Kingdom of Thailand is an important partner in efforts to combat transnational crime in the Asia-Pacific region. Ratifying the Treaty will ensure that Australia can provide, request and receive mutual assistance to and from the Kingdom of Thailand in accordance with clearly defined and mutually agreed terms.

Mutual Assistance in Criminal Matters – United Arab Emirates

On 18 September 2007, the Treaty on Mutual Legal Assistance in Criminal Matters between Australia and the United Arab Emirates, done at Hobart on 26 July 2007, was tabled in both Houses of Parliament. Extracts from the accompanying National Interest Analysis follow:

Australia has similar mutual assistance (MA) treaties with 27 other countries and is also a party to a number of multilateral agreements that impose MA obligations.

....

Treaties have a range of benefits over arrangements based on reciprocity. Treaties provide certainty, impose mutual obligations in international law and institute practical arrangements for requesting and providing MA.

The United Arab Emirates is an important partner in efforts to combat transnational crime in the Middle East. Concluding the Treaty will ensure that Australia can provide, request and receive MA to and from the United Arab Emirates in accordance with clearly defined and mutually agreed terms.

Terrorism – Counter-Terrorism Cooperation – Memorandum of Understanding – Turkey

On 12 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the signing of a Memorandum of Understanding on counter-terrorism cooperation with Turkey. An extract from the release follows:

Australia's efforts to combat terrorism have been boosted in Ankara today, where Foreign Minister Mr Abdullah Gül and I have signed a Memorandum of Understanding (MOU) on Counter-Terrorism cooperation and organised crime. The signing of this MOU is an important outcome of my visit to Ankara.

The MOU provides a framework for cooperation between Australian and Turkish agencies in areas such as law enforcement and legal issues, anti-terrorist financing, border and transport security, defence, intelligence and countering chemical, biological, radiological and nuclear terrorism.

Strengthened cooperation with Turkey through this MOU will help protect Australians and Australian interests both at home and abroad, one of the Government's highest priorities.

Turkey is an important security partner for Australia and this MOU builds on a strong record of existing cooperation between Turkey and Australia. Australia and Turkey signed a Defence Framework Agreement during the visit to Australia of the Chief of the General Staff, General Hilmi Özkök, in August 2006. Turkey is a founding member of NATO and of the recently established Global Initiative to Combat Nuclear Terrorism and is hosting its second meeting on 12-13 February.

Terrorism – Counter-Terrorism – Turkey / Iraq

On 26 October 2007, the Minister for Foreign Affairs, Alexander Downer, issued a media release concerning attacks in northern Iraq and Turkey by the Kurdistan Workers Party (PKK). An extract from the release follows:

I condemn the continued attacks on Turkish civilian and military forces in the border region in northern Iraq by the Kurdistan Workers Party (PKK) terrorist group.

I offer my deep sympathy to the families of those who have been killed, wounded or kidnapped in the senseless violence perpetrated by the PKK.

The Australian Government re-listed the PKK as a terrorist organisation under its Criminal Code on 27 September this year.

I welcome talks between the Turkish and Iraqi Governments aimed at finding a diplomatic solution to the situation on the Turkish-Iraq border, and I encourage all parties concerned to exercise restraint.

Australia is committed to working with Iraq and its neighbours to restore peace and security in Iraq. We encourage the governments of Turkey and Iraq to work together to address the threat posed by the PKK.

Terrorism – Counter-Terrorism – United Nations

On 22 March 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the Australian Government's position on a United Nations convention on suicide terrorism. Extracts from Mr Downer's response follow:

The Government does not support the motion's call for the UN to sponsor an international convention on suicide terrorism and seeks to disallow the motion moved for reasons outlined as follows.

First, the Australian Government does not see the benefit in initiating an International Convention on Suicide Terrorism, since there are already 13 existing international conventions on terrorism that cover all types of terrorist acts and behaviours. The Government has a long-standing policy of seeking a Comprehensive Convention on International Terrorism through negotiations with United Nations member states. It supports a comprehensive instrument on terrorism, rather than seeking separate conventions on specific forms like suicide bombings, additional to those that already exist.

Second, current offences defined in the Criminal Code already capture all types of terrorist activity, making it unnecessary to create a separate offence of suicide terrorism either in domestic or international law. There are also practical constraints, such as difficulties the prosecution would face in identifying the perpetrators remaining after a suicide terrorist attack. The definition of a terrorist act in the Criminal Code makes it an offence to engage in, train for, prepare, plan, finance or otherwise support terrorist activities. In its June 2006 report, the Security Legislation Review Committee approved the Criminal Code's definition of a terrorist act.

Third, the Government's policy is to focus on strong intelligence and security measures, as well as other strategies to prevent terrorism, including suicide attacks. Prevention strategies include working closely with mainstream Muslim communities in Australia and overseas to reject notions that such actions are either heroic or supported by religious doctrines. I (Mr Downer) emphasised the need to address terrorist ideology and propaganda in my address to the seminar convened by the

Indonesian Government in February 2006, *“International Cooperation Against Terrorism: Focusing on Suicide Bombing as a Symptom of Terrorism.”*

Fourth, the Government considers that suicide terrorism may already be considered a crime against humanity, both at the international level where the International Criminal Court has jurisdiction and under Australia’s domestic law. Crimes against humanity are defined in the Rome Statute of the International Criminal Court. The Government legislated in 2002 to make crimes against humanity an offence under the Commonwealth Criminal Code.

Australia has been contributing to progress on the UN Comprehensive Convention on International Terrorism (CCIT) through constructive and active engagement in the Ad Hoc Committee’s negotiations on the text through our Mission to the United Nations in New York. The Government has strongly supported the adoption of the UN Global Counter-Terrorism Strategy, the most comprehensive CT statement ever adopted by the General Assembly.

...

In the 2006-07 budget, the Australian Government committed \$92.3 million in regional CT assistance over the next four years, including to capacity-building in law and justice sectors to help countries comply with, and ratify international CT conventions.

On 10 October 2007, the Parliamentary Adviser to the Australian delegation to the United Nations, Senator Michael Forshaw, made a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ). Extracts from the statement follow:

It is vital that the international community is united in its unequivocal condemnation of terrorism. CANZ attaches value to the comprehensive legal framework that the UN and the UN system agencies have successfully established in the counter-terrorism field. The 13 counter-terrorism instruments of universal application remain fundamental tools in the fight against terrorism and we urge States to sign up to all of these conventions. CANZ consults closely with UNODC and CTED and welcomes the growing role UNODC and CTED have in providing technical assistance at the regional and national level.

CANZ firmly believes that it is here in the United Nations that we can set the global standard that terrorism can never be justified. CANZ calls on States to conclude a comprehensive convention against terrorism as soon as possible. This would provide a solid foundation for international cooperation to prevent, prosecute and punish terrorist acts. How many more of our citizens will die at the hands of terrorists before we can collectively agree to conclude this important international agreement?

CANZ calls States’ attention to the importance of the UN Global Counter-Terrorism Strategy as a guide for action for the international community. We hope the UN Global CT Strategy will provide impetus to Member States to adopt practical measures that facilitate counter-terrorism cooperation by way of extradition, prosecution, information flows and capacity-building.

...

CANZ continues to support strongly the ongoing counter-terrorism work of the committees established by Security Council resolutions 1267, 1373 and 1540. We

call on States to meet their obligations under these and other Security Council resolutions, including resolution 1624 on the incitement of terrorism.

Transnational Organised Crime – Europol

On 13 June 2007, the Agreement on Operational and Strategic Cooperation between Australia and the European Police Office (Europol), done at The Hague on 20 February 2007, was tabled in both Houses of Parliament. Extracts from the accompanying National Interest Analysis follow:

For some time it has been recognised that national borders are not an obstacle for organised crime. On the contrary, borders can be a hindrance to police activities and can actually provide organised criminal groups with an advantage in situations where they are active in one country and use another country as a retreat.

.....

The Agreement is important to Australia. It is a significant pillar in Australian's strategic approach to strengthening its international capacity to fight all forms of transnational crime, including terrorism. It will also provide a platform for participation in training activities, and advisory support in relation to individual criminal investigations.

....

In the global crime environment, no one can afford to operate as a single agency - or as a single country. Collaborative partnerships need to be entered into to combat the challenges of modern-day transnational crime.

Therefore, the advantages in Australia cooperating with Europol are important. The Agreement will facilitate the exchange of criminal intelligence between Europol and Australian law enforcement agencies, providing significant operational benefits to Australian agencies in terms of combating serious forms of international crime. At a strategic level, the Agreement will provide an intelligence overview not otherwise available from a national perspective, while at the operational level, it will provide direct assistance to investigators. Material from different agencies and countries is combined, in conditions of utmost secrecy, to identify links between suspects and crime.

The Agreement will also enable Australia to share specialist knowledge, information on criminal investigation procedures and crime prevention methods and to be able to participate in training activities and provide advice and support for individual criminal investigations if required. This support and information exchange may not otherwise be available to Australia.

United Nations – Anti-Corruption

On 22 March 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the United Nations Convention Against Corruption (UNCAC), done at New York on 31 October 2003. An extract from Mr Downer's response follows:

The Australian Government supports international cooperation against transnational crime and corruption, including through encouraging Asia-Pacific countries to become parties to the UNCAC. Australia provided \$300,000 for the joint Australia-UN Office of Drugs and Crime-Thailand Workshop (Bangkok, January 2006) to promote UNCAC ratification. Nine Asia-Pacific countries participated in this

Workshop: Australia, China, Fiji, Indonesia, Malaysia, Mongolia, Philippines, Thailand and Vietnam. Since the Workshop, China and Indonesia have ratified the UNCAC. Of the nine countries mentioned, only Fiji and Mongolia have yet to sign the UNCAC.

Australia is a member of the Asia Development Bank - OECD Anti-Corruption Initiative for the Asia-Pacific and provides financial support to the Initiative. There are currently 27 members of the Initiative: Australia, Bangladesh, Cambodia, China, Cook Islands, Fiji, Hong Kong, India, Indonesia, Japan, Kazakhstan, Kyrgyzstan, ROK, Macao, Malaysia, Mongolia, Nepal, Pakistan, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Vanuatu and Vietnam. Australia has also promoted UNCAC through the APEC Anti-corruption and Transparency Experts Task Force and the Conferences of Parties for United Nations Convention against Transnational Organized Crime and United Nations Convention against Corruption.

United Nations – Criminal Accountability of United Nations Officials and Experts on Mission

On 15 October 2007, the Parliamentary Adviser to the Australian delegation to the United Nations, Senator Rod Kemp, delivered a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ) concerning the criminal accountability of United Nations officials and experts on mission. Extracts from the statement follow:

CANZ remains deeply concerned about acts of sexual exploitation and abuse, and other serious crimes, committed by UN peacekeepers and other personnel. The impact of such crimes on the reputation of the United Nations, on the victim, on the host State and on the reputation of the offender's State of nationality is so great that even one case of criminal conduct is one case too many. Given this, the United Nations and its Member States need to demonstrate to the international community the importance of eliminating impunity and holding personnel participating in United Nations operations accountable for any criminal conduct.

It is important to recall that the work of this Committee on the criminal accountability of UN officials and experts on mission is but one part of a broader UN response to this issue. We welcome the United Nations' efforts to disseminate widely its zero tolerance for sexual exploitation and abuse. We acknowledge the good work of the Secretary-General in establishing in 2003 the Bulletin on special measures for protection from sexual exploitation and sexual abuse. We welcome the introduction since August 2005 of conduct and discipline teams in UN peacekeeping operations.

But when prevention fails, Member States and the United Nations share the responsibility to ensure that those who commit a crime are held accountable. We cannot tolerate impunity for serious crimes. We note the work of the Special Committee on Peacekeeping Operations earlier this year in finalising revisions to the model MOU between the United Nations and Troop Contributing Countries to strengthen accountability for sexual exploitation and abuse offences for members of National Contingents.

...

The Sixth Committee now needs to consider the appropriate measures to end impunity for criminal conduct by other UN personnel. CANZ recognises there is currently a jurisdiction gap that may lead to impunity. We recognise that the legal system in the host State will not always be in a position to prosecute crimes committed by UN personnel on their territory. Equally, the State of nationality of the alleged offender may not have jurisdiction over crimes committed in the host State.

In the long term, CANZ supports, in principle, the Secretariat's call for a convention that requires Member States to exercise jurisdiction over their nationals who are participating in UN operations overseas. CANZ agrees that a convention would facilitate Member States being able to assert and exercise jurisdiction in such circumstances.

A convention could also provide a framework to facilitate international criminal cooperation, in particular, extradition and mutual legal assistance in criminal matters. This would enable States to investigate more effectively crimes allegedly committed by their nationals who are part of a UN operation.

Consistent with the overall objective of avoiding impunity, the UN's response should not be limited to officials and experts on peacekeeping missions. We agree with the Secretariat that there is no major policy impediment as to why our response should be limited to peacekeeping operations. Rather, CANZ supports taking measures that apply to all UN personnel who are in the area of a United Nations operation irrespective of their Department, Office, Programme, Fund or Specialised Agency. However, there is no need to include military members of national contingents and military experts on mission, in as much as they are covered by their national and military laws.

United Nations – Prevention of Sexual Exploitation and Abuse

On 9 May 2007, First Secretary of the Permanent Mission of Canada to the United Nations, Mr Olivier Poulin, made a statement to the Fifth Committee of the Sixty-First Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ) concerning the prevention of sexual exploitation and abuse (SEA). Extracts from the statement follow:

CANZ welcome the Comprehensive strategy on SEA and the proposed three-pronged approach comprised of measures aimed at prevention of misconduct, enforcement of UN standards, and remedial action.

.....

We wish to underline that the proposal before us is just a first step in setting up the architecture this organisation has pledged to establish to eliminate SEA. In order to fully deliver on the Zeid report, which has been presented more than two years ago, the General Assembly still need to make decisions on a Revised Draft Model Memorandum of Understanding between the UN and Troop-Contributing Countries, a Group of Legal Experts' Report on Criminal Accountability of UN Staff and Experts on Mission, and a Strategy on Victim Assistance. We urge the General Assembly to deal with these important proposals as a matter of urgency, for this policy will be incomplete without the necessary accountability mechanisms for all categories of personnel in the field and the appropriate structures and policies to assist victims of SEA.

United Nations – Responsibility of States for Internationally Wrongful Acts

On 23 October 2007, the First Secretary and Legal Adviser of the Permanent Mission of Australia to the United Nations, Mr Andrew Rose, delivered a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ) concerning the responsibility of States for internationally wrongful acts. Extracts from the statement follow:

Canada, Australia and New Zealand once again note our appreciation for the immense work of the Commission in bringing to a conclusion the “Draft Articles on the Responsibility of States for Internationally Wrongful Acts” and the associated commentary.

For over fifty years, delegations have observed the Commission grapple with the codification and development of one of the most complex and challenging areas of international law.

...

It has been almost six years since the adoption of UNGA Resolution 56/83, taking note of the Articles and commending them to the attention of Governments. We again face the big question mark over the future of the Articles: whether to negotiate the Articles as a Convention; whether to adopt the Articles in the form of a resolution or declaration; or whether to simply have the General Assembly take note of the Articles with no further action. For CANZ, this is a question not lightly dismissed.

The last six years have been spent contemplating the future of the Commission’s work in this area. In the meantime, international courts, tribunals and other bodies have referred to the Commission’s text and commentary. The International Court of Justice has referred to the Articles on a number of occasions, including most recently in its decision in the *Bosnia and Herzegovina v Serbia and Montenegro* case in February 2007.

The Report of the Secretary-General released on 1 February 2007 on the Responsibility of States for Internationally Wrongful Acts provides a useful compilation of the decisions of international courts, tribunals and other bodies, which refer to the Articles. According to this Report, and the Addendum of 17 April 2007, there have been 130 judicial and quasi-judicial referrals to the Commission’s Articles and commentaries on State responsibility. These bodies, as well as Governments, have been guided by the Articles in analysing the sensitive issues at hand and finding resolutions. It is evident that there is a growing body of practice on utilising the Articles.

Mr Chairman,

CANZ reiterates our view that it would not be helpful to try and negotiate the Articles as a convention. CANZ seeks to avoid a course of action which might see the delicate balance of the Articles disturbed. We should not place ourselves in the situation whereby the current force and practical authority of the Articles is weakened through a convention that does not achieve wide adherence. We need to secure the benefits of the fifty years of the Commission’s important work on the Articles.

To acknowledge the Commission's great achievement, we would support the adoption of a resolution endorsing the Articles and attaching them as an annex. CANZ maintains that this approach would ensure that the integrity of the Articles is maintained.

Mr Chairman

In closing, Canada, Australia and New Zealand are of the view that the Articles have proven their worth as a persuasive source of guidance for both Governments and courts. CANZ supports the endorsement of the Articles. However, we consider that the most appropriate method of endorsement, which would ensure the integrity of this valuable work, is to adopt the Articles as a resolution. Furthermore, the Articles should no longer be considered "draft".

Canada, Australia and New Zealand are grateful to the Commission for its important work. We believe it is fitting for that work to be recognised and adopted within the General Assembly as a matter of priority.

V. Diplomatic and Consular Relations

Consular Relations – India

On 26 February 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning the opening of a new office for the Australian Consulate-General in Chennai, India. Extracts from the release follow:

Australia's deepening economic partnership with India was further strengthened today, when the Minister for Trade, Warren Truss, opened a new office for the Australian Consulate-General in Chennai.

Mr Truss said the establishment of a Consul-General in Chennai is a symbol of Australia's growing commercial engagement with this part of the sub-continent.

"In 2006, India became Australia's eleventh-largest merchandise trading partner and is our sixth-largest merchandise export market with total exports exceeding \$8.8 billion," Mr Truss said.

"India has grown faster than any of our top 30 export markets over the past five years - at an average rate of almost 33 per cent. This clearly demonstrates the momentum building up in our trading relationship," he said.

...

Mr Truss said the establishment of a Consulate-General in South India reflects the Government's commitment to ensuring access to Australians visiting or living in this region.

"The consular services will help facilitate new opportunities emerging from this region and deepen Australia's commercial and cultural links," Mr Truss said.

Diplomatic Protection

On 19 October 2007, the Canadian Delegation made a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly, on behalf of Canada, Australia and New Zealand (CANZ), concerning the International Law Commission's (ILC) adoption of the draft articles of diplomatic protection. Extracts from the statement follow:

As the commentaries indicate, there exists a large body of well-established State practice pertaining to much of the subject matter covered by the draft articles. This topic has been largely characterized by customary international law, with developments achieved through State practice and the decisions of international courts and tribunals. CANZ welcomes the clarifications made by the Commission in past years to a number of provisions in preliminary drafts of the articles to more accurately reflect customary international law and to expressly note that some articles represent a progressive development of the law.

...

With regard to the proposal of the Commission to elaborate a convention on diplomatic protection, CANZ does not believe it would be advisable to attempt to adopt a legally binding instrument at this time. The draft articles adopted by the ILC were elaborated in a very short time. This matter is of considerable importance to Governments as the draft articles may have far reaching implications. Any attempt to elaborate a convention at this point would risk opening up debate on the draft articles and could quickly undermine the very important consolidating work that the Commission has accomplished on this topic so far. The value of the ILC's work will be demonstrated over time through the evolution of state practice which in turn will be assisted by the guidance offered by the Commission's work.

VI. Human Rights and Social Law

Human Rights – Children's Rights

On 22 January 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the Attorney-General, Mr Philip Ruddock, issued a media release announcing Australia's ratification of the two Optional Protocols to the Convention on the Rights of the Child, done at New York on 20 November 1989. An extract from the release follows:

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was developed to protect children from the worst forms of commercial exploitation. The Optional Protocol obliges countries to criminalise serious violations of children's rights. These violations include the transfer of organs from children for profit, child prostitution and child pornography, and the sale of a child for sexual exploitation and forced labour.

Child exploitation is a serious issue for the international community and for Australia. Ratification of this Optional Protocol reflects the Australian Government's strong stance on people trafficking and child exploitation issues in the region. Ratification complements Australia's strong legislation and enforcement arrangements to combat sex crimes against children.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict establishes a new international standard for the protection of children in armed conflict. It requires countries to take all feasible measures to ensure that members of their armed forces under 18 years do not take a direct part in hostilities. The Optional Protocol also requires countries to ensure that persons under 18 years are not compulsorily recruited into their armed forces.

The widespread involvement of children in armed conflicts currently taking place around the world is a matter of great concern. Ratification demonstrates a continuing

commitment by the Australian Government to the broader objectives of the Convention on the Rights of the Child and the promotion and protection of children's rights in this area.

On 18 October 2007, the Australian Delegation to the Third Committee of the Sixty-Second Session of the United Nations General Assembly delivered a statement, on behalf of Canada, Australia and New Zealand, concerning children's rights. An extract from the statement follows:

Canada, Australia and New Zealand wish to emphasize that the *Convention on the Rights of the Child* must constitute the primary standard in the promotion and protection of the rights of the child, as well as to stress the importance of full implementation of this instrument. We urge those states that have not yet done so to ratify the Convention, and to give early consideration to signing and ratifying the Convention's Optional Protocols. We welcome the work of the Committee on the Rights of the Child and UNICEF on these issues and wish to highlight the real difference they are making to children's lives.

Human Rights – Freedom of Religion

On 4 October 2007, the Parliamentary Adviser to the Australian delegation to the United Nations, Senator Rod Kemp, delivered a statement to the United Nations High-Level Dialogue on Inter-religious and Inter-Cultural Understanding and Cooperation for Peace. Extracts from the statement follow:

The right to freedom of religion or belief is a basic right, and an essential element of any harmonious society. It is embodied in the Universal Declaration of Human Rights, which states that 'everyone has the right to freedom of thought, conscience and religion'.

Unfortunately, in many areas of the world, many people still don't enjoy these freedoms; they cannot worship freely and they suffer from discrimination. Religious intolerance and extremism continue to threaten global security, peace and stability. The importance of defending religious freedom cannot therefore be overstated.

To build and maintain free societies, we have to recognise that different ideas and beliefs can and should be allowed to coexist and flourish, because tolerance and respect for pluralism are essential values for open societies.

...

Australia strongly supports freedom of religion and belief and is determined to promote understanding and foster harmony between faith communities across our region. Our regional efforts aim to bridge cultural and religious differences and counter the spread of extremism.

...

Australia will continue to engage constructively on this issue with the Human Rights Council, by encouraging the global promotion of religious tolerance in this important forum. The Council needs to play an active role in ensuring the promotion and protection of the right to freedom of religion or belief, including by monitoring international adherence to the provisions of the Declaration on the Elimination of All forms of Intolerance and of Discrimination Based on Religion or Belief.

Australia welcomes the United Nations Alliance of Civilizations initiative to support projects that promote cross-cultural and religious understanding. Australia believes that its practical initiatives complement the interfaith activities taking place in our

region. We, the international community, should continue to forge interfaith and international partnerships which aim to ensure that the right to freedom of religion is respected in all countries.

Human Rights – Gender Equality

On 6 March 2007, the Executive Director of the Office for Women, Ms Julia Burns, delivered a statement on behalf of Australia to the United Nations General Assembly High-Level Debate on the Promotion of Gender Equality and the Empowerment of Women. An extract from the statement follows:

The Australia Government doesn't just prioritise gender equality and the empowerment of women domestically, we also consider these objectives critical to our work internationally. Gender equality is an overarching principle of Australia's overseas aid program. It is a central element of how Australia assists other nations' economic and social progress and our efforts to eradicate poverty, enhance economic growth and democratic governance, and achieve sustainable development.

Australia's new AusAID Gender Policy, launched last week, makes clear that development is more effective when it involves and addresses the needs of both men and women. The new policy outlines strategies and initiatives to advance gender equality through Australia's aid program - including how gender will be properly integrated and mainstreamed...

Turning to UN reform, Australia has welcomed the *Delivering As One* report and we are glad that the Panel gave appropriate attention to issues of gender. We support the need to improve the work of the UN in mainstreaming gender, in advocating and playing a key normative role on gender issues, and in supporting the empowerment of women. Getting the gender architecture of the United Nations fit for this purpose is important, particularly the creation of an Under-Secretary-General position. But while what we do on this issue in New York is important, we must not lose focus on our real goal – improving gender equality and the empowerment of women at a grass roots level.

On 16 October 2007, the Counsellor of the New Zealand Mission to the United Nations, Ms Janet Lowe, delivered a statement on behalf of Canada, Australia and New Zealand to the Third Committee of the Sixty-Second Session of the United Nations General Assembly on the Declaration on the Rights of Indigenous Peoples, concerning the Advancement of Women. Extracts from the statement follow:

Canada, Australia and New Zealand are committed to working with the international community to uphold women's rights and gender equality. While we urge all states to focus on women's rights within their own borders, we recognise the importance of addressing these issues within the United Nations architecture itself.

We welcome the Secretariat's concept note on a Strengthened Architecture for Gender Equality and Empowerment of Women. At this important stage in the process we urge states to continue to work towards a strengthened, coherent, gender architecture and towards effective gender mainstreaming across all UN entities. Successful reform of the gender architecture requires ongoing commitment from us all.

...

We reaffirm our commitment to the Beijing Declaration and Platform for Action, and to the Convention on the Elimination of All Forms of Discrimination Against

Women (CEDAW). These international standards provide us with a constant benchmark for the fulfilment of women's rights. The CEDAW now has 185 parties and is well on its way to universal ratification. We encourage all states which have not yet ratified CEDAW to give ratification their serious consideration.

We welcome progress which has been made so far on Security Council Resolution 1325 on Women, Peace and Security. We urge states to continue to work to implement this important resolution.

Human Rights – Human Rights Defenders

On 28 March 2007, the Australian Delegation to the United Nations Human Rights Council in Geneva delivered a statement to the Fourth Session of the Human Rights Council during the Interactive Dialogue with the Special Representative of the Secretary-General on Human Rights Defenders, Ms Hina Jilani. Extracts from the statement follow:

Australia is committed to promoting – in our region and beyond – an environment in which civil society can engage with governments, international organisations and local communities to promote the human rights of all, without fear or obstruction.

Australia is concerned Ms Jilani's report identifies a "global trend" in which those seeking to promote rights – lawfully, peacefully and in accordance with the UN Declaration on Human Rights Defenders – are themselves subject to violations.

...

Events such as these remind us of the need for vigilance in protecting the rights of those who defend the freedoms of others

- within our region, for example, the Pacific Islands Forum has endorsed an expert report which describes the "chilling" effect on the activities of human rights defenders in Fiji of developments following the unconstitutional removal by the Fiji military of the Qarase Government in December 2006
- in response to persistent reports of intimidation, harassment and assault of persons that oppose the coup in Fiji, Australia – along with its neighbours – has called for these abuses to cease: this call becomes even more urgent in light of the compromised independence of the Fiji Human Rights Commission, now suspended by the International Coordinating Committee of National Human Rights Institutions because it no longer fully complies with the *Paris Principles*.

Human Rights – Human Rights Treaty Bodies

On 30 October 2007, the First Secretary of the Permanent Mission of Australia to the United Nations, Ms Lara Nassau, delivered a statement to the Third Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand, concerning the operation of the human rights treaty body system. Extracts from the statement follow:

Australia, Canada and New Zealand remain firmly committed to improving the efficiency and effectiveness of the international treaty body system. Treaty bodies which work constructively with States and which are viewed as credible and independent, can have a direct impact on human rights protection. An efficient and

effective treaty body system can influence national human rights policies and programs through constructive and realistic recommendations.

It is important that treaty bodies continue to improve their coordination with each other, with States and with the broader human rights machinery. This facilitates greater visibility, accessibility and understanding of the system for all stakeholders. In this regard, we welcome the interaction between committees, including through the Inter-Committee mechanism. Ensuring work practices are harmonised and the system works as a coherent whole requires a continuing exchange of ideas and consideration of lessons learnt.

We commend innovative practices that treaty bodies have put in place or are trialing. The use of parallel chambers has helped to clear a backlog of reports in at least one Committee, and others are now considering this approach. Re-opening dialogue with States Parties whose reports are overdue fosters the co-operation that is important to improved reporting timeframes. Distributing a list of issues to a State Party as early as possible facilitates a focused and interactive dialogue between treaty bodies and States Parties. We encourage an approach that would result in focusing country reports on issues of direct interest to Committees and we note that one Committee will trial a further innovation by providing a list of issues to States before reports are due.

Support for treaty body reform must be translated into action. Our three countries are making efforts to report to the treaty bodies in accordance with the UN's Harmonised Guidelines.

...

While progress is evident, more remains to be done to strengthen the treaty body system. We appreciate it is a complex system and that retaining the diversity of expertise is important. But it is also important that the treaty bodies give consistent guidance to States and that they handle issues involving multiple forms of discrimination in an integrated way, thereby reinforcing the indivisible and interrelated nature of human rights standards.

Further, it is critical that, even while we support ongoing incremental reform of individual treaty bodies, we do not lose focus on the larger question of reform of the system as a whole. We will continue to assess all options available for improving the treaty body system, including the UN High Commissioner for Human Rights' concept of a single, uniform treaty body.

For the treaty body system to have a sustained and systematic impact on promoting human rights, treaty bodies must complement the work of other international human rights mechanisms. But this complementary relationship will not happen automatically – and we should explore ways in which the treaty bodies can interact and collaborate with other human rights bodies.

The Human Rights Council's Universal Periodic Review (UPR) provides an excellent opportunity for interaction between different human rights mechanisms. The UPR modalities agreed by the Council recognise the potential value of treaty body observations, and the responses of States, in informing assessments of State's human rights records. We do not wish to see duplication between the two mechanisms. Rather, a complementary relationship will reinforce the credibility of the UPR and the authority of the treaty body system.

Strengthening the treaty body system also requires greater engagement with a broader network of actors in the UN human rights system. In particular, there may

be scope for greater interaction, or at least mutual awareness of priorities between the treaty bodies and human rights special procedures.

Human Rights – Indigenous Peoples

On 23 May 2007, the Assistant Secretary of the Indigenous Land and Housing Group, Land Branch, Department of Families, Community Services and Indigenous Affairs, Mr Greg Roche, delivered a statement to the United Nations Permanent Forum on Indigenous Issues. Extracts from the statement follow:

The Australian Government shares with its NGOs represented here a sense of deep dissatisfaction with a number of important social, economic and health indicators of our indigenous people. Health indicators for our indigenous people are lower than for non-indigenous peoples, although there have been some recent improvements, which I will come to. Australian indigenous people are poorer, have high rates of unemployment and have a disproportionate share of social problems, including violence, alcoholism and lifestyle-related diseases. The Australian Government has commenced a complete re-think of its approach. The issue is not one of simply increasing resources, although that is happening. The recent Australian Budget provided the biggest indigenous-specific investment on record, some \$3.5 billion, allocated across 8 programs. This is a real increase of 42% since 1996.

At the same time, the Australian Government has announced major reforms in the areas of housing and employment services...This change in policy and program approach followed an independent review of the Indigenous community housing system in 2006.

...

The Australian Government has increased its investment in Indigenous employment, committing over \$614 million on Indigenous specific employment strategies in 2005-06.

Turning to the issue of health, the Australian Government shares concerns about the health of indigenous Australians and is committed to tackling indigenous disadvantage. A new Aboriginal and Torres Strait Islander Health Performance Framework has been developed to monitor progress. The framework has 70 performance measures, including disaggregated data in three groups: health status and outcomes, determinants of health and health system performance...Over the past 10 years, funding for the Aboriginal and Torres Strait Islander health program has increased in real terms by more than 210%, to over \$440M in 2007/08...

The Australian Government is very aware of the fact that much remains to be done to address indigenous disadvantage in our country. But I hope this contribution can provide you with a more informed appreciation of the efforts that the Government is making in tackling these issues.

On 13 September 2007, the Ambassador and Permanent Representative of Australia to the United Nations, Mr Robert Hill, delivered a statement to the Sixty-First Session of the United Nations General Assembly on the Declaration on the Rights of Indigenous Peoples. Extracts from the statement follow:

Australia has actively worked to ensure the adoption of a meaningful Declaration. Australia has taken every opportunity within the Commission on Human Rights Working Group on the Draft Declaration on the Rights of Indigenous Peoples, the Human Rights Council and the further consultation process mandated by General

Assembly Resolution A61/178 to engage constructively to elaborate the Declaration. Australia and others repeatedly called for a chance to participate in negotiations on the current text of the Declaration and we are deeply disappointed that none were convened. Having had an opportunity to negotiate the text would have allowed us to work constructively with the entire UN membership to improve the Declaration and may have resulted in a text which enjoyed consensus.

...

Australia has worked hard to ensure that any declaration can become a tangible and ongoing standard of achievement that would be universally accepted, observed and upheld. The text of the Declaration, in our view, fails to reach this high standard and Australia continues to have many concerns with the text.

...

With respect to the nature of the Declaration, it was the clear intention of all states that it be an aspirational declaration with political and moral force, but not legal force. This text contains recommendations regarding how states can promote the welfare of Indigenous peoples. It is not in itself legally binding nor reflective of international law.

As this Declaration does not describe current state practice or actions that states consider themselves obliged to take as a matter of law, it cannot be cited as evidence of the evolution of customary international law. This Declaration does not provide a proper basis for legal actions, complaints, or other claims in any international, domestic, or other proceedings. Nor does it provide a basis for the elaboration of other international instruments, whether binding or non-binding.

...

While the Declaration will not be binding on Australia and other states as a matter of international law, we are aware that its aspirational contents will be relied on in setting standards by which states will be judged in their relations with Indigenous peoples. Accordingly, the Government of Australia has been concerned throughout the negotiations to ensure that the Declaration is meaningful, is capable of implementation and enjoys wide support in the international community. The Declaration fails in all these respects and Australia cannot support it.

Human Rights – Rights of People with Disabilities

On 30 March 2007, a joint media release was issued by the Minister for Foreign Affairs, Mr Alexander Downer, the Attorney-General, Mr Philip Ruddock, and the Minister for Families, Community Services and Indigenous Affairs, Mr Mal Brough, announcing Australia's signature of the United Nations Convention on the Rights of Persons with Disabilities. Extracts from the release follow:

The Minister for Foreign Affairs, the Attorney-General, and the Minister for Families, Community Services and Indigenous Affairs are pleased to announce that Australia will sign the United Nations *Convention on the Rights of Persons with Disabilities* in a formal ceremony opening the Convention for signature to be held on 30 March 2007 at the UN Headquarters in New York.

...

The Attorney-General emphasised the importance of this initiative. "The significance of the Convention is reflected in the fact that it is the first comprehensive human rights convention of the 21st century. It is the first multilateral

treaty focussed on the rights of people with disability, and has the potential to protect the rights of 650 million people with disability worldwide. The signing of this Convention reinforces Australia's long-standing commitment to eliminate, as far as possible, discrimination against people with disability," Mr Ruddock said. ...

The Minister for Families, Community Services and Indigenous Affairs acknowledged the valuable contribution to the Convention made by representatives of the disability sector and State and Territory governments. "The Australian Government consulted widely with domestic stakeholders including disability sector representatives, human rights, legal and business groups and State and Territory governments, all of whose contributions helped inform Australia's position on issues related to the UN Convention. All worked towards a common goal and should be congratulated on their achievement," Mr Brough said.

All Ministers agreed that the signing of the Convention is an important step in the international commitment to safeguarding rights for people with disability.

The stated purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms, for all persons with disability, and to promote respect for their inherent dignity.

On 19 November 2007, the First Secretary of the Australian Permanent Mission to the United Nations, Ms Lara Nassau, delivered a statement to the Third Committee of the Sixty-Second Session of the United Nations General Assembly concerning the United Nations Convention on the Rights of Persons with Disabilities. An extract from the statement follows:

Australia is on record at the United Nations as strongly supporting the *Convention on the Rights of Persons with Disabilities*, as evidenced by Australia signing the Convention the very day it opened for signature (30 March 2007). At that time, Australia reiterated at the United Nations its long-standing commitment to eliminating discrimination against people with disability. This commitment is non-controversial and ongoing. With this commitment in mind, Australia is currently undertaking thorough processes of legislative scrutiny and consultation that are necessary steps to be taken before parliament considers, and Government decides on, ratification of the Convention.

Human Rights – Situations – Burma

On 28 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the human rights situation in Burma. An extract from the release follows:

I welcome the decision by the Burmese authorities to accept a visit by the UN Secretary General's Special Envoy on Burma Mr Ibrahim Gambari. He has the full backing of the UN Security Council and is well placed to assist the Burmese authorities to achieve a peaceful resolution of the current crisis.

I urge the Burmese authorities to listen to the international community and give Mr Gambari wide access, including to Aung San Suu Kyi. At my instruction, my Department today called in the Burmese Chargé d'Affaires. Ms Gillian Bird, a Deputy Secretary of my Department stressed the Government's condemnation of the violent crackdown against peaceful protestors. Ms Bird advised the Chargé of the measures Australia is taking, in particular the introduction of targeted financial sanctions against members of the Burmese regime and their supporters.

I renew calls for the immediate release of those arrested for exercising their fundamental human rights. The violent treatment meted out to Buddhist monks is particularly distressing to the Australian community. In addition to my own discussions in New York and Washington, Australia's senior diplomatic representatives are pursuing our concerns in relevant countries including, China, India and ASEAN members. Australia is also supporting moves for a Special Session of the UN Human Rights Council in Geneva.

On 12 October 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release welcoming the United Nations Security Council's presidential statement on the human rights situation in Burma. An extract from the release follows:

I welcome the UN Security Council's presidential statement "strongly deploring" the Burmese regime's use of violence against peaceful demonstrators and emphasising the importance of releasing all political prisoners and detainees. That statement also sends a clear message from the international community to the regime on the imperative for genuine dialogue with Daw Aung San Suu Kyi and all concerned parties.

I strongly endorse the UN Secretary General's decision to send his Special Envoy, Ibrahim Gambari, back to the region this weekend for consultations with India, Japan and China and select ASEAN countries, following which he is to return to Burma. Regional countries must send consistent messages to the Burmese regime on the need for genuine reform. I urge the regime to extend Mr Gambari full cooperation. The regime should use Mr Gambari's visit to open meaningful political dialogue without preconditions.

Australia continues to hold grave fears for the thousands of protesters and pro-democracy supporters still detained. I am shocked to hear of the death in detention of U Win Shwe, a respected member of the National League for Democracy. I repeat Australia's call for the humane treatment of all political detainees and for their immediate release.

Human Rights – Situations – China

On 10 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered several questions on notice concerning the issue of North Korean refugees in China. Extracts from the questions asked and Mr Downer's responses follow:

- (1) Does the Government acknowledge the humanitarian crisis involving North Korean refugees hiding in northeast China.
- (2) Is the Government aware that some of these refugees who tried to obtain sanctuary in the US consulate were captured by the Chinese authorities and put into prison, and were also prevented by the Chinese authorities from seeking asylum in other countries; if so, has the Government raised these issues with Chinese authorities; if not, why not.
- (3) Is the Government aware that China, a party to the United Nations (UN) International Convention Regarding the Status of Refugees, which prohibits repatriation of refugees to places from which they have fled, has violated this convention by sending refugees back to North Korea where they face execution or are incarcerated in prison camps; if so, has the Government raised this matter with the UN; if not, why not.

- (4) Is the Government aware that the Shenyang Six, who include North Korean refugee women and orphan boys, were captured by the Chinese authorities, put in jail and not allowed to join their relatives in South Korea and Hawaii; if so, (a) can the Government confirm that these refugees remain in jail and (b) has the Government made any attempt to discuss this situation with China through the Australia-China Human Rights Dialogue.
- (5) Has the Government taken any steps to bring attention to the situation of North Korean refugees in China, or requested that the UN demand that China allow the UN High Commissioner for Refugees to assist North Korean refugees hiding in northeast China; if not, why not.

...

- (1) I am aware of reports regarding North Koreans in China.
- (2) Yes, I am aware of reports of these events taking place in January 2007. We have not specifically raised these reports with Chinese authorities. Australia has raised our longstanding concerns regarding North Koreans in China with the Chinese Government, including at the two most recent Australia-China Human Rights Dialogues, held in 2005 and 2006.
- (3) Australia is concerned that China is not upholding its obligations under the Convention in relation to North Korean border crossers, and has raised these concerns with China during our Human Rights Dialogue. We have also raised our concerns with the UN High Commissioner for Refugees (UNHCR).
- (4) I am aware of reports of the 'Shenyang Six', who were detained in China on 21 December 2006.
 - (a) I have no information regarding whether they are still in detention in China or have been returned to North Korea.
 - (b) No, the 2007 Australia-China Human Rights Dialogue has not yet taken place.
- (5) Yes. We have urged China through our Human Rights Dialogues to allow the UN High Commissioner for Refugees (UNHCR) access to DPRK border crossers in north-eastern China to determine whether or not they are refugees within the meaning of the Convention. In November 2006, we also raised the humanitarian situation of North Koreans in China with the office of the UNHCR in Beijing.

On 10 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the human rights situation in China. An extract from Mr Downer's response follows:

We have raised the broader issue of freedom of religious practice in our Human Rights Dialogues and through our Embassy in Beijing (most recently in February 2007). We continue to urge China to ensure freedom of religious practice and to uphold its proclaimed policy of religious tolerance.

On 7 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning freedom of expression in China. An extract from Mr Downer's response follows:

I am aware that official censorship is widespread in China. I regularly raise issues of freedom of expression, including press freedom, with my Chinese counterparts, and my Department does the same at officials' level. During the last round of the Australia-China Human Rights Dialogue, held in Canberra on 25 July 2006, Australia raised its full range of human rights concerns, including freedom of expression. Freedom of expression, including media freedom, is indispensable to

discussions on civil and political rights at the dialogues. I also raised human rights issues, including media freedom, with the Chinese Foreign Minister, Li Zhaoxing, and with the Minister of China's State Council Information Office, Cai Wu, during their separate visits to Australia in April 2006.

On 30 July 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the eleventh round of the Australia-China Human Rights Dialogue. An extract from the media release follows:

The Human Rights Dialogue provides Australia and China with the opportunity to conduct a focused exchange of views on human rights issues. Australia has a strong interest in the development of human rights and the rule of law in China. The Dialogue is an ideal forum to convey this interest to the Chinese Government constructively.

This year, the Dialogue will focus on the role of legal professionals in protecting human rights. The Australian delegation will also raise other ongoing human rights concerns, including freedoms of speech and assembly, religious freedom, the treatment of political activists and Falun Gong practitioners, as well as ethnic minorities in Tibet and Xinjiang. Australian officials will also raise individual cases of concern.

This year also marks the 10th anniversary of technical cooperation between Australia and China on human rights, now conducted under the Australia-China Human Rights Technical Cooperation program (HRTC). The HRTC underpins our formal Dialogue by promoting the advancement of human rights in China at a practical level.

On 11 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the outcomes of the Australia-China Human Rights Dialogue. An extract from Mr Downer's response follows:

While noting areas where China had made progress, we raised our full range of human rights concerns, including civil and political rights, economic and social rights, minority rights and religious freedoms, and the rights of women, children and persons with disabilities. The theme of this year's Dialogue was the role of legal professionals in protecting human rights. This theme facilitated a useful exchange of views on legal reform, judicial independence and the rights of legal professionals to practise freely. The Australian delegation also raised 43 cases of concern representing the range of our human rights concerns including: religious practitioners; members of minorities; environmental, labour and human rights activists; and Falun Gong practitioners. The Chinese delegation raised issues of indigenous health in Australia, housing affordability, and comments regarding Australia's housing policies by the UN Special Rapporteur on the Right to Adequate Housing.

The Dialogue also endorsed Australia-China Human Rights Technical Cooperation Program (HRTC) activities for 2007-2008, worth AUD 2 million. The HRTC underpins our formal Dialogue by promoting the advancement of human rights in China at a practical level. New HRTC activities will address victims of crime, women's labour rights, and alternative dispute resolution, amongst other issues.

Human Rights – Situations – Fiji

On 1 March 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the human rights situation in Fiji. An extract from the release follows:

I am deeply saddened to hear reports of the death of another Fiji citizen subsequent to being held in custody by the Fiji military. It is reported that this 19-year old man died of a brain haemorrhage some time after being allegedly beaten by soldiers at an army base. This is a tragic outcome and I offer my sympathy to the dead man's family.

Incidents such as this highlight the danger of abrogating the rule of law and allowing the Fiji military, which has no expertise in policing matters, to undermine the role of the police. The avenues for Fiji citizens to report military abuses is limited, because the police and judiciary have been compromised by the actions of the military, and the Director of the Fiji Human Rights Commission has shown herself to be an apologist for the regime.

Australia has conveyed its concerns over human rights abuses directly to officials of Fiji's interim government and has called on the Fiji military to cease its human rights abuses. We have also conveyed our concerns to the United Nations High Commissioner for Human Rights in Geneva.

I note that Fiji's interim Attorney-General announced on 14 February that the Bainimarama regime would halt human rights abuses. Clearly that has not happened. We, along with the international community, will continue to monitor very closely the human rights situation in Fiji.

I urge Commodore Bainimarama, and his interim government, to ensure an immediate cessation of human rights abuses, to return the Fiji military to its barracks and to make a genuine commitment to an early return to democracy in Fiji.

Human Rights – Situations – Indonesia

On 9 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the human rights situation in Indonesia. Extracts from Mr Downer's response follow:

The Australian Government's position is well-known: we support the sovereignty and territorial integrity of Indonesia and consider implementation of Special Autonomy and respect for human rights is the best resolution of the situation in Papua.

...

Australia has a strong track record of urging the Indonesian Government to investigate all alleged human rights abuses. In 2007, representations occurred on 16 January, 31 January and 1 February.

Human Rights – Situations – Philippines

On 31 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing further funding assistance to the Philippines on human rights projects. Extracts from the release follow:

Australia will provide \$250,000 for the funding of human rights projects for the Philippines. Australia and the Philippines will work together to identify further

practical assistance Australia can provide to Philippines institutions dealing with human rights matters.

...

This contribution builds on assistance we previously provided to the Philippines on human rights matters. In recent years through our Human Rights Small Grants Scheme, we have assisted with training workshops addressing enforced and involuntary disappearances, human rights advocacy and youth advocates for human rights education.

Our approach is consistent with Australia's view that strong and effective institutions, respect for human rights and a legal system that has the people's trust are fundamental to development. It is an acknowledgement of the productive discussions Australia has with the Philippines on human rights matters. It also acknowledges the commitment of the Philippines Government to address human rights concerns, including through the Melo Commission established by President Arroyo last year and other efforts.

Australia will coordinate its human rights assistance with other development partners and seek opportunities to collaborate to increase the effectiveness of our combined efforts.

Human Rights – Situations – Sri Lanka

On 18 January 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the human rights situation in Sri Lanka. An extract from the media release follows:

I welcome the appointment of Emeritus Professor Ivan Shearer AM RFD as Australia's nominee to the Independent International Group of Eminent Persons (IIGEP). The IIGEP was established by the President of Sri Lanka to assist a national Commission of Inquiry investigating serious human rights abuses in that country since August 2005. Professor Shearer brings a wealth of experience and credibility to the role. He has dedicated a career to international and human rights law. Professor Shearer has served as a member of the United Nations Human Rights Committee since 2001 and is a Senior Member of the Administrative Appeals Tribunal. He was Challis Professor of International Law at Sydney University until his retirement in 2003.

The IIGEP, made up of eminent nominees from the United States, United Kingdom, Netherlands, Indonesia, India, Japan, European Union, Canada, Bangladesh and Australia, will play an important role in observing the inquiry to evaluate whether the inquiry meets international standards. Members of the IIGEP will observe the proceedings of the Commission of Inquiry and will be entitled to access all information and material to which the Commission of Inquiry has access. IIGEP members may also provide technical assistance to the Commission of Inquiry.

I consider the establishment of a Commission of Inquiry, and the IIGEP, to be an important step in ending the environment of impunity in which human rights abuses are taking place in Sri Lanka. It is important that those responsible for atrocities are held accountable.

On 9 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the role of the United Nations Office of

the High Commissioner for Human Rights in Sri Lanka. Extracts from Mr Downer's response follow:

The Office of the United Nations High Commissioner for Human Rights (OHCHR) already has ongoing involvement in Sri Lanka.

...

My department will continue to monitor the efforts, and effectiveness, of OHCHR in Sri Lanka, and to support its activities there, as appropriate.

Australia has publicly stated its concerns about the situation in Sri Lanka in the Human Rights Council, including at its September 2006 and March 2007 sessions. The Australian Government will continue to take appropriate opportunities in international forums to support action where we judge that it can produce effective outcomes.

On 18 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the human rights situation in Sri Lanka, with specific reference to the Human Rights Watch report *Return to War: Human Rights under Siege*. An extract from Mr Downer's response follows:

The Government continues to express its concerns at the deteriorating human rights situation in Sri Lanka and its impact on civilians. On 10 July this year, for example, I wrote to the Sri Lankan Foreign Minister noting my concern about the return to conflict, the associated humanitarian crisis and the increasing incidence of reported human rights violations in Sri Lanka.

My department has noted the recommendations of Human Rights Watch report and will continue to have regard to them. The Government regularly calls on all parties to take action to prevent the abuse of human rights in Sri Lanka. In a media release of 23 May 2007, I expressed concern at the trend towards increasing violence and the growing environment of impunity surrounding human rights violations in Sri Lanka. I called on all parties to the conflict in Sri Lanka to resume peace talks without delay to seek a solution which addresses the legitimate aspirations of all Sri Lankans.

Human Rights – Situations – Zimbabwe

On 14 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning funding in relation to human rights in Zimbabwe. Extracts from the release follow:

Australia will significantly boost its support for human rights campaigners and community organisations in Zimbabwe over the next two years.

Australia will immediately provide funding of nearly \$4 million for humanitarian and human rights support in Zimbabwe through the Australian Fund for Zimbabwe.

This funding provides practical support to ordinary Zimbabweans suffering under the yoke of the Mugabe regime and brings the total contribution to the Fund in 2006-07 to \$6 million.

...

We will also provide \$530,000 to support brave Zimbabweans working in civil society organisations to promote democracy, media freedom, and human rights. A further \$500,000 will be specifically directed to improve the access of Zimbabweans to independent sources of information.

Under the disastrous rule of the Mugabe regime, ordinary Zimbabweans have borne the brunt of famine and near total collapse brought on by the regime's destructive and callous policies. More than three million Zimbabweans now rely on food distribution programs for sustenance. One-fifth of Zimbabwe's population is living with HIV/AIDS and more than 1.3 million Zimbabwean children are orphans.

Although the Australian Government has suspended development cooperation with the repressive Mugabe regime, we remain determined to assist the ordinary people of Zimbabwe.

Human Rights – United Nations – Third Committee

On 16 November 2007, the Adviser to the Australian Permanent Mission to the United Nations, Mr Guy O'Brien, delivered a statement to the Third Committee of the Sixty-Second Session of the United Nations General Assembly in explanation of vote on the report of the Human Rights Council. An extract from the statement follows:

Australia considers the Council's institution-building package to be unbalanced, and wishes to register its concerns in this forum. While Australia acknowledges that there are positive elements in the package, we are concerned about the last minute removal from the package of the Belarus and Cuba country mandates, both of which clearly warrant continued scrutiny by the Council. Furthermore, the inclusion of a separate standing item focusing exclusively on the 'human rights situation in Palestine and other occupied Arab territories' institutionalises an excessive focus on one region alone, to the detriment of other pressing situations which warrant serious attention. Australia's longstanding view is that the singling out of one side only for blame in a complex situation is unhelpful and will do nothing to advance the cause of peace in the Middle East. For these reasons, Australia will vote no.

In addition, Australia would like to register its concerns about the highly unorthodox and incorrect procedure used to finalise the institution-building package on 18 and 19 June this year, which risks setting a dangerous precedent for the future functioning of this important body. The Human Rights Council must demonstrate that it can consistently and effectively respond to urgent human rights situations around the world, rather than focus excessively on any one region. This institution must advance the cause of human rights internationally, and should not be a politicised body. Needless to say, we need and expect to see improvements.

On 20 November 2007, the First Secretary of the Permanent Mission of Australia to the United Nations, Ms Lara Nassau, delivered a statement to the Third Committee of the Sixty-Second Session of the United Nations General Assembly concerning country-specific resolutions. An extract from the statement follows:

When it comes to addressing the human rights situations in individual countries, constructive dialogue and cooperation is what we all seek. However, the General Assembly would undermine its own credibility if it remained silent in situations of grave and widespread violations of human rights.

We would certainly agree that the Human Rights Council has a mandate to address situations of violations of human rights. However action in one forum does not preclude action in other fora. For years the Third Committee routinely addressed country-specific human rights situations even while the former Commission on Human Rights did the same. The General Assembly has a particular responsibility,

as a body of universal membership, to express the views of the international community on serious human rights situations.

As a matter of principle, we strongly believe that any country-specific resolution in the field of human rights that is put before this Committee should be considered on its individual merit. No one who is truly opposed to selectivity and double standards can support any other approach. Preventing debate on certain country situations would presume that certain countries are beyond or above consideration by international human rights fora. This would run counter to the principles of universality and interdependence of all human rights.

On 21 November 2007, the First Secretary of the Permanent Mission of Australia to the United Nations, Ms Laura Nassau, delivered a further statement to the Third Committee of the Sixty-Second Session of the United Nations General Assembly concerning country-specific resolutions. An extract from the statement follows:

Australia is intent on ensuring that United Nations bodies, including the Third Committee, continue to be fora for addressing serious human rights situations, wherever they occur and we are strongly opposed to the stifling of debate on these issues. Regardless of the content of any resolution, all texts submitted to this committee should be reviewed and actioned on their merits. The credibility of this committee, as the only universal body of the UN dealing with human rights, will be undermined if it fails to live up to its responsibilities in this regard.

Social Law – Agreements – Germany

On 9 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning three agreements signed between Australia and Germany. Extracts from the release follow:

I am pleased to have signed, today in Berlin, three significant agreements between Australia and the Federal Republic of Germany, reflecting the increased momentum and substance in an already strong bilateral relationship. I signed a Memorandum of Understanding on a Partnership on Development Assistance with the Federal Minister for Economic Cooperation and Development, Ms Heidemarie Wieczorek-Zeul; a supplementary Social Security Agreement and renewal of the Working Holiday Maker Arrangement, with the Federal Minister for Foreign Affairs, Dr Franz-Walter Steinmeier.

...

The MOU on a Partnership on Development Assistance is a new partnership between the Australian and German governments that will strengthen our efforts on development assistance in the Asia-Pacific region. The MOU will also enhance engagement of a key European donor in the Asia-Pacific region and add to our aid harmonisation and effectiveness efforts.

...

For the first time, the new supplementary Social Security Agreement will include provisions covering Australia's Superannuation Guarantee scheme. These provisions will eliminate the need for double contributions for workers sent temporarily between Australia and Germany. Australian workers sent to Germany will remain subject to Australia's Superannuation Guarantee and will not need to make contributions to the German social security system. Similarly, workers sent from

Germany will continue to be covered by the German social security system and will not be subject to Australia's Superannuation Guarantee.

...

The enhanced provisions of the successful Working Holiday Maker Arrangement scheme (WHMA) will continue to allow thousands of young Germans and Australians to enjoy a working holiday in each others countries. This will ensure that the strong ties between our youth will continue in the future.

The WHMA allows young people (aged 18 to 30 years) to experience the culture in each other's country through a 12 month holiday subsidised by incidental employment with the opportunity to undertake study and/or training. Germany is the fourth largest source of working holiday makers to Australia with over 12,000 visiting Australia each year.

Social Law – Agreements – Greece

On 23 May 2007, the Prime Minister, Mr John Howard, issued a media release announcing the signing of the Agreement with the Hellenic Republic (Greece) on Social Security, done at Canberra on 23 May 2007. An extract from the release follows:

The signing of the Agreement is a significant achievement between the two countries, which enjoy a close and constructive relationship based on strong community ties. In recognition of the importance of this relationship, the Australian Government has committed \$165 million over four years for the Agreement.

This Agreement will provide improved access to age and retirement benefits for people in Australia and Greece, allowing people who live in either country to claim their entitlement to pensions from both countries. After the Agreement enters into force, former residents of Australia living in Greece will be able to claim an Australian Age Pension for the first time, with periods of insurance in Greece to be counted towards the residence requirements for Australian Age Pension. Similarly, many Greek-Australians living here will be able to claim a Greek old age pension, with periods of Australian residence being taken into account in working out eligibility for the Greek benefits.

Social Law – Memorandum of Understanding on Education Cooperation – Japan

On 12 March 2007, the Prime Minister, Mr John Howard, issued a media release announcing the signing of a Memorandum of Understanding on Education Cooperation between Australia and Japan. An extract from the release follows:

The memorandum and scholarships will give a meaningful boost to a very successful and productive education relationship. Both countries are strengthening their education systems to meet the challenges of the 21st Century. The exchange of information and scholars will help to realise that ambition.

VII. International Economic and Trade Law

Bilateral Economic Co-operation – European Union

On 25 June 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the European Commissioner for External Relations, Dr Benita Ferrero-Waldner, issued

a joint statement that launched the future direction of bilateral cooperation between Australia and the European Union. An extract from the statement follows:

Mr Downer and Commissioner Ferrero-Waldner reaffirmed their commitment to the rules-based multilateral trading system and to concluding the WTO Doha Round negotiations as soon as possible. They agreed that a Doha outcome must substantially improve access to agricultural markets and substantially reduce trade distorting domestic support, as well as improving access to non-agricultural markets and services. They also agreed to continue to exchange views on these issues as opportunities arise.

Mr Downer and Commissioner Ferrero-Waldner noted and welcomed the establishment of a joint expert working group between the Commission and Australia to discuss Sanitary and Phytosanitary (SPS) issues at a technical level. They endorsed regular dialogue to develop stronger ties between institutions and individuals working on animal and plant health, and animal welfare. These talks will provide a valuable forum for sharing information and addressing emerging issues, thereby minimising their impact on the significant positive elements of the broader relationship.

Mr Downer and Commissioner Ferrero-Waldner warmly welcomed the formal initialling in Canberra on 5 June 2007 of an agreed text of the revised Australia-European Union Wine Agreement. Implementation of the revised Agreement will provide benefits for both European and Australian wine producers and should boost the already lively trade in wine between the two regions.

They agreed to seek to reach an agreement by the end of 2007 on the Amending Agreement to the Australia-EC Agreement on Mutual Recognition in Relation to Conformity Assessment, Certificates and Markings (MRA).

They also welcomed the Australia-EC Agreement on Some Aspects of Air Services (the Horizontal Agreement) and its anticipated signature as a positive step towards closer cooperation in aviation policy. They confirmed their objective of a comprehensive Australia – EC air services agreement and a liberalised Australia-EU aviation market with a high degree of regulatory co-operation.

Bilateral Economic Co-operation – Japan

On 6 July 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning the 50th anniversary of the Agreement between the Government of Australia and the Government of Japan on Commerce, done at Hakone on 6 July 1957. An extract from the release follows:

“The Agreement not only laid the foundation for the emergence of our most important bilateral trading relationship, but provided the spur for the development of Australia’s modern resources industries and associated infrastructure,” Mr. Truss said.

“In 1957, Sir John McEwen, who was Deputy Prime Minister and the Trade Minister at the time, and Japanese Prime Minister Nobusuke Kishi showed great foresight in realising Australia and Japan would share a prosperous future in this part of the world,” he added.

Only a decade after its signing, Japan became Australia’s number one export market in 1967 - a position it has held ever since. In 2006, our exports to Japan were worth \$35.5 billion, accounting for 20 per cent of Australia’s global exports.

The expansion of bilateral trade following the conclusion of the Commerce Agreement was accompanied by the rapid growth of Japanese investment in Australia. Japan is now Australia's third largest source of investment.

Free Trade Agreements – General

On 7 March 2007, the Minister for Trade, Mr Warren Truss, delivered a speech to the Australian Bureau of Agricultural and Resource Economics (ABARE) Outlook Conference. An extract from the speech concerning free trade agreements follows:

Negotiating regional and bilateral FTAs can reduce trade barriers for Australian products faster than through multilateral talks. FTAs can also tackle issues such as investment, competition policy and regulatory issues in far more depth than is possible through the WTO.

In Australia's case, when most of our trading partners are engaged in FTA activity, we certainly cannot afford to be left behind.

Each FTA should produce substantial economic benefits - real commercial gains for Australian businesses, including, of course, our agricultural and food exporters. Each FTA should be fully consistent with the World Trade Organization's principles and rules. And each FTA should be comprehensive and aim to reduce trade barriers across goods, services and investment.

On 3 December 2007, the Minister for Trade, Mr Simon Crean, made a speech to the Diplomatic Corps based in Canberra. An extract from the speech concerning Free Trade Agreements (FTAs) follows:

FTAs should strengthen our commitment to multilateralism and not weaken it.

And in trade negotiations Labor will give much greater emphasis to addressing the "Behind the Border" issues.

Due recognition will be given to the critical role the service sector plays in Australia's export performance, and its very real potential for further development.

We need to recognise the growing importance of outward investment in securing a toe-hold in world markets, especially given the fact that direct foreign investment is now comparable to the level of direct inward investment.

And we need to take account of the changing nature of manufacturing or to respond to the imperatives created by global supply chains.

Resources and agriculture remain vitally important but we must value add to the resource base and further develop our potential in manufacturing and services.

Free Trade Agreements – Australia New Zealand Closer Economic Relations Trade Agreement

On 18 January 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning new rules of origin arrangements under the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). Extracts from the release follow:

Australian companies trading in New Zealand are set to benefit from new rules of origin arrangements under Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) which came into effect on 1 January 2007.

Australian companies can export their products to New Zealand without attracting New Zealand customs duty where those products meet the specific ANZCERTA

country of origin rules. New Zealand products that meet the rules can also be imported into Australia duty free.

“ANZCERTA is one of the world’s most successful free trade agreements, and the new rules of origin further liberalise trade across the Tasman. They promote trans-Tasman trade by simplifying the administration of the rules,” Mr Truss said.

“The reforms are the result of extensive negotiation with New Zealand and with industry on both sides of the Tasman. The new rules support the competitiveness of businesses and will greatly benefit Australian exporters by reducing the costs of compliance with origin rules,” Mr Truss said.

....

Mr Truss said the new arrangements improve certainty for business as the country of origin is generally not affected by price sensitivities or exchange rate movements. They also reflect similar rules adopted in Australia’s recent free trade agreements, enhancing consistency across FTAs which in turn is good for business.

Free Trade Agreements – ASEAN and New Zealand

On 27 August 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning the progress of the ASEAN-Australia-New Zealand Free Trade Agreement negotiations. Extracts from the release follow:

Australian Government Minister for Trade, Warren Truss, welcomed the strong commitment demonstrated at the 12th annual ASEAN Economic Ministers – Closer Economic Relations (AEM-CER) consultations to the completion of the Free Trade Agreement (FTA) between Australia, New Zealand and the ASEAN countries.

...

“Some difficult issues remain to be resolved but the meeting agreed that it should be possible to complete the negotiations by mid-2008, with the aim of signing the Agreement at the 13th annual AEM-CER consultations in August 2008,” Mr Truss said.

“The negotiations are now engaging more intensively on the elements needed for a comprehensive agreement, including the market access commitments that will be central to determining the Agreement’s relevance to the business community.

“There is still a lot of detailed work to do to complete the negotiations. It is also a challenging negotiation given differing levels of ambition and the diversity of countries involved. An important element of the negotiations has been capacity building and strong appreciation was expressed by ASEAN for Australia’s help in this area,” he said.

Free Trade Agreements – Chile

On 18 July 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning the launch of negotiations for a free trade agreement with Chile. An extract from the release follows:

These negotiations offer an excellent opportunity to develop a comprehensive and ambitious bilateral free trade agreement (FTA) which would eliminate barriers to trade in goods, improve conditions for services exports and investment, and offer meaningful commercial opportunities for Australian exporters.

The Government's decision comes after consultations with Australian industry, states and territories and federal agencies, and bilateral officials' meetings.

Mr Truss said Chile is Australia's third largest trading partner in Latin America, with two-way trade in goods and services valued at \$A574 million in 2006.

Australian companies have significant investments in Chile, estimated at US\$2.78 billion. That investment figure is expected to grow further under an FTA.

Mr Truss said he was conscious of the sensitivities of some sections of the horticulture and salmon industries about an FTA with Chile. However, tariffs on these lines are already low – generally zero. Australia will not be trading off our science-based quarantine system in either this or any other FTA, he said.

“Proceeding to FTA negotiations is a new step towards a broader strategic relationship with Chile and Australia's relations with Latin America in general. A high quality agreement would also support Australia's efforts to promote global trade reform and greater trade liberalisation in the Asia Pacific region.”

Free Trade Agreements – China

On 21 February 2007, the Minister for Trade, Mr Warren Truss, delivered a speech to the Australia-China Business Council at Perth. Extracts from the speech concerning free trade agreements follow:

The FTA negotiations are ongoing, and we know that they will continue to be tough. Let me tell you how things stand.

Market access negotiations for both goods and services began at the seventh negotiating round which was held in Canberra in December. We exchanged offers and requests on tariffs and began to exchange lists of trade barriers affecting services.

...

Negotiations are also continuing on the draft text of a set of chapters that we believe will be necessary in order to achieve a comprehensive FTA. We want an FTA that includes chapters covering all sectors, and are working to persuade the Chinese about this.

China has proposed that both sides aim to achieve breakthroughs on major issues by mid-2008.

We have told the Chinese we will work towards their goal, but we have set no deadline for the conclusion of negotiations. We have always said we will take as long as is necessary to achieve commercially-meaningful outcomes for Australian business and to ensure that sensitivities are handled appropriately.

Free Trade Agreements – Gulf Cooperation Council

On 27 July, 2007, the Minister for Trade, Mr Warren Truss, issued a media release announcing the commencement of formal free trade negotiations with the Gulf Cooperation Council (GCC). Extracts from the release follow:

Mr Truss said he was confident that both Australia and the GCC had the political will to conclude a comprehensive FTA quickly.

...

“The first round agenda is comprehensive and focuses on outcomes across all sectors, including draft text of a possible agreement,” Mr Truss said.

“I expect that ambitious market access offers will be tabled on goods and services during this round. Good progress has already been made since the Australian Government’s decision in December 2006 to proceed with FTA negotiations with the GCC,” he said.

Negotiating teams met in Riyadh in Saudi Arabia in May this year for preparatory talks where much of the first round programme was agreed.

In-principle agreement was also reached on scheduling a further round of negotiations towards the end of the year, with the potential for completion of the FTA over the course of 2008.

Free Trade Agreements – India

On 31 August 2007, the Minister for Trade, Mr Warren Truss, issued a media release announcing the agreement between Australia and India to undertake a joint feasibility study of an Australia-India free trade agreement. An extract from the release follows:

Mr Truss said the study will provide an opportunity to consider the potential for benefits which might flow to Australia and India from an FTA.

“The study will examine the potential gains for both countries, in particular the impact a comprehensive and genuinely liberalising FTA could have on promoting economic growth, trade in goods and services, investment and other commercial linkages,” Mr Truss said.

Free Trade Agreements – Indonesia

On 27 July 2007, the Minister for Trade, Mr Warren Truss, issued a media release welcoming the announcement of a joint feasibility study to be undertaken into an Australia-Indonesia free trade agreement. An extract from the release follows:

The study will examine the impact on Australia and Indonesia of an FTA, including implications for economic growth, trade, investment, commercial linkages and competitiveness.

The FTA feasibility study will commence in August 2007 and is expected to be completed by the middle of 2008.

“Australia and Indonesia have deep linkages in many areas, including trade and investment,”

Mr Truss said.

“It is crucial that we continue to look at mechanisms that will strengthen these ties further. The feasibility study will consider the prospects of an FTA creating significant commercial opportunities for business in both countries.”

Mr Truss said the initial stage of the process would comprise working-level bilateral meetings and consultations.

Free Trade Agreements – Japan

On 11 March 2007, the Minister for Trade, Mr Warren Truss, issued a media release welcoming the launch of free trade agreement negotiations with Japan. An extract from the release follows:

"The agreement to negotiate an FTA between Australia and Japan was reached between Prime Ministers John Howard and Shinzo Abe in December last year. The agreement was a particularly important development," Mr Truss said.

"Japan is a key partner for Australia and by far our biggest export market."

Mr Truss said that both countries had agreed that the negotiations will begin with all products and issues on the table.

"As agreed by the two Prime Ministers, sensitivities on both sides are best handled through the negotiations.

"Any FTA will be comprehensive, WTO-consistent and concluded through a single undertaking."

On 30 March 2007, the Minister for Trade, Mr Warren Truss, delivered a speech to the Australian Institute of Export concerning Australia's trade policy. An extract from that speech concerning the free trade agreement with Japan follows:

We aim to have a comprehensive, high quality agreement appropriate to two developed economies, which further integrates Australia with the world's second-largest economy. This would of course expand trade in goods.

But it would also address issues relevant to modern economies such as services market access, regulatory issues, intellectual property and competition policy. It would also facilitate the movement of people and the exchange of ideas.

Like all of Australia's FTAs, it will be what is called "WTO-plus"; meaning it will be consistent with world trade rules, and indeed, aims to go beyond minimum standards to free up trade in key sectors.

Free Trade Agreements – Pacific Islands

On 14 June 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning consultations with Pacific Island countries for the negotiation of a free trade agreement. Extracts from the release follow:

Australia and New Zealand are seeking preliminary consultations for the negotiation of a free trade agreement with Pacific Island countries, the Australian Government Minister for Trade, Warren Truss, said today.

"The suggested consultations at the Pacific Islands Forum Trade Ministers Meeting in Vanuatu in August will represent a first step towards defining the timing and scope of negotiations for a new 'PACER Plus' agreement," Mr Truss said.

"Australia signed the 2001 Pacific Agreement on Closer Economic Relations (PACER) which provides for closer economic cooperation between 16 countries of the region."

.....

The new so-called 'PACER Plus' will foster economic opportunities and competitiveness for countries in the region and help Pacific Island countries secure the benefits from liberalisation and integration while operating within WTO rules.

Free Trade Agreements – Republic of Korea

On 17 April 2007, the Minister for Trade, Mr Warren Truss, issued a media release announcing the commencement of a joint-feasibility study into a potential free trade agreement between Australia and the Republic of Korea. Extracts from the release follow:

Australian Government Minister for Trade, Warren Truss, today announced that a leading consultancy on international trade will be the Australian participant in a major study into a potential Australia-Korea free trade agreement.

...

“Negotiating an FTA with the Republic of Korea remains a priority for the Australian Government.”

“The Republic of Korea is Australia’s third-largest merchandise export market - with exports growing by more than 12 per cent in 2006. With the commencement of this study, we now have a free trade agreement or an FTA-related process underway with all of Australia’s biggest trading partners,” Mr Truss said.

“The non-government study will cover all aspects of the bilateral economic and trading relationship, and will serve in the first instance as the basis for discussions between officials to make recommendations to both governments on next steps.”

...

Work on the joint study will commence shortly, with the Australian and Korean participants to meet later this month to discuss the detailed work on the study.

Free Trade Agreements – United States

On 2 July 2007, the Minister for Trade, Mr Warren Truss, issued a media release following the second ministerial-level Joint Committee meeting with his US counterpart, Ambassador Susan Schwab, to review implementation of the Australia-United States Free Trade Agreement. An extract from the release follows:

Australia’s trade and economic relationship with the United States continued to strengthen in 2006 with overall two-way trade rising by 12 percent to \$47.5 billion. Two-way investment exceeds \$600 billion, the Australian Government Minister for Trade, Warren Truss, said today.

Mr Truss was speaking in Sydney after hosting the second ministerial-level Joint Committee meeting with his US counterpart, Ambassador Susan Schwab, the United States Trade Representative.

The Joint Committee meets annually to review the Australia-United States Free Trade Agreement and explore ways to further boost the bilateral trade and investment relationship.

“The nine percent growth in Australian exports of goods and services to the US in 2006 is good news considering our exports have suffered from the effects of the strong Australian dollar”, Mr Truss said.

More than 80 percent of tariffs on Australian goods entering the US market were bound at zero from day one of the AUSFTA. Remaining tariffs will continue to fall as duty free quotas increase, including on key agricultural exports such as beef, dairy and lamb.

“At the same time, the 13.6 percent growth in US exports to Australia in 2006 reflects our strong demand for the capital goods and equipment needed to help sustain our robust economic growth.

“Ambassador Schwab and I welcomed the commercial opportunities now being created by the FTA. These include the growing number of Australian companies successfully doing business in the enormous US Government procurement market.”

The AUSFTA opened the US federal procurement market to Australian companies, and at present 31 US states have signed on (including the 10 largest procurement states). Austrade has assisted Australian companies win more than \$110 million worth of procurement business in these markets.

“During the meeting, I underlined the importance of pressing on with priority work in the FTA. This work includes improving access for our agricultural exports and for Australian professionals who wish to enter the US market and further integration of our financial services market. Service exports now make up a third of our exports to the United States”.

On 26 October 2007, the Minister for Trade, Mr Warren Truss and the Attorney-General, Mr Phillip Ruddock, issued a joint media release concerning the ability of Australian lawyers to practise Australian and foreign law in the US state of Delaware. Extracts from the release follow:

The decision by the Delaware Supreme Court to allow Australian lawyers to [practise] Australian and foreign law in its jurisdiction for the first time has been welcomed by the Australian Government.

...

Delaware’s decision was the result of joint representations by the Law Council of Australia, the Department of Foreign Affairs and Trade and the Attorney-General’s Department. These representations were part of a joint initiative to improve access for Australian lawyers to the US market under the Australia-United States Free Trade Agreement Working Group on Professional Services.

World Intellectual Property Organization – Patent Law Treaty

On 15 August 2007, the Patent Law Treaty (PLT), done at Geneva on 1 June 2000, [2009] ATS 07 was tabled in both Houses of Parliament. An extract from the accompanying National Interest Analysis follows:

Australia has been at the forefront of international negotiations aimed at harmonising and normalising the administration of intellectual property rights.

Australia has been a member of the Patent Cooperation Treaty [1980] ATS 6 (PCT) since 31 March 1980. The PCT reduces the time, cost and complexity of applying for patent protection by providing a mechanism for a single application to have effect in a number of countries. However not all countries are party to the PCT and some applicants choose to file directly with individual countries.

The PLT complements the PCT and is a major step towards further harmonisation of patent law. The PLT was adopted at a Diplomatic Conference on 1 June 2000 and entered into force on 28 April 2005. It seeks to streamline and harmonise formal requirements set by national and regional patent offices for the filing and processing of national and regional patent applications, and therefore to make such procedures more user-friendly. The PLT does not harmonize substantive requirements of patent law.

Inventors seeking patent protection must ensure their applications meet certain formal requirements in the various domestic systems. The PLT simplifies and harmonises the formal requirements that the Contracting Parties can apply in relation to patent applications and establishes important safeguards against loss of rights on procedural grounds. More specifically, in simplifying and standardising the requirements, the PLT offers patent applicants and patent offices a number of

advantages including use of standardised forms that reduce the risk of error; simplified procedures leading to cost reductions for inventors, applicants, patent attorneys and patent offices; and enhanced legal certainty for applicants filing in their home country and abroad. The economies of member states also stand to benefit from the harmonisation of IP systems as technology transfer is facilitated and foreign investment is encouraged.

World Intellectual Property Organization – Singapore Treaty

On 15 August 2007, the Singapore Treaty on the Law of Trademarks, done at Singapore on 27 March 2006, [2009] ATS 09 was tabled in both Houses of Parliament. An extract from the accompanying National Interest Analysis follows:

The Singapore Treaty applies to the procedural aspects of trade mark applications, and its provisions reflect the worldwide growth in e-commerce, providing consistent rules for electronic lodgement of trade mark applications and associated communications. It also further simplifies and streamlines administrative trade mark procedures. This treaty does not harmonise substantive requirements of national trade mark law, and therefore provides no substantive obligations regarding the protection of trade marks.

A significant benefit of Australia's ratification of the Singapore Treaty is the positive example it would provide for Australia's trading partners. Accession to the Singapore Treaty by other countries and regional trade mark organisations will benefit Australians applying for trade mark protection overseas through a further simplified and harmonised application process. There would be more security in trade mark rights and lower application costs due to reduced requirements for supporting documentation.

Ratification of the Singapore Treaty will also enable Australia to influence further enhancement of the treaty through participation in the Assembly created under Article 23. It would also be consistent with Australia's history as a leading member of the intellectual property community regionally, and would serve to enhance Australia's reputation as maintaining a modern intellectual property system.

World Trade Organization – Disputes – China Market Access

On 10 December 2007, the Minister for Trade, Mr Simon Crean, issued a media release concerning the World Trade Organization dispute between the United States and China. An extract from the release follows:

Australia will become a third party in the World Trade Organization dispute between the United States and China on market access restrictions for audiovisual products, sound recordings and publications.

This case raises important market access issues for Australia's business interests, especially for sound recordings. It could also decide some important issues affecting the rules under which the WTO operates.

The Australian Government is strongly committed to the WTO dispute settlement system as a means of protecting and advancing Australia's economic and commercial interests.

Our participation as a third party does not mean we are taking sides in the dispute.

Other WTO Members — the European Communities and Japan — have also decided to become third parties.

Australia regularly participates as a third party in WTO cases as it allows us to register our views on the key issues raised in a dispute, even if it is between other countries.

We are currently participating as a third party in the US and EC cases against each other on large civil aircraft subsidies, and in Brazil's case against the US on subsidies to cotton.

World Trade Organization – Disputes – New Zealand Apples

On 21 August 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning the New Zealand Government's initiation of World Trade Organization dispute proceedings against Australia. An extract from the release follows:

I regret the New Zealand Government decision to initiate WTO dispute proceedings against Australia in relation to access for apples.

Australia announced on 27 March 2007 that New Zealand apples would be allowed entry to Australia subject to specific quarantine conditions designed to minimise the risk of pests and diseases entering Australia. New Zealand considers these conditions to be too stringent.

Considerable work has already been done to finalise the procedures to implement access arrangements.

We remain ready to work with New Zealand to resolve this matter.

Australia is committed to the WTO rules-based trading system and we will vigorously defend our science-based quarantine system in this dispute.

World Trade Organization – Multilateral Trade Negotiations – General

On 28 December 2007, the Minister for Trade, Mr Simon Crean, issued a media release marking the 60th anniversary of the creation of the multilateral trading system by the General Agreement on Tariffs and Trade, done at Geneva on 30 October 1947. An extract from the release follows:

On January 1, 1948, 23 countries found common ground on a set of rules that would govern international trade in the post-war era.

From that date, the General Agreement on Tariffs and Trade (GATT) entered into force - an agreement that ultimately led to the establishment of the World Trade Organization (WTO) in 1995.

With the Chifley Government having been one of the 23 founding GATT members, Australia has been a long-time supporter of the multilateral trading system.

I am proud to be a successor to these early visionaries, who had the wisdom to recognise the benefits to Australia of a rules-based multilateral system founded on the principles of non-discrimination.

When the GATT was established, Australia had only a narrow export base and was largely dependent on the United Kingdom market. Since that time, Australia's export base has diversified considerably, as have its export markets.

Those changes mirror the development of the multilateral trading system itself, which has grown from 23 members in 1948 to over 150 members today and whose rules have broadened and deepened to now cover services as well as goods.

I am committed to achieving further improvements in the multilateral trading system through the Doha negotiations. I am under no illusion about the difficulty of making progress in multilateral talks, but it is essential that we find a global solution. This is the best way of sharing the benefits of liberalisation as broadly as possible.

Achieving an outcome to the Doha Round which strengthens existing trade rules and further lowers existing barriers to trade is the Government's highest trade policy priority.

World Trade Organization – Multilateral Trade Negotiations – Doha Round – General

On 24 January 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning his planned visit to the World Economic Forum in Davos. An extract from the release follows:

Australia's number one trade policy priority is to achieve a successful outcome in the Doha Round which would deliver genuine, new commercial opportunities for our farmers, manufacturers and service providers.

I will continue to explore, with other key players, ways to revitalise the Doha negotiations, though there remain significant gaps to be bridged. A lot of work needs to be done if we are going to conclude the Round this year.

On 6 March 2007, the Minister for Trade, Mr Warren Truss, issued a media release concerning a World Trade Organization report on Australia's trade policies and practices from 2002-06. An extract from the release follows:

The report highlighted Australia's continuing process of trade liberalisation as "an integral part of the structural reforms that have contributed to Australia's impressive economic performance".

"Australia's experience underlines the economic benefits of trade liberalisation and that is why we continue to push for a substantial and high-quality outcome in the Doha Round of world trade negotiations," Mr Truss said.

"It is vital WTO members urgently find a way forward in the Doha negotiations which will result in genuine new commercial opportunities for farmers, manufacturers and service providers."

WTO members participating in this week's review complimented Australia on our active and constructive role across all areas of the Doha negotiations, including with the Cairns Group.

On 7 March 2007, the Minister for Trade, Mr Warren Truss, delivered a speech to the Australian Bureau of Agricultural and Resource Economics Outlook Conference. Extracts from the speech relating to the Doha Rounds follow:

Since the inception of the Doha Round, the Australian Government has worked hard towards a successful outcome. We have played a key role through the Cairns Group to right the distortions which have skewed global trade in agriculture.

As you would be aware, the Doha Round has not been smooth sailing. In particular, from July last year until early this year, the Round was put on hold until the major players could come to some kind of understanding about the key points of difference.

The EU needs to do more on market access, the US has to cut farm subsidies more deeply and developing countries have to agree to actively participate in the overall

outcome and open up their own market, including manufacturing and services industries.

To move negotiations ahead, we have had to deal with these seemingly intractable problems. I am pleased to report that the news on the Doha Round is now looking more encouraging, though there is still some way to go.

Bilateral discussions have been taking place over the past two months. And particularly since the decision in Davos to reactivate full negotiations there has been some headway. There's a lot of work going on; it is very labour intensive; there are 149 members of the WTO and all will have to be a part of an eventual agreement.

There has been a clear sense from key players around the world that the Round must be progressed quickly with a view to a timely and ambitious conclusion. The expiry of the US Administration's trade negotiating authority in the middle of this year adds further pressure to the mix.

....

A key priority for Australia in the negotiations is a strong market access outcome that delivers commercially meaningful benefits to Australian exporters. We believe that to secure this outcome, the European Union, Japan and others in the developing world must be prepared to put more on the table, particularly through more substantial tariff cuts and an approach to so-called 'Sensitive Products' that delivers significantly new trade.

In this regard I am pleased to announce that the Cairns Group in Geneva has agreed to table an important new proposal on Sensitive products.

On 19 April 2007, the Minister for Trade, Mr Warren Truss, delivered a speech to the Australian Chamber of Commerce in Beijing. An extract from the speech concerning the Doha Round follows:

A successful conclusion to the Doha Round continues to be our top trade policy priority. The negotiations might be difficult, but we can not give up. Multilateral trade negotiations have the potential to deliver the largest economic benefits. The WTO system of global trade rules has been crucial for the very rapid growth of international commerce in recent decades and remains of great importance to both China and Australia.

The Doha Round offers us our best chance to enhance trade opportunities and to strengthen the WTO framework. We need to ensure that the outcome of the Round results in real market opening for agriculture, industrial products and services. It must also substantially cut trade-distorting farm subsidies. We have already agreed that agricultural export subsidies should be eliminated.

Australia is working hard to move Doha forward and to make sure that it delivers genuine reform. Last week, I participated in a meeting of some of the major players in the negotiations, including the US and the EC. We agreed that it was critical to intensify the negotiations with the aim of bringing them to a conclusion by the end of this year.

World Trade Organization – Multilateral Trade Negotiations – Doha Round – Agriculture

On 6 March 2007, the Minister for Trade, Mr Warren Truss, issued a media release welcoming the release of a paper from the US policy institute Informa Economics

on market-oriented reform options for US agriculture. Extracts from the release follow:

“The Informa paper highlights that lower levels of support, particularly in the form of trade distorting subsidies, would actually do more for the competitiveness of US farmers now and into the future,” Mr Truss said.

....

“Shifting to lower subsidies and more market-oriented farm policies would also increase pressure on other World Trade Organization members to respond with improved offers in the Doha Round.

“To secure an ambitious outcome in the Doha Round this year, the United States needs to show leadership by making an improved offer to significantly reduce trade-distorting subsidies provided to its farmers. Equally, the European Union needs to put on the negotiating table a new offer which delivers new commercially meaningful market access outcomes,” Mr Truss said.

World Trade Organization – Multilateral Negotiations – G4

On 22 June, 2007, the Minister for Trade, Mr Warren Truss, issued a media release expressing disappointment with the breakdown of trade talks in Germany between the United States, European Union, India and Brazil. An extract from the release follows:

Mr Truss, speaking from Potsdam in Germany, said the failure of the meeting, collectively known as the G4, was a setback for world trade reform and the hopes and ambitions of countries like Australia and the Cairns Group of agricultural exporting nations.

“We have to remember that this G4 and G6 process (G6 includes the G4 plus Australia and Japan) was one step on the way to achieve a broader agreement among all WTO Members,” Mr Truss said.

“As it turned out, talks broke down among the G4 members in Potsdam on Thursday - even before the G6 process began.

“There are obviously different perspectives from each of the members of the G4 on the causes of the breakdown of their meeting but a common theme of the accounts, however, is that there was disagreement on the overall ambition and balance of the package.

“My perspective continues to be that we can only successfully conclude this Round with an ambitious result on agriculture, industrials and services. To do this, everyone has to make a contribution - developed and developing countries alike.

“I have just held meetings with the trade ministers of the United States and the European Union, as well as with the US agriculture secretary. While our disappointment with the result of the meeting was obvious, I urged all to remain committed to the Doha negotiations.

World Trade Organization – TRIPS

On 9 May 2007, the Protocol Amending the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), done at Geneva on 6 December 2005, was tabled in both Houses of Parliament. An extract from the accompanying National Interest Analysis follows:

The key objective of the proposed Protocol is to facilitate access for least-developed and developing countries to cheaper versions of patented medicines needed to address public health problems (such as HIV/AIDS, malaria and other epidemics). The Protocol establishes a mechanism for pharmaceutical products manufactured under compulsory licence to be exported to eligible importing Members under certain circumstances.

Accepting the proposed Protocol would be consistent with Australia's general approach to global health and intellectual property rights issues, and would not undermine Australia's policy on intellectual property rights regimes. While Australia would not be a beneficiary of the proposed system, acceptance would support WTO Members' right to protect public health and promote broader access to medicines.

The flexibilities afforded by compulsory licensing, allowing for the production of medicines to protect public health, have always existed in the TRIPS Agreement. This Protocol will ensure that the benefits of these flexibilities extend to developing and least developed countries with limited or no pharmaceutical manufacturing capacity.

World Wine Trade Group Agreement – Wine Labelling

On 23 January 2007, the Minister for Trade, Mr Warren Truss and the Minister for Agriculture, Fisheries and Forestry, Mr Peter McGauran, issued a joint media release announcing Australia's signing of the World Wine Trade Group Agreement on Requirements for Wine Labelling, done at Canberra on 23 January 2007. An extract from the release follows:

Australia's wine industry is set to become even more competitive following today's signing of the World Wine Trade Group's Agreement on Requirements for Wine Labelling.

The Treaty was signed by the Australian Government Minister for Trade, Warren Truss, and by representatives from 'new world' wine producing countries including the USA, Chile, Argentina, New Zealand and Canada. These countries, whose common goal is to boost international trade in wine, make up the World Wine Trade Group (WWTG) which is meeting in Canberra this week.

The Treaty standardises the presentation of certain information on wine labels such as product designation, content volume, percentage of alcohol and country of origin. In future, when a product is to be sold in several markets, winemakers and exporters will no longer have to attach a different front label for each destination.

Mr Truss said the Australian wine industry estimates that the implementation of the Treaty's requirements for wine labelling would mean savings of about \$25 million each year.

VIII. International Environmental Law

Climate Change – Asia Pacific Economic Cooperation (APEC)

On 9 September 2007, the Prime Minister, Mr John Howard, issued a media release concerning the 'Sydney Asia Pacific Economic Cooperation Leaders' Declaration on Climate Change, Energy Security and Clean Development'. An extract from the release follows:

The Sydney Declaration I announced yesterday is an historic commitment by all Leaders to the challenge posed by climate change. The agreement by APEC economies on the need for an overall global goal for emissions reductions is a very significant step towards a truly comprehensive climate change framework. It is also the first time that major economies such as China, the United States and the Russian Federation have agreed to specific APEC wide aspirational goals: first, a decrease in energy intensity of 25 per cent by 2030; second, an increase in forest cover of 20 million hectares by 2020. These are significant in terms of the greenhouse gas reductions they entail.

On 24 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, made a speech to a United Nations High-Level Event on Climate Change. Extracts from the speech concerning APEC follow:

Thirteen days ago, Leaders at the Asia-Pacific Economic Cooperation Summit agreed an historic Sydney Declaration on Climate Change, Energy Security and Clean Development. Historic because the APEC Leaders, whose economies represent more than half of the world's GDP, broke new common ground on climate change.

The Leaders agreed to work actively and constructively towards a comprehensive post-2012 arrangement at this year's UN Climate Change Conference in Bali.

The APEC Leaders agreed to work to achieve a common understanding on a long-term aspirational global emissions reduction goal.

And the Leaders also welcomed the US initiative to convene a meeting of major economies to seek agreement on a detailed contribution to a post-2012 global arrangement.

...

Ladies and Gentlemen, the APEC agreement underlines the momentum behind a growing global commitment to tackle the challenge of climate change. This positive outcome, particularly the seven principles to guide a future international arrangement, reinforces the UN Framework Convention and provides us with a guide for the work that lies ahead, including at Bali.

Climate Change – Global Initiative on Forests and Climate

On 29 March 2007, the Prime Minister, Mr John Howard, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for the Environment and Water Resources, Mr Malcolm Turnbull, issued a joint media release concerning the Australian Government's launch of a Global Initiative on Forests and Climate. An extract from the release follows:

Since Kyoto negotiations began more than a decade ago, Australia has consistently and strongly argued for effective international action on deforestation as an essential part of the global response to climate change.

Through this initiative we will work with like-minded countries and will be inviting nations such as the United Kingdom, the United States, Germany, Brazil, New Zealand, Japan and Indonesia to join the Initiative. We will also work with international organisations including the World Bank, and businesses to reduce emissions from deforestation and to sustainably manage the world's forests.

Harnessing our combined resources will make a difference for world forests and the climate.

Climate Change – Kalimantan Forests and Climate Partnership

On 9 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for the Environment and Water Resources, Mr Malcolm Turnbull, issued a joint media release announcing the signing of the Kalimantan Forests and Climate Partnership between Indonesia and Australia. Extracts from the release follow:

Greenhouse gas emissions will be cut by around 700 million tonnes over 30 years under a \$100 million agreement signed today between the governments of Australia and Indonesia.

...

It is the largest greenhouse abatement project to flow so far from the Australian Government's Global Initiative on Forests and Climate, and an example of Australia's practical and cooperative international approach to addressing climate change.

The Partnership aims to preserve 70,000 hectares of peat land forests in Indonesia's Kalimantan region, re-flood 200,000 hectares of dried peat land and plant up to 100 million new trees on rehabilitated peat land for conservation purposes.

It has the potential to reduce greenhouse gases by a greater amount than Australia's total annual emissions.

...

Mr Downer and his Indonesian counterpart, Dr Hassan Wirajuda, signed a declaration of intent to establish the Partnership on Sunday 9 September in Sydney, in the presence of Indonesia's President, Susilo Bambang Yudhoyono.

Kalimantan contains one of the world's largest intact areas of forest and six per cent of global land-based biodiversity. It also contains a large proportion of Indonesia's peat lands, which store at least six times as much carbon per hectare than forests on mineral soils.

Mr Downer said the Partnership was an example of practical climate change action that could deliver immediate and tangible benefits.

'The deforestation and burning of Indonesia's vast peat lands is the largest single source of its greenhouse gas emissions,' Mr Downer said.

'Today's agreement is a demonstration of the Australian Government's commitment to tackling the issue of climate change through strong, international cooperation and practical action.

'Greenhouse emissions will not be reduced by posturing and stunts. They will be reduced by effective diplomacy, and the sort of international leadership shown by Australia in driving the establishment of AP6, the Sydney Declaration and this important global initiative.'

Climate Change – United Nations Framework Convention on Climate Change (the Kyoto Protocol)

On 24 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, made a speech to a United Nations High-Level Event on Climate Change concerning the Kyoto Protocol. An extract from the speech follows:

Australia calls on all Parties in Bali to resolve a new mandate for the Convention to move beyond Kyoto. We need to forge a comprehensive new agreement that leads to a global reduction in emissions.

These negotiations should first and foremost better mobilise and recognise mitigation actions by all, particularly the major economies. Such actions should be ambitious for all, and, in addition to further actions by developed countries, include measurable mitigation actions by developing countries.

It is crucial that a new negotiating mandate take a comprehensive view of emissions, including emissions from the land, particularly deforestation, which is responsible for a fifth of global greenhouse gas emissions. Australia has pledged \$200 million to help developing countries avoid deforestation and promote reforestation through our Global Initiative on Forests and Climate.

To be comprehensive, a new negotiating mandate needs to spell out actions that will provide Parties to the UN Framework Convention with more confidence as they move to put in place better national mitigation policies and measures. Such actions should address effective adaptation strategies and cooperation, the impacts of response measures, and the matter of technology development and diffusion.

On 12 December 2007, the Prime Minister, Mr Kevin Rudd, made a speech to the High Level Segment of the Thirteenth Conference of Parties of the United Nations Framework Convention on Climate Change at Bali. Extracts from the speech follow:

In my first act as Prime Minister, I signed the formal instrument for Australia to ratify the Kyoto Protocol. And just a few moments ago I handed, personally, that instrument of ratification to the Secretary-General of the United Nations.

I did so, and my Government has done so, because we believe that climate change represents one of the greatest moral, economic and environmental challenges of our age.

Australia now stands ready to assume its responsibility in responding to this challenge – both at home and in the complex negotiations which lie ahead across the community of nations.

...

Our choice will impact all future generations. This is, therefore, a problem which requires a global solution.

It requires a multilateral solution. Unilateral action is not enough. We must all share the burden. Australia has a long tradition of multilateral engagement:

...

Australia was, in fact, among the first to sign the Framework Convention on Climate Change in 1992. In the past we have been willing to put our shoulder to the wheel. And what I say to this conference today is that under the Government I lead, we are doing so again.

Climate Change – United Nations Framework Convention on Climate Change – Emissions Targets

On 2 May 2007, the Minister for the Environment and Water Resources, Mr Malcolm Turnbull, issued a media release announcing Australia had steadied

emissions growth and was on track to meet Kyoto targets. Extracts from the release follow:

“Australia is committed to meeting its Kyoto target of 108% of 1990 levels and today’s accounts show that we are on course to do that,” Mr Turnbull said.

...

“This is consistent with the most recent emissions projection showing Australia is tracking within one percentage point of meeting its Kyoto target over the five years 2008 to 2012.

“While today’s accounts show Australia is tracking well, we must remember that climate change is a global issue requiring a global solution.

“The Government will continue to push for a future global response to climate change that includes all the major emitters and provides for effective and flexible pathways to substantial emissions reductions that suit the circumstances of particular nations.”

Climate Change and Energy – China

On 15 January 2007, at a meeting in the margins of the East Asia Summit, the Prime Minister, Mr John Howard, and Chinese Premier, Mr Wen Jiabao, exchanged letters to formally establish an Australia-China Joint Coordination Group on Clean Coal Technology. An extract from the fact sheet published by the Australian Government on the Joint Coordination Group follows:

The Joint Coordination Group was established in January 2007 to provide strategic guidance and impetus to clean coal activities in Australia and China.

The Joint Coordination Group complements and enhances the existing strong relationship on climate change issues, which has been forged through the Asia-Pacific Partnership on Clean Development and Climate (APP) and the Australia-China Joint Declaration on Bilateral Cooperation on Climate Change.

The work of the Joint Coordination Group will make a substantial contribution to improving the environmental and greenhouse performance of coal use in Australia and China.

Supported activities and projects will harness Australian and Chinese industry and research expertise to accelerate the development and deployment of clean coal technologies. This includes low emission technologies involving carbon capture and storage.

Climate Change and Energy – Japan

On 9 September 2007, the Prime Minister of Australia, Mr John Howard, issued a media release concerning Australia’s and Japan’s cooperation on climate change and energy security. Extracts from the release follow:

Today Prime Minister Shinzo Abe and I have discussed climate change and energy security. We have agreed that they are priority issues that require sustained, effective and global action.

...

We have agreed that the APEC Sydney Declaration is a major step towards a new international framework in which all major emitters participate and which balances environmental protection with economic growth. We have welcomed the US

initiative to launch a dialogue amongst major economies on climate change and we will participate fully in the UN meetings in Indonesia.

We have agreed that the development and deployment of innovative technologies will be a key element in addressing the climate change challenge. We will work together in the Asia-Pacific Partnership and other groupings to support new technologies that reduce greenhouse gas emissions while meeting energy security and economic growth objectives.

Australia and Japan are both committed to the peaceful use of nuclear energy. Japan possesses advanced technology and experience, and nuclear power plays a key role in Japan's energy mix and its strategy to reduce greenhouse gas emissions. Japan is also one of the largest consumers of Australian uranium.

We have agreed that long term responses to climate change include the use of nuclear energy and that Australia and Japan should cooperate to promote nuclear power generation in a manner that ensures nuclear non-proliferation, safety and security, and develops clean, zero-emission energy sources.

Climate Change and Energy – Russia

On 7 September 2007, the Prime Minister, Mr John Howard, issued a media release concerning climate change cooperation with Russia. An extract from the release follows:

Today President Vladimir Putin and I have agreed to cooperate on the global challenges of climate change and energy, including in the APEC Leaders Meeting this weekend. Australia and Russia share much in common, as two of the world's largest suppliers of energy, in ensuring economic growth, energy security and environmental sustainability.

We have agreed that the world needs to make progress towards a new international climate change framework, to which all major emitters should make substantial contributions. Australia and Russia will work together to achieve international consensus on a long-term global aspirational goal for stabilising and then reducing greenhouse gas emissions.

Australia and Russia will work closely together, with other members of the 'Umbrella Group' coalition, to pursue our shared interests in the UN Framework Convention on Climate Change. We will support launching negotiations for a post-2012 agreement at the UN climate change conference in Indonesia in December.

Australia and the Russian Federation will continue our work to develop and deploy low emission technologies, including in carbon sequestration and methane and hydrogen technologies. We have agreed that reducing emissions from deforestation is an important part of global action on climate change.

Nuclear power — as a zero-emissions technology — has much to contribute to addressing global climate change. President Putin has outlined Russia's program to significantly expand its nuclear power industry. Australia, as a leading and reliable supplier of uranium, has a stake in the expansion of the safe and secure use of nuclear energy.

I am very pleased, therefore, that Australia and the Russian Federation have concluded, and signed, an Agreement on Cooperation in the Use of Nuclear Energy for Peaceful Purposes. This new agreement will allow the supply of Australian

uranium for use in Russia's civil nuclear power industry, and provide a framework for broader cooperation on peaceful nuclear-related activities.

Deforestation – Palm Oil

On 8 October 2007, the Minister for the Environment and Water Resources, Mr Malcolm Turnbull, issued a media release concerning sustainable sourcing of palm oil. Extracts from the release follow:

“The challenge we face is that because palm oil can only be grown within ten degrees of the equator, growing demand for palm oil as feedstock for "green" biofuels, especially in Europe, is promoting deforestation in tropical rainforest countries,” Mr Turnbull said.

...

Mr Turnbull said co-ordinated international action is essential. “I intend to take a proposal to the UN climate change meeting in Bali in December to establish an international certification scheme for the sourcing of palm oil from sustainable sources,” Mr Turnbull said.

“This would mean that in order to be certified as sustainable, plantations could not have been established on land which had been cleared for that purpose.

“I expect to have the support of key palm oil importing countries and my Department will liaise closely with other countries to ensure strong support for the proposal. The Australian Government is also working with countries, particularly Indonesia and other countries in our neighbouring region, through the \$200 million Global Initiative on Forests and Climate to reduce the 20 percent of global emissions that come from deforestation.”

Deforestation – World Bank

On 23 July 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for the Environment and Water Resources, Mr Malcolm Turnbull, issued a joint media release announcing Australia's contribution to the World Bank's Global Forest Alliance. An extract from the release follows:

Australia will contribute AU\$11.7 million (\$US10 million) to the World Bank's new Global Forest Alliance to help protect the world's remaining great forests from deforestation and to reduce greenhouse gas emissions.

Australia is the first country to contribute to the new alliance.

Minister for Foreign Affairs, Alexander Downer, and Minister for the Environment and Water Resources, Malcolm Turnbull, announced this contribution at today's High Level Meeting on Forests and Climate in Sydney, attended by representatives from more than 60 governments and international organisations.

That Australia is hosting such an important event demonstrates our deep concern about the environmental problems created by deforestation.

This \$11.7 million is funded under the \$200 million Global Initiative on Forests and Climate – a practical response to climate change that will substantially reduce greenhouse gas emissions by tackling deforestation.

Our contribution will assist the World Bank to help developing countries to establish credible estimates of national forest carbon stocks, identify sources of forest

emissions and develop incentives for conserving forests and investing in sustainable forest management.

The World Bank has extensive experience in managing carbon funds and developing innovative approaches to carbon financing. We share similar objectives in working with developing countries to conserve forests and promote reforestation.

Protection of Migratory Birds

On 27 February 2007, the Agreement between the Government of Australia and the Government of the Republic of Korea on the Protection of Migratory Birds (the ROKAMBA), and Exchange of Notes, done at Canberra on 6 December 2006, was tabled in both Houses of Parliament. An extract from the accompanying National Interest Analysis follows:

Australia has a strong interest in maintaining biodiversity generally and in protecting migratory species which visit Australia. Australia has existing bilateral agreements similar to the ROKAMBA, the Japan – Australia Migratory Bird Agreement (JAMBA), and the China – Australia Migratory Bird Agreement (CAMBA). Australia has provided strong leadership for the conservation of migratory birds throughout the East Asian – Australasian Flyway through the Asia Pacific Migratory Waterbird Conservation Strategy 1996 – 2005 and continues to do so as one of the initiating Partners of the World Summit on Sustainable Development Type II Partnership for Migratory Waterbirds in the East Asian – Australasian Flyway. Entering into the ROKAMBA will signify Australia’s ongoing commitment to the conservation of migratory birds.

The ROKAMBA obliges its Parties to protect bird species which regularly migrate between Australia and the Republic of Korea, and their environment. Article 1(2) provides that the Annex to the ROKAMBA contains the list of species or subspecies of birds for which there is reliable evidence of migration between the two countries.

Migratory species are a matter of National Environmental Significance under the EPBC Act. The Republic of Korea provides critical stopover sites for migratory shorebirds during their migration to Australia. The ROKAMBA complements Australia’s existing bilateral agreements with China and Japan, providing a formal avenue through which to ensure the protection of important habitat for shorebirds during their migration beyond Australian jurisdiction.

Whaling

On 19 December 2007, the Minister for Foreign Affairs, Mr Stephen Smith, and the Minister for the Environment, Heritage and the Arts, Mr Peter Garrett, issued a joint media release concerning Japanese whaling. Extracts from the release follow:

Australia strongly believes that there is no credible scientific justification for the hunting of whales and is opposed to all commercial and ‘scientific’ whaling.

That is why the Australian Government will step up efforts to end this senseless and brutal practice, using a range of diplomatic, legal and monitoring and surveillance initiatives.

...

Australia will upgrade our efforts at the International Whaling Commission (IWC), the place where rules on the conservation and protection of whales are made.

The Government will develop its own proposal for improving and modernising the IWC — which will include closing the loophole that allows for scientific whaling.

...

The Government is giving serious consideration to a range of options for international legal action against Japan.

The Attorney-General has withdrawn the previous Government's submission to the current federal court case concerning Japan's whaling activities in the Australian Whale Sanctuary.

...

Australia will also act to collect evidence of Japan's whaling activities by monitoring the Japanese whaling fleet using both aircraft and a surface vessel:

An A319 aircraft, operated by the Australian Antarctic Division, will make several surveillance flights during the whaling season.

Monitoring and surveillance activities will also be undertaken using the Customs patrol boat the Oceanic Viking, which will be disarmed for this whaling surveillance activity.

The information obtained from the Government's surveillance activities will be important for any legal action.

On 19 December 2007, the Minister for Foreign Affairs, Mr Stephen Smith, delivered a statement at a doorstep interview in Canberra concerning Japanese whaling. An extract from the statement follows:

[Australia has] formally called upon the Japanese Government to desist and made the point about the proposed cull for the first occasion of humpbacks.

Let me detail for you the proposed new measures.

Firstly, the Australian Government will take all diplomatic measures to seek to persuade the Japanese Government to stop the whale slaughter.

It will do that by making representations to my counterpart, and to Peter's counterpart. We've also commenced a demarche, or a formal diplomatic protest, which is Australia leading a formal diplomatic protest with other nations, to the Japanese Government in Tokyo and that will be effected over the next few days.

Secondly, we will appoint a diplomatic envoy to seek to persuade the Japanese Government of the correctness and the rightness of our cause and Peter will make some more remarks in that respect.

Thirdly, we will up our activity in the International Whaling Commission, to seek to use our voice in the International Whaling Commission to bring an end to the so-called "scientific" whaling.

Fourthly, the Government is considering pursuing international legal action and the Attorney-General has commissioned advice from both the Australian Government Solicitor and also independent legal advice, to advise the Government on the capacity for the Government to take international legal action against the Japanese whaling.

All options are on the table, including utilising the Whaling Convention, utilising the Endangered Species Convention, taking action before the International Court of Justice, and taking action before the International Tribunal for the Law of the Sea.

All options are on the table and early in the New Year, the Government expects to receive that advice and in the course of next year decisions will be made in that respect.

Next, for the purposes of accumulating evidence for the purposes of assessing the merits of such a case, the Australian Government will effect a surveillance of the current Japanese whale cull.

That will be effected in two ways.

Firstly, aerial surveillance. That aerial surveillance will be conducted by the Australian Antarctic Division - an A319 plane - which will take both photographic and video evidence by way of aerial surveillance.

Secondly, surface surveillance, using the Customs boat the Oceanic Viking. That will be surveillance of up to 20 days in the Southern Ocean.

For the purposes of the whaling surveillance — and I make the point it will be surveillance, not enforcement or interdiction or intervention — for the purposes of that surveillance, the customs boarding party will not be armed and the Oceanic Viking will not be armed. This is not an enforcement action, this is a surveillance action for the purpose of a surveillance activity, for the purposes of gaining photographic and video evidence for the purpose of assessing the merits of taking an international legal case against the whaling.

World Heritage Committee

On 25 October 2007, the Department of the Environment and Water Resources issued a media release announcing Australia's successful candidature for a seat on the United Nations Educational Scientific and Cultural Organization (UNESCO) World Heritage Committee. An extract from the release follows:

Australia is one of nine successful candidates announced at the 16th General Assembly of States Parties currently underway in Paris, France.

With 17 properties of its own, from the ancient Kakadu National Park landscape – managed jointly with its traditional owners — to the modern architecture of the newly-listed Sydney Opera House Australia has been a leader in World Heritage management and promotion.

During its four-year term Australia will work to advance the principles and integrity of the World Heritage Convention. Under the Convention nations have a duty to protect places with outstanding universal value to all mankind – because once lost, they are lost forever.

For over 20 years Australia has set high standards as a State Party, promoting diversity in listings, supporting Asia-Pacific managers and championing best practice property management at home. With a strong track record and a keen interest in building a sustainable future for all sites, this broader role in world heritage matters will enhance Australia's ability to be a leading world heritage property manager and an active partner in the Asia-Pacific region.

IX. International and Regional Organisations

Asia Pacific Economic Co-operation (APEC)

On 27 August 2007, the Prime Minister, Mr John Howard, delivered a speech at the Lowy Institute, Sydney, concerning Asia Pacific Economic Co-operation (APEC). An extract from the speech follows:

Australia's role in the development of APEC is very well-known to all of you. And as well as showcasing Australia to the region, the Sydney meeting provides us with a fresh opportunity to shape APEC's agenda and ambitions as it approaches its 18th birthday.

But before turning to my specific objectives for APEC 2007, I'd like to touch very briefly on the broader question of APEC's role and its value in an uncertain world. There is a common view that the only global institutions are the ones that matter and which are based on international treaties.

Yet to approach global politics from this singular frame of reference is in my view very mistaken. It also misunderstands the aspirations of many APEC economies. Especially in this region, more flexible, less legalistic processes are often better equipped for achieving concerted action on certain issues, at certain times.

There is no reason why different approaches cannot reinforce and complement each other. A good example is trade. Australia, like other countries, has a major interest in strong, multilateral rules in the World Trade Organization. A good outcome from Doha is still our highest trade priority. But this does not mean we should ignore less structured forms of economic cooperation.

Indeed APEC has long been a useful forum for economies making voluntary undertakings, short of binding commitments. APEC provided a context for China to undertake important liberalisation in the 1990s, prior to its entry into the World Trade Organization.

The sheer diversity of different economies in APEC means that it works best by not trying to turn itself into a rigid negotiating forum. We should avoid the mindset where 'concessions' have to be 'bought' with reciprocal commitments.

Equally, APEC should not limit itself to a narrow remit of issues. It works because of its capacity to evolve and orient itself to contemporary challenges as they emerge. Australia's interest is in ensuring that APEC, as the only trans-Pacific regional forum, is able to engage on all the big global challenges of the day.

On 4 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, delivered a speech to the Foreign Correspondents' Association in Sydney concerning the forthcoming APEC Leaders' Meeting. An extract from the speech follows:

APEC is the pre-eminent forum in the region. It has grown from 12 members in 1989 to 21 now. And, as we all know, there is still a long list of economies hoping to join. APEC membership matters because APEC is a unique forum.

It brings the leaders of these 21 economies together once a year to confer on the opportunities and challenges to regional growth and prosperity. At the same time, it provides a unique chance for Leaders to address strategic issues.

APEC has a strategic role to play because of who it brings together.

I think the region's response to the crisis in East Timor in 1999 is a very good example of this. At the time of the APEC Leaders Meeting in New Zealand in September 1999, we were keen to get support for an international force to restore peace and security in East Timor. Having leaders of key countries – including the United States, Japan and China – together, in the same room, to discuss this issue played a significant role in getting a consensus in support of a multinational force in East Timor.

But in the short-term, APEC is not going to become a regional security body because APEC members place the highest priority on working together to sustain economic growth. The Asia-Pacific region is one made up of a wide range of politically, economically and culturally diverse nations.

Regional dialogue and cooperation are growing and evolving. That is why we see such a diversity of regional groupings in East Asia today. These groupings have different objectives, and many of them contribute to regional integration in their own way. But there is no suggestion that a European Union arrangement for the Asia-Pacific is around the corner.

A key interest for Australia lies in ensuring that we are appropriately represented in regional groupings, both to advance our own interests in the Asia-Pacific region, and to enhance regional cooperation, stability and prosperity.

That is also why the Australian Government has worked so hard at strengthening bilateral relationships with key regional partners such as Japan, China, and Indonesia in recent years. It is why we have further strengthened our alliance with the United States. And why Australia was a founding member of the East Asia Summit, and active in other regional arrangements, such as those associated with ASEAN.

Association of South-East Asian Nations (ASEAN)

On 1 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the signing of the Joint Declaration on the ASEAN-Australia Comprehensive Partnership at Manila. Extracts from the release follow:

The Declaration reflects the breadth and maturity of the ASEAN-Australia relationship. It builds on the momentum of this relationship and provides a framework for our future engagement with ASEAN, covering political and security, economic, socio-cultural and development cooperation. For example, the Declaration signals Australia's and ASEAN's intention to enhance cooperation in support of deeper economic integration, environmental conservation, communicable and emerging infectious diseases, and disaster preparedness and emergency response. The agreement will also promote cooperation in combating transnational crimes, including terrorism and drug trafficking.

...

Australian and ASEAN officials will conclude discussions on a Plan of Action to implement the ASEAN-Australia Comprehensive Partnership shortly.

The Comprehensive Partnership — and the very wide range of cooperation that is taking place and will continue to grow under the Partnership — demonstrates Australia's long-term commitment to our ties with ASEAN. I am confident that our continued close cooperation will lead to increased regional stability and prosperity.

European Union

On 24 March 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the 50th anniversary of the signing of the Treaty Establishing the European Economic Community, done at Rome on 25 March 1957. An extract from the release follows:

I am pleased to note that 25 March marks the 50th anniversary of the signing of the Treaty of Rome — a treaty that laid the foundations for the European Union (EU).

In the past 50 years, the EU has evolved from a customs union of six nations into a political and economic union of twenty seven countries spanning western and eastern Europe. Its most important achievement has been to bring political stability and prosperity to a continent twice devastated by war in the last century and provide a framework for the expansion of democracy and freedom across Europe.

Australia has a special bond with the nations of Europe. Our democratic system and institutions and much of our culture have developed from a European base. Over 70,000 Australians gave their lives on European soil to defend freedom. The majority of Australians can trace their origins to Europe. Today, Australia and the members of the European Union enjoy strong economic and political ties and increasingly close cooperation on security issues, law enforcement and aid delivery (including in our own region).

Australia has much to value in our partnership with the European Union. The EU has an important leadership role to play in international affairs, particularly in the areas of economic development and trade, governance and democratic capacity-building.

North Atlantic Treaty Organisation (NATO)

On 26 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for Defence, Dr Brendan Nelson, issued a media release concerning the signing of the Agreement between the Government of Australia and the North Atlantic Treaty Organisation (NATO) on the Security of Information done at New York on 26 September 2007. Extracts from the release follow:

Australia has taken an important step towards closer cooperation with NATO, with the signing of an Agreement on the Security of Information.

...

Australia's relationship with NATO has expanded significantly in the past few years, reflecting our common commitment to promoting international security and stability.

In Afghanistan Australian troops are working alongside their NATO counterparts as part of the NATO-led International Security Assistance Force (ISAF). Like NATO, Australia recognises the vital importance of serious and sustained international support to the Government of Afghanistan in building a stable and prosperous future for its people. Together, we are committed to helping defeat the Taliban insurgency and preventing Al Qaeda re-establishing a terrorist safe-haven in Afghanistan.

Beyond Afghanistan, Australia's wider engagement with NATO has grown following the NATO Riga Summit in November 2006. At the Summit Australia, as a NATO 'contact country', was given access to NATO activities and training under the Alliance's Partnership for Peace program.

The Agreement signed today will allow Australia and NATO to exchange classified information and assessments on a range of security issues, including international terrorism. The Agreement will also help facilitate information exchanges on operational issues directly relevant to ADF personnel deployed in Afghanistan as part of ISAF. The Agreement formalises an existing exchange of letters covering the sharing of classified information, signed in 2005.

United Nations – General

On 21 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing his forthcoming participation in the Sixty-Second Session of the United Nations General Assembly. Extracts from the release follow:

My visit will provide an opportunity to advance key Australian priorities on climate change and international peace and security.

...

In a series of high level meetings in New York and Washington, there will be valuable opportunities to advance the UN's important goals of global peace and security, including peacekeeping, and efforts to combat the proliferation of weapons of mass destruction and the scourge of international terrorism.

This will be the UN Secretary-General Ban Ki-moon's first General Assembly and I commend Mr Ban on his ambitious ongoing program of UN reform, and on his focus on the tragedy in Darfur, proliferation concerns in relation to Iran and North Korea, climate change and the Middle East peace process.

On 3 December 2007, the Minister for Foreign Affairs, Mr Stephen Smith, made a speech to the Diplomatic Corps concerning the Rudd Labor Government's foreign policy priorities. Extracts from the speech follow:

At the heart of the new Rudd Labor Government's foreign policy approach lies the responsibility to protect, defend and enhance Australia's national security, to maximise our economic opportunities and to advance Australia's national interest across the range of international issues.

There are three pillars that underpin the Labor Government's approach to foreign policy.

First, our relationship with the United States. Australia's alliance with the United States was forged during the Second World War.

...

It remains a key pillar of our foreign policy approach. Our friendship with the United States is deep and valued by both sides. I look forward to pursuing that in a way which advances both our nations' mutual interests.

Second, our membership of the United Nations. The international legal obligations and responsibilities that brings is another fundamental pillar of our foreign policy approach.

Australia, through Prime Minister Ben Chifley and Foreign Minister Herbert Vere Evatt, was instrumental in helping to found the United Nations. We took, for example, an active role in the first phase of United Nations activity, helping Indonesia achieve its independence.

We will work cooperatively with and in the international community on the mutual challenges we face. We will play our part in finding solutions to what are sometimes difficult issues.

Third, our strong focus on Asia and the Pacific. We are in a unique position as a nation state, a country of 21 million people nestled in the Asia-Pacific region. Our diverse region is our home and home to many of our closest friends and neighbours.

We have important relationships with New Zealand and the Pacific Island countries. We have significant relationships with the countries of South-East Asia. We are closely linked to the economic powerhouses of North-East Asia. Our relationships with our traditional post World War Two trading partners, Japan and Korea, and our relationship with the rapidly developing powerhouse, China, are crucial to our future economic and social prosperity and our national security.

We will build on the strength of these relationships – both bilaterally and through our regional and multilateral diplomacy – in the period ahead.

These three pillars are the framework through which we can achieve our foreign policy goals and enhance Australia's national interest.

United Nations – Reforms – Administration of Justice

On 8 October 2007, the Parliamentary Adviser to the Australian Delegation to the United Nations, Senator Rod Kemp, delivered a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ). Extracts from the statement follow:

The staff members of the United Nations are entitled to a fair and efficient system of internal justice that is consistent with the relevant rules of international law and the principles of the rule of law and due process. In this respect, the United Nations should lead by example. CANZ therefore attaches great importance to the reform of the Administration of Justice system and to the implementation of a system in which staff, management and Member States can have confidence. That is why we were very pleased that the General Assembly, drawing on the recommendations of the Redesign Panel, decided in resolution 61/261 of 4 April 2007 to establish a new, independent, transparent and professionalised system for the administration of justice.

...

As this Committee recognised when we last considered this item, the proposals put forward by the Redesign Panel and the Secretary-General conform to internationally recognised standards of justice and the rule of law, although we noted there may be other approaches that would also conform to those standards. As the proposed implementation deadline of January 2009 is fast approaching, it is incumbent on this Committee to again review the various legal aspects of the proposals, and to provide guidance to our colleagues in the Fifth Committee for when they turn their minds to addressing an adequate funding and staffing base for the new justice system. CANZ believes that we should consider the legal issues in the draft statutes and assist our Fifth Committee colleagues to ensure that the new system is both legally sound and meets the required standards of justice and due process.

...

CANZ intends to continue to work constructively with all partners towards the establishment of a functional system of United Nations internal justice in time for the proposed implementation deadline of January 2009.

United Nations – Reforms – Financial Situation

On 15 November 2007, Parliamentary Advisor to the Australian delegation to the United Nations, Senator Rod Kemp, delivered the following statement on behalf of Canada, Australia and New Zealand (CANZ), to the Fifth Committee of the Sixty-Second Session of the United Nations General Assembly concerning the financial situation of the United Nations. Extracts from the statement follow:

The UN Charter is very clear on the matter of finances for the Organisation. It is the responsibility of each Member State to bear its portion of the expenses of the Organisation. The Member States are the UN's revenue stream – if the stream becomes a trickle, it is because we, the Member States, have turned off the tap.

...

CANZ call on the membership to break the cycle of under and non-payment. We must meet our obligations and provide resources to enable the UN to discharge the mandates that we bestow.

CANZ understand that governments may find it difficult to fulfil each and every financial obligation that they have, both domestically and internationally; our own governments are no different.

CANZ believe member states can do more, both individually and collectively. We should pay in full and on time. The Fifth Committee must pursue budget discipline and efficiency. Other inter-governmental processes, such as the Committee for Programme and Coordination and discussions on mandate review, can eliminate duplicative and unnecessary activities. We must encourage a system whereby the Secretariat is rewarded, not penalised, for finding savings.

United Nations – Reforms – Financing UN Peacekeeping Operations

On 5 June 2007, First Secretary of the Permanent Mission of Australia to the United Nations, Ms Edwina Stevens, delivered a statement to the Fifth Committee of the Sixty-Second Session of the United Nations General Assembly on behalf of Canada, Australia and New Zealand (CANZ) concerning the financing of UN peacekeeping operations. Extracts from the statement follow:

On 15 March, the General Assembly adopted a resolution supporting the Secretary-General's objective to strengthen UN capacity to manage, sustain and increase the effectiveness of peacekeeping activities, by inter alia, establishing a Department of Field Support, and requested a comprehensive report on the matter. CANZ supported that resolution. We have the Secretary-General's response before us today, along with the related ACABQ report. The Secretary-General's proposal encompasses three elements: restructure; reform; and, strengthening the Secretariat's capacity to manage the current, sustained surge in peacekeeping.

...

First of all, CANZ believe that member states have a responsibility to follow through on the General Assembly resolution, and constructively respond to the Secretary-General's restructuring proposals. We recognise these proposals are substantial and costly, but equally that there is an imperative to support the Secretary-General's

initiatives and enable implementation of reforms designed to strengthen UN operations.

Secondly, the reports call for resources to provide systemic improvements to reform, reinforce and improve peacekeeping management, many of which are not new. It has been seven years since we considered the Brahimi report which assessed the shortcomings of the existing system and made frank, specific and realistic recommendations for change. Outstanding recommendations from the report have since been incorporated into the Peace Operations 2010 reform agenda, which in turn has provided the basis for the proposals before us today. The Integrated Operational Teams are just one example of reform which is desirable and overdue.

And thirdly, the reports before us also document well that the United Nations' work in peacekeeping has grown at an unprecedented pace and shows no sign of abatement. It is also true that the Secretariat Headquarters has not seen commensurate growth in its resources to effectively and capably support these operations. The member states have a responsibility to equip the Secretariat with the resources it needs to fulfil the mandates which we have bestowed upon it. In other words, we must respond to the surge.

...

If we are to resource the Department of Field Support, as proposed by the Secretary-General, we must resource it in a manner which will allow it to truly operate in step with its design. We will respond accordingly to meet the surge. Management needs reinforcement. The military and police capacity of the Secretariat requires strengthening. Integrated teams should provide coherent, integrated and timely support for missions and we will support the concept. The case for an Office of the Rule of Law is strong and has our support. We also believe the relationship with the Department of Political Affairs could be improved.

The proposal is not just about resources, it is also about improving the system and making it work better. We expect best practice. We expect the Secretary-General to improve the working methods of the organization - additional resources cannot strengthen systemic weakness. Existing resources must be used effectively, as must existing capacities. We will seek reassurance on points such as unity of command, ICT and possible duplication of functions. We will also welcome further clarification of the benefits expected to flow from the creation of a parallel procurement function.

X. Law of Armed Conflict and Security Matters

Armed Conflict – Afghanistan

On 10 April 2007, the Prime Minister, Mr John Howard, made a speech to announce an increase in Australian Defence Force personnel deployed to Afghanistan under the NATO International Security Assistance Force. Extracts from the speech follow:

As Australians will know, the Government has in recent weeks been considering providing more troops for Afghanistan. After careful examination and proper consultation, the Government has decided to boost significantly Australia's military contribution to the reconstruction and rehabilitation of Afghanistan.

We have a clear national interest in helping to prevent Afghanistan again becoming a safehaven for terrorists.

This decision is also based on the Government's steadfast commitment to helping Afghanistan's democratically elected government create a secure and stable environment in that country, and on Defence's advice that the increasing threat posed by the insurgency requires the deployment of additional force protection and support elements.

...

Afghanistan faces a crucial phase as international and Afghan national security forces work to consolidate the gains made since the overthrow of the Taliban regime. This new contribution underlines Australia's continuing commitment to supporting the Afghan Government as it strives to deliver a stable future for its people.

Armed Conflict – Commitment to International Humanitarian Law – Israel

On 12 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning Israeli soldiers captured by Hezbollah in July 2006. Extracts from Mr Downer's response follow:

All parties to a conflict have responsibilities to abide by their obligations under international humanitarian law.

...

Australia utterly condemns taking hostages for political purposes and calls for the immediate and unconditional release of the IDF soldiers, including Cpl Gilad Shalit, taken hostage near the Israel-Gaza border on 25 June, and also the two IDF soldiers taken hostage on 12 July by Hezbollah. The abduction of IDF soldiers will do nothing to advance the cause of the Palestinian people. We are deeply concerned at the complicity of Hamas' armed wing in the initial attack and at the subsequent action by Hezbollah on the Israel Lebanon Border.

All states have a responsibility to abide by their obligations under international humanitarian law in response to any conflict. Specific provisions of the Geneva Conventions and their Additional Protocols set out the relationship between states and international organisations including the United Nations.

Armed Conflict – Protection of Civilians

On 20 November 2007, the Ambassador and Permanent Representative of Australia to the United Nations, Mr Robert Hill, delivered a statement to the United Nations Security Council concerning the principle of the protection of civilians. Extracts from the statement follow:

The protection of civilians must remain an essential objective for the Security Council in the context of contemporary armed conflicts. The death and displacement of innocent men, women and children is an appalling aspect of all conflicts. However, the deliberate targeting of civilians is a particularly heinous aspect of so many contemporary conflicts, including in Afghanistan, the Democratic Republic of the Congo, Iraq, Somalia and Sudan. Girls and boys recruited as child soldiers; civilians as unwitting targets of suicide bombers; families displaced from their homes; sexual violence as a deliberate weapon of war; are all an offence to humanity.

The international community must condemn these atrocities, and recommit to defeating them, in all circumstances. Australia is committed to taking every effort to ensure that civilian life is protected and that international humanitarian law and human rights law are upheld.

...

Beyond our efforts to avoid these atrocities, the international community must demand that parties to conflict allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need. In this regard, we welcome the strong mandates provided by the Council to both the African Union/ United Nations Hybrid operation in Darfur (UNAMID) and the United Nations Mission in the Central African Republic and Chad (MINURCAT) to ensure the freedom of movement of humanitarian personnel and to protect civilian populations.

...

Now we must develop a practical approach to implement the responsibility to protect. To this end, Australia will become a founding donor of the new Global Centre for the Responsibility to Protect. The Centre will build a worldwide research network; develop strategy; and help coordinate advocacy, to identify, prevent or respond to circumstances where populations are threatened. We also welcome the Secretary-General's intention to appoint Professor Edward Luck as his Special Advisor for the Responsibility to Protect.

Conventional Weapons – Cluster Munitions

On 11 September 2007, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for Defence, Dr Brendan Nelson, issued a joint media release announcing Australian Government cluster munitions initiatives. Extracts from the release follow:

The Australian Government will provide increased assistance of \$1 million to the United Nations Mine Action Service (UNMAS) to clear cluster munitions and other unexploded ordnance in southern Lebanon.

Australia's support will help reduce the hazards to civilians and allow safe access to critical infrastructure and agricultural land. This funding, in response to a UN request for additional assistance, will bring Australia's total funding for such clearance work in southern Lebanon to \$2.5 million since July 2006.

...

As well as its strong record of practical assistance, the Australian Government is taking a leading role on cluster munitions in both the Certain Conventional Weapons Convention (CCW) forum, and the "Oslo process" negotiations.

In both the CCW and Oslo processes, Australia will continue to advocate a ban on those cluster munitions that cause unacceptable harm to civilians. Australia will contribute to a negotiating text to facilitate reaching an agreement that has broad-based support.

Australia's approach to the negotiations will continue to preserve the ADF's fundamental requirements for force protection and interoperability.

On 20 November 2007, the Ambassador and Permanent Representative of Australia to the United Nations, Mr Robert Hill, delivered a statement to the United

Nations Security Council concerning cluster munitions. An extract from the statement follows:

Explosive remnants of war, including unexploded cluster munitions, pose a serious humanitarian danger to civilians who must live amongst them long after the end of the armed conflict. Australia welcomes the entry into force of Protocol V to the Certain Conventional Weapons Convention, on explosive remnants of war. Australia joined this instrument earlier this year, and we urge all States to join and implement this important instrument as soon as possible.

Australia also recognises the pressing need to negotiate an international ban on those cluster munitions that cause unacceptable harm to civilians. In this regard, we are active and constructive participants in the Oslo process and the Certain Conventional Weapons Convention. We believe that these processes can be complementary with the same aim of negotiating a strong, viable instrument which include the major producers and users of cluster munitions, and which will make a real difference in protecting civilians in post-conflict situations.

Conventional Weapons – Man-Portable Air-Defence Systems

On 18 January 2007, the Minister for Foreign Affairs, Mr Alexander Downer, made a speech to a seminar on Man-Portable Air-Defence Systems (MANPADS) in New York. Extracts from the speech follow:

No country that cares about the safety of its citizens travelling abroad or the security of its aviation industry can remain a bystander when it comes to the spread of MANPADS.

...

Just over a year ago, in December 2005, I launched an international diplomatic initiative to help prevent the proliferation of these weapons to non-state groups, including to terrorists.

A primary focus of Australia's MANPADS initiative has been on counter-proliferation.

But this is not the only approach and we're not the only country working to address the problem.

That's why we consider it essential to sustain a coordinated, international effort to address the MANPADS threat.

One plan includes using technical counter-measures fitted to individual aircraft. I know this approach raises significant technical, legal and financial issues for the aviation industry.

There is no single solution to fix the problem. That's why we believe a range of measures pursued together offers the only realistic approach.

These measures include:

Limiting the transfer of MANPADS production capabilities;

Strengthening security around airports to make it harder for these weapons to be used when aircraft are most vulnerable;

Implementing programs to destroy surplus weapons and tightening the physical security of government MANPADS stockpiles;

Strengthening international controls on the transfer and export of these weapons and associated training and technologies.

On this last point, we support wider adoption of the Wassenaar Arrangements' *MANPADS export control standards* as the international benchmark.

...

Other international efforts to curb the illicit spread of MANPADS have also been taken forward in the UN, the G8; the Organisation for Security and Cooperation in Europe; the Organisation of American States and in the International Civil Aviation Authority.

Australia's initiative has already gained widespread support.

In June 2006, Australia hosted an international seminar for Geneva-based UN delegations to highlight practical international action to counter the global MANPADS threat.

Late last year we hosted with Thailand an ASEAN Regional Forum workshop on small arms and light weapons, including MANPADS. Regional experts shared information on the best methods for securing stockpiles.

As Plenary Chair of the Wassenaar Arrangement in 2006, Australia's Ambassador in Vienna led successful outreach mission to several countries. These missions were well received and productive.

We organised today's seminar as part of our international initiative.

And I'm confident that the solid work of the Wassenaar Arrangement will continue as Belgium takes the Chair in 2007.

We look forward to continuing to work closely with our friends and allies to raise awareness of the threat to international civil aviation and of the need to maintain a co-ordinated international response.

This year, as the APEC Chair, Australia will focus on the Asia-Pacific region.

Defence Cooperation – India

On 12 July 2007, the Minister for Defence, Dr Brendan Nelson, issued a media release announcing the signing of an Australia-India Defence Information Sharing Arrangement. An extract from the release follows:

The Information Sharing Arrangement will facilitate the sharing of classified information between the two countries' defence organisations, giving effect to the intent of the Memorandum of Understanding on Defence Cooperation, signed during the Prime Minister's visit to India in March 2006 – especially in the agreed priority areas of maritime security, counter-terrorism and peacekeeping.

In particular, the Arrangement will help facilitate increased practical cooperation between Australia and India by allowing the sharing of maritime security data. It will also assist information sharing on dealing with fragile states, and enable Australia to benefit from India's considerable experience in counter-insurgency and counter-terrorism operations.

This Arrangement reflects our shared interest in helping address challenges to security and stability in the Asia Pacific region, where transnational problems, such as piracy, people smuggling and natural disasters, require a coordinated approach.

The Arrangement will support more comprehensive exercises and associated planning, enabling our forces to work together more closely in activities ranging from peacekeeping cooperation to operations potentially requiring higher-end combat skills.

Defence Cooperation – the Philippines

On 7 August 2007, the Agreement between the Government of Australia and the Government of the Republic of the Philippines concerning the Status of Visiting Forces of Each State in the Territory of the Other State, done at Canberra on 31 May 2007, was tabled in both Houses of Parliament. Extracts from the accompanying National Interest Analysis follow:

Defence engagement with the Philippines is currently covered under the Memorandum of Understanding (MOU) between the Philippines and Australia on Cooperative Defence Activities, which came into effect on 22 August 1995. The MOU does not make any provision for the status of defence force members in a host country. It is not a legally binding document in international law and establishes a morally and politically binding framework for defence cooperation between the Philippines and Australia.

The Agreement would be binding in international law and will help to strengthen our already strong Defence relationship. Such an agreement is an internationally recognised means of handling the issues arising out of the presence of one country's visiting forces in the territory of another country. The Agreement will provide a more comprehensive legal framework to support Australian Defence Force (ADF) and Philippines personnel engaged in defence cooperation activities in our respective countries.

...

This Agreement defines the legal status of forces and their property in the territory of another nation. It is not a basing or access agreement. The purpose of the Agreement is to set the legal framework, rights, responsibilities and procedures between the visiting forces and the host government on matters including: what occurs in the event that a criminal act is committed by a member of the visiting force, the circumstances in which a uniform is worn, taxation and customs relief, environmental protection requirements, immigration procedures and liability issues. Of note, this agreement includes a provision on mortuary affairs. The Agreement is a reciprocal document and as such affords the same rights to Armed Forces of the Philippines personnel in Australia and ADF personnel in the Philippines. It will not provide authorisation for either country to deploy troops or conduct operations in the other's territory, but will establish the status of such forces when Australia and the Philippines mutually arrange to send and receive forces to the other country.

Defence Cooperation – Turkey

On 9 May 2007, the Framework Agreement between the Government of Australia and the Government of the Republic of Turkey on Cooperation in Military Fields, done at Canberra on 13 June 2006, was tabled in both Houses of Parliament. An extract from the accompanying National Interest Analysis follows:

Australia has a modest, cordial defence relationship with Turkey which includes ANZAC Day commemorations, senior-level visits and training courses. Over the past decade, there has been increasing merit in enhancing defence engagement with Turkey for a number of reasons including: Australia's greater involvement in the Middle East, an area in which Turkey has influence; the growing number of Australians attending ANZAC Day commemorations in Turkey, which are supported by the Turkish Armed Forces; and the developing potential for defence materiel cooperation.

The purpose of the Agreement is to enhance bilateral defence engagement by facilitating cooperation in a range of mutually agreed fields including, but not limited to, training and education, conduct of military exercises and exchange of observers for exercises, cultural and historical activities, defence materiel and equipment, and high-level visits. The Agreement also addresses issues concerning the security of classified information and the presence of the visiting force of one Party in the territory of the other Party.

The Agreement would benefit Australia by enhancing the quality of, and potential for, defence cooperation in areas of interest such as ANZAC Day commemorations and defence materiel. The Agreement would also benefit Australia by strengthening the overall bilateral defence relationship with Turkey.

Defence Cooperation – United States

On 5 September 2007, the Prime Minister, Mr John Howard, issued a media release announcing the signing of the Treaty between the Government of Australia and the Government of the United States Concerning Defense Trade Cooperation, done at Canberra on 5 September 2007. An extract from the release follows:

The treaty will permit the licence-free export of defence goods and services meeting security and regulatory requirements between the Australian and US Governments, and between Australian and US companies.

It will significantly cut red tape and simplify processes for sharing equipment, information and technology between Australian and US defence companies.

The treaty will deliver significant new opportunities for Australia's defence industry to work cooperatively on sensitive defence technology projects and to compete jointly for major defence-related global supply chain contracts. It will boost Australian defence exports, supporting jobs and providing greater long-term stability for the Australian defence industry.

It will speed up delivery of the next generation of defence technology through improved military industrial collaboration, further enhance interoperability between Australian and US forces, and ensure the Australian Defence Force continues to enjoy access to cutting-edge capabilities into the future.

This is a significant moment in trade and industrial cooperation between our two nations. It will complement the ANZUS Treaty, our close intelligence cooperation and the Free Trade Agreement, and is made possible by the unprecedented closeness of our alliance.

Import Controls – 'Conflict Diamonds' Trade – Kimberley Process

On 26 November 2007, the Parliamentary Adviser to the Australian Delegation to the United Nations, Senator Rod Kemp, made a statement to the Sixth Committee of the Sixty-Second Session of the United Nations General Assembly concerning the Kimberley Process. An extract from the statement follows:

Australia is a strong supporter of the Kimberley Process. After just four years of operation, the Kimberley Process has increased transparency and facilitated effective government regulation of the trade in rough diamonds. As such, it has had a remarkable success in breaking the link between this trade and armed conflict, and is evidence of what can be achieved through the collective efforts of governments, the United Nations, the private sector and civil society.

Australia supported the statement made on 26 November 2007 by the representative of the Canadian Permanent Mission to the United Nations, Ms Heidi Hulan, at the Sixty-Second Session of the United Nations General Assembly concerning the Kimberley process. An extract from the statement follows:

One of the unique features of the Kimberley Process, and indeed one of the key contributors to its success, has been the innovation and flexibility that it has shown through the constant self-examination and improvement during its first four years of operation. This spirit must be maintained if the Process is to continue to identify and close the remaining gaps in its system of control over rough diamonds.

In particular, the Process should continue to be steadfast in taking timely and effective action to address emerging crises. One of the Kimberley Process' most important innovations has been the development of a comprehensive and credible system of peer review to monitor the implementation of KP standards and practices in participant countries. In this spirit, we encourage the KP and its members to examine the possibility of further developing the Process' internal capacity to expose and address new cases of trading in conflict diamonds that may emerge in the future.

The Kimberley Process is making a major contribution to breaking the link between rough diamonds and armed conflict, and stands as a testament to what can be achieved through the honest partnership of governments, the United Nations, the private sector and civil society. By addressing the intersection between the exploitation of natural resources and the persistence, and in some cases intensification, of armed conflicts, the international community may be better placed to find solutions to some kinds of conflicts.

Nuclear Non-Proliferation – Comprehensive Nuclear Test Ban Treaty

On 29 March 2007, the Minister representing the Minister for Foreign Affairs, Senator Helen Coonan, answered a question on notice concerning Australia's non-proliferation intentions. An extract from Senator Coonan's response follows:

The Government has well-developed policies to promote nuclear disarmament. Nuclear disarmament measures the Government will promote at the NPT Preparatory Committee (PrepCom) in 2007 include encouraging the nuclear weapon states to make deeper cuts in all types of nuclear weapons, calling for the nuclear weapon states to further reduce the operational status of nuclear weapon systems and reaffirming the necessity of a diminishing role for nuclear weapons in security policies. Australia will maintain its strong support for the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and for the negotiation of a Fissile Material Cut-off Treaty (FMCT) to ban the production of fissile material for nuclear weapons use.

The way to secure a lasting and legally-binding ban on nuclear tests by any nation is through universalisation of the CTBT. Australia is at the forefront of international efforts to attain this objective including through our role as current coordinator of international efforts to promote CTBT entry into force.

On 22 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, delivered the inaugural Monash Asia Public Lecture in Melbourne in which he referred to Australia's role in international efforts to prevent the further spread of nuclear weapons. Extracts from the lecture follow:

Australia has been at the forefront of international efforts to prevent the further spread of nuclear weapons.

...

We were the driving force behind getting the Comprehensive Nuclear Test Ban Treaty adopted by the United Nations, and have recently completed a two-year term coordinating international efforts to promote entry into force of the treaty.

On 18 September 2007, Australia's Ambassador and Permanent Representative to the Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organisation, Mr Peter Shannon, delivered a statement to the Conference on facilitating the entry into force of the Comprehensive Nuclear Test Ban Treaty. An extract from the statement follows:

Australia has a long and proud association with the treaty which, from its conception, we have regarded as a vital pillar of the nuclear disarmament and non-proliferation regime. It was the action of Australia's Foreign Minister, Mr Downer, in taking the treaty directly to the floor of the UN General Assembly, after negotiations in Geneva had faltered, which enabled the treaty's overwhelming adoption in 1996. Australia was among the first states to sign and ratify the treaty and from 2005 to 2007 was the Article XIV coordinator.

Our strong and consistent support for the treaty is firmly grounded in the belief that it represents a highly effective means to constrain the quantitative and qualitative development of nuclear weapons. In light of the nuclear test conducted by the DPRK on 9 October 2006, this objective has gained renewed urgency. We were reminded then of the terrible destructive capacity of nuclear weapons.

We were pleased that during our time as coordinator, there was further progress towards the treaty's universalisation and the development of a ban on nuclear testing as a principle of international normative behaviour.

But ten years after the treaty was first opened for signature and ratification, ten of the 44 Annex II states whose ratification is required for its entry into force have still yet to ratify.

A number of excuses have been put forward as to why this situation persists. In Australia's view, the time for excuses is past. Doubts as to the treaty's verification capacity have little credibility in light of the International Monitoring System's successful detection of the DPRK nuclear test. And domestic impediments should not be allowed to hinder an instrument of such importance to the international community.

Those states yet to sign and ratify the treaty must do so if we are to succeed in strengthening and enhancing the non-proliferation regime. Australia, therefore, renews its call upon those states yet to ratify the treaty to join the growing consensus to enshrine the voluntary ban on nuclear weapon testing, as a permanent and legally binding commitment.

Although the treaty has yet to enter into force, Australia is encouraged by the continued build up of the verification regime and, in particular, the International Monitoring System. With 248 station installations completed, and nine radionuclide laboratories certified, substantial progress has been made to implement the sophisticated verification regime that lies at the heart of the treaty. With the Integrated Field Exercise to be conducted in 2008, the on-site inspection capability

will also be greatly enhanced, thereby increasing the likelihood that a nuclear test will be detected.

It is essential that the build up of the verification regime continues so as to be fully effective when the treaty enters into force. As we all know, this is the mandate of the CTBTO Preparatory Commission as set out in the treaty. Speculation as to when the treaty will enter into force should not hinder the continued efforts to see that mandate fulfilled at the earliest possible date. And while we welcome the effective detection by the IMS of the nuclear test in the DPRK, we caution against letting this success make us complacent about the build up of the IMS and the development of a verification regime capable of meeting all the verification requirements of the treaty. Australia, therefore, calls upon all states to maintain strong practical, financial, and political support for the important work of the Preparatory Commission. For its part, Australia is pleased to be hosting 21 monitoring facilities - the third largest number of any state.

Nuclear Non-Proliferation – Korean Peninsula

On 14 February 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning progress in the Six-Party Talks. Extracts from the release follow:

I welcome the statement released following the most recent session of the six-party talks in Beijing on 13 February, which commits North Korea to move quickly to begin resolving international concerns over its nuclear program.

Under the initial phase of the actions detailed in the statement, within 60 days, North Korea will shut down and seal its nuclear reactor at Yongbyon and allow entry of IAEA inspectors. Five working groups - on denuclearisation; normalisation of DPRK-US relations; normalisation of DPRK-Japan relations; economic and energy cooperation; and a Northeast Asia peace and security mechanism - will meet within the next 30 days. The next phase of activity will see provision by North Korea of a complete declaration of all nuclear programs and disablement of all existing nuclear facilities. North Korea will receive economic, energy and humanitarian assistance up to the equivalent of 1 million tonnes of heavy fuel oil. The initial shipment of emergency energy assistance equivalent to 50,000 tonnes will commence within the next 60 days.

...

Under the Joint Statement of Principles agreed among the six parties in September 2005, North Korea committed to abandoning all its nuclear weapons and nuclear programs and return to the Treaty on the Non-Proliferation of Nuclear Weapons and to IAEA safeguards. North Korea must now seize the opportunity provided by the progress made in the six-party talks and move rapidly to implement those commitments. The unanimous adoption of United Nations Security Council Resolution 1718 demonstrates the determination of the international community that the North Korean nuclear issue be resolved, and resolved quickly.

I have stated on previous occasions Australia's willingness to support substantive progress in the six-party talks process, including through provision of energy assistance, bilateral development assistance and safeguards expertise. We are now considering possible options to provide support, in concert with like-minded friends, such as the United States and Japan.

On 4 October 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the announcement of a Six-Party Talks Agreement. An extract from the release follows:

I welcome the announcement on 3 October of the agreement reached at the 27-30 September Six-Party Talks in Beijing on “Second-Phase Actions for the Implementation of the Joint Statement”.

In particular, I welcome North Korea’s commitment in that agreement to declare all its nuclear programs, and to disable its Yongbyon nuclear reactor, reprocessing plant and fuel fabrication facility by the end of 2007. Australia has been encouraged by the progress we have seen in recent months, in particular the shutdown and sealing of the Yongbyon facilities under IAEA supervision and the constructive discussions that have taken place in the Working Groups during August and September. This latest agreement will maintain this positive momentum.

As I told North Korean Vice Foreign Minister Choe Su-hon when I met him in New York last week, Australia is ready to support substantial progress in the Six-Party Talks, including through the provision of bilateral development assistance. The implementation of this agreement will provide a basis for moving ahead with such support, and for developing other aspects of the bilateral relationship. The Government looks forward to discussing relevant matters with North Korea as progress towards denuclearisation continues.

Nuclear Non-Proliferation – Nuclear Non-Proliferation Treaty

On 30 April 2007, the Ambassador for Disarmament and Permanent Representative of Australia to the United Nations, Ms Caroline Millar, delivered a statement to the First Preparatory Committee Meeting for the 2010 Nuclear Non-Proliferation Treaty Review Conference. Extracts from the statement follow:

For almost four decades the NPT has rightfully been at the centre of regional and global security architecture. No multilateral treaty has done as much to strengthen our collective and national security. But in a climate of renewed concern about horizontal proliferation, and with work still to be done on nuclear disarmament and peaceful nuclear energy issues, the lack of agreed outcomes at the 2005 Review Conference did the Treaty a great disservice. We urge all NPT parties to grasp the opportunities offered by a new review cycle.

...

NPT parties should reject any notion that the NPT is the type of bargain where the interests of some parties are pitted against the countervailing interests of other parties. Australia shares the view of Kofi Annan, the former UN Secretary General, who stated in his report *In Larger Freedom*: ‘Progress in both disarmament and non-proliferation is essential and neither should be held hostage to the other’.

...

We welcome the continued growth in numbers of Additional Protocols to IAEA safeguards agreements. There should be no doubt that a comprehensive safeguards agreement and an Additional Protocol is the verification standard for non-nuclear-weapon states that would best guarantee the NPT’s long-term effectiveness. Australia has made the Additional Protocol a condition for the supply of Australian uranium to non-nuclear-weapon states. We urge all other uranium suppliers to do likewise.

A credible nuclear-weapon state commitment to nuclear disarmament is essential for maintaining the NPT's political strength and vitality. There has been progress on nuclear arms reductions - those who claim otherwise deny reality - but much remains to be done towards the goal of the ultimate elimination of nuclear weapons.

We look to the nuclear-weapon states to identify areas for progress, such as further reductions in all types of nuclear weapons and in the operational status of nuclear weapon systems. A diminishing role for nuclear weapons in security policies is important in order to reduce the salience of nuclear weapons. Security assurances against the threat or use of nuclear weapons have been of key interest to non-nuclear-weapon states for many years. Australia places great importance on nuclear weapon free zones as an effective means by which negative security assurances can be provided to non-nuclear-weapon states parties to the NPT.

The debate on NPT disarmament issues will be most productive if it is well informed. We encourage all nuclear-weapon states to be as transparent and open as possible about their nuclear weapons policies and disarmament actions. We appreciate the useful reports on nuclear disarmament issues the nuclear-weapon states have provided for this and other fora.

Australia expects the nuclear-weapon states to pursue NPT nuclear disarmament commitments vigorously and with determination. But we accept that achieving a nuclear-weapon-free world will take many steps. In this regard, non-nuclear-weapon state actions are fundamental to the environment of confidence and stability that will foster progress on nuclear disarmament. Such actions include ensuring an effective nuclear non-proliferation regime and strong support for reinforcing mechanisms such as the Comprehensive Nuclear-Test-Ban Treaty and a Fissile Material Cut-off Treaty (FMCT).

A viable means to make practical progress on a number of key issues, especially the FMCT, is offered by the draft program of work proposed by the six presidents of the 2007 session of the Conference on Disarmament on 23 March 2007. We urge all CD members to support the six presidents' proposal.

The NPT's undiminished relevance is further underscored by the renewed global interest in nuclear energy for electricity generation. The Treaty both facilitates access to the peaceful uses of nuclear energy and provides the non-proliferation assurances essential to peaceful nuclear trade and cooperation. The record on peaceful nuclear cooperation is a good one, characterised by large-scale and effective assistance through the IAEA's Technical Co-operation Programme as well as the IAEA Regional Cooperative Agreements. The IAEA's work has enabled many countries to access the benefits of nuclear technology in a wide range of areas from food and agriculture and human health to industry and resource management.

Australia has demonstrated its commitment to cooperation in the peaceful uses of nuclear energy by active participation over the NPT's history in multilateral, regional and bilateral peaceful nuclear cooperation activities. As the holder of around 40 percent of the world's low-cost uranium reserves and the world's second largest uranium exporter, Australia is a major contributor to nuclear energy worldwide. We participate in a vibrant exchange of information and experts, particularly in the Asia-Pacific region. Australian nuclear science and technology entered a new era on 20 April with the opening of OPAL, Australia's world-class research reactor supplied by the Argentine company INVAP.

As we begin another review process we need to be ready to engage constructively on the concerns of all NPT parties. At the same time we need to be realistic, working together to identify areas of convergence where practical action can be taken to strengthen operation of the Treaty across all three pillars - non-proliferation, disarmament and peaceful uses. We will need to focus not on the differences within the NPT's membership, but on what unites us.

Nuclear Non-Proliferation – Nuclear Safeguards – China

On 5 January 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the ratification of the Australia-China Nuclear Transfer Agreement and the Nuclear Cooperation Agreement. Extracts from the release follow:

I am pleased to announce that yesterday (4 January) Australia and China ratified the Australia-China Nuclear Transfer Agreement, and the Nuclear Cooperation Agreement. The Agreement will enter into force 30 days after ratification.

...

Accordingly, the legal framework for Australian uranium producers to commence exports to China is expected to be in place early in 2007. The timing and quantities of exports will be a matter for commercial negotiation.

Nuclear Non-Proliferation – Nuclear Safeguards – India

On 10 May 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the potential export of uranium to India. An extract from Mr Downer's response follows:

Current Nuclear Supplier Group (NSG) guidelines preclude most forms of nuclear supply to India. The United States has foreshadowed that it will formally ask the NSG to agree to make an exception to its guidelines for India, so as to allow nuclear supply to India. For an exception to the NSG guidelines to be made for India, NSG members would need to be assured that any uranium supplied to India would be subject to safeguards so that it could not be used in India's military nuclear program but exclusively for India's civil nuclear power program. With regard to threats to the NPT, it is the Government's view that the greatest challenges to the NPT come from within: the unresolved cases of non-compliance by North Korea and Iran. India, on the other hand, is a responsible international state with a good record on preventing onwards proliferation of its nuclear materials and technology.

On 31 July 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release on a US-India civil nuclear initiative. An extract from the release follows:

India's commitment to separate its civil and military nuclear facilities enabling expansion of International Atomic Energy Agency (IAEA) safeguards will help to bring India more fully into the non-proliferation mainstream. Australia shares the goal of engaging with India as a constructive and responsible partner in preventing proliferation of weapons of mass destruction.

The US-India initiative also includes commitments by India to continue its nuclear testing moratorium, work on conclusion of a Fissile Material Cut-off Treaty, and adhere to Missile Technology Control Regime and Nuclear Suppliers Group (NSG) standards. It is in the international community's interests to ensure all states abide by

international non-proliferation standards, particularly those with advanced nuclear technology such as India.

The steps which need to take place before the initiative can take effect - including negotiation of new safeguard arrangements between India and the IAEA, and agreement by the 45 member states of the NSG to enable civil nuclear supply to India - will ensure the initiative has broad international support.

On 16 August 2007, the Prime Minister, Mr John Howard, issued a media release concerning the export of uranium to India. An extract from the release follows:

I wish to announce that the Australian Government has decided to allow the export of uranium to India, subject to strict conditions. I have today informed Prime Minister Singh of this decision, which he welcomed.

This change in policy is subject to:

conclusion of a suitable safeguards agreement between India and the International Atomic Energy Agency (IAEA) covering all designated civil nuclear facilities;

conclusion by India of an Additional Protocol on strengthened safeguards;

a consensus decision by the Nuclear Suppliers Group to make an exception to its guidelines enabling international civil supply to India;

conclusion of a bilateral civil nuclear co-operation agreement between India and the United States; and

satisfactory progress in implementing India's commitment to place designated civil nuclear facilities under IAEA safeguards in perpetuity.

Australian uranium supply to India would also be conditional on the conclusion of a bilateral Australia-India safeguards agreement providing assurances that Australian uranium would remain in peaceful uses at all times, supported by satisfactory verification arrangements to ensure that no Australian nuclear materials supplied to India would contribute to any military purpose.

On 18 September 2007, the Minister representing the Minister for Foreign Affairs, Senator Helen Coonan, answered a question on notice concerning a potential Australia-India uranium export deal. Extracts from Ms Coonan's response follow:

The supply of uranium to India would not contravene Australia's international legal obligations under the Nuclear Non-Proliferation Treaty (NPT) provided the uranium is covered by IAEA safeguards. As the Prime Minister announced on 16 August 2007, conclusion of a bilateral safeguards agreement with India is conditional on a number of other steps, including India concluding a suitable safeguards agreement with the International Atomic Energy Agency (IAEA) covering all designated civil nuclear facilities.

...

Australia's decision to allow the export of uranium to India, subject to conditions being met, does not violate United Nations Security Council Resolution 1172. The application of IAEA safeguards to India's peaceful nuclear facilities and a bilateral safeguards agreement between Australia and India would ensure that Australian nuclear material supplied to India would be used for exclusively peaceful purposes.

Nuclear Non-Proliferation – Nuclear Safeguards – Russia

On 27 April 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning negotiations to expand the Australia-Russia nuclear safeguards agreement. An extract from the release follows:

I am pleased to announce that Australia and the Russian Federation have commenced consultations on expanding the 1990 Australia-Russia agreement concerning the peaceful uses of nuclear energy, to bring the scope of the agreement into line with Australia's other bilateral safeguards agreements.

The proposed new agreement would allow Australian uranium producers to supply Russia's nuclear power industry, and would retain and build on the strict safeguards conditions contained in the current agreement, and Australia's other safeguards agreements.

Australian and Russian officials met in Canberra to discuss the proposed new agreement on 23 to 26 April 2007. Discussions proceeded in a positive and constructive atmosphere, and substantial progress was made. A further meeting is planned for Moscow in late May.

Reflecting the interests of the parties in 1990, the existing agreement covers processing (conversion, enrichment or fuel fabrication) of Australian uranium in Russia on behalf of third countries, but does not provide for use of Australian uranium by Russia itself.

A key factor in the decision to negotiate a new agreement is Russia's action, announced last year, to clearly separate its military and civil nuclear programs, and to place civil facilities under its safeguards agreement with the IAEA.

Peacekeeping – Darfur

On 1 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning Darfur. An extract from the release follows:

Australia welcomes the adoption on 31 July of Resolution 1769 by the United Nations Security Council establishing a 'hybrid' United Nations/African Union peacekeeping operation in Darfur (UNAMID). The hybrid force will take over responsibility for peacekeeping in Darfur from the African Union Mission in Sudan (AMIS) by 31 December 2007.

Australia also welcomes the Security Council's authorisation under Chapter VII of the UN Charter for UNAMID to use force to protect civilians and humanitarian workers, and to support implementation of the Darfur Peace Agreement.

The adoption of SCR 1769 is an important step towards the establishment of a stronger peacekeeping presence in Darfur, and to stemming the wave of violence which has engulfed the region since 2003. Australia calls on the Government of Sudan, and other parties to the conflict in Darfur, to facilitate and assist the deployment of UNAMID. We also call on all parties to the conflict to fully implement the terms of SCR 1769, including to immediately cease hostilities and attacks on AMIS, civilians, humanitarian agencies and relief convoys.

Peacekeeping – East Timor

On 21 March 2007, an Adviser to the Permanent Mission of Australia to the United Nations, Mr Peter Stone, delivered a statement to the Fifth Committee of the Sixty-First Session of the United Nations General Assembly, concerning the financing of

the United Nations Integrated Mission in Timor-Leste (UNMIT). Extracts from the statement follow:

The passing of Security Council Resolution 1745 on 22 February, renewing UNMIT's mandate for 12 months, was an important step in assisting Timor-Leste toward a more stable and secure path. Presidential and parliamentary elections this year are indeed a priority, but UNMIT's mandate also includes other critical elements, such as assistance to Timor-Leste's governing institutions and support for a comprehensive review of the security sector. The presentation of the first results based budget for UNMIT represents an important development in the UN's ongoing and broad-ranging work in Timor-Leste.

...

Finally, we are concerned with the current level of outstanding unpaid assessments for UNMIT. As at the end of February, only 6% of assessed contributions had been received. This not only puts the Mission in a difficult cash position, but also delays payment to those Member States providing the police personnel that are so critical to the Mission's success. UNMIT cannot run on goodwill alone, and we encourage all Member States to meet their obligation to fund the Mission.

Security Cooperation – Japan

On 13 March 2007, the Prime Minister, Mr John Howard, and the Prime Minister of Japan, Mr Shinzo Abe, signed the Japan-Australia Joint Declaration on Security Cooperation. Extracts from the Declaration follow:

Japan and Australia will strengthen their cooperation and consultation on issues of common strategic interest in the Asia-Pacific region and beyond. This includes cooperation for a peaceful resolution of issues related to North Korea, including its nuclear development, ballistic missile activities, and humanitarian issues including the abduction issue. Japan and Australia also recognise the threat to peace and stability in the Asia-Pacific region and beyond posed by terrorism and will further strengthen cooperation to address this threat.

...

Japan and Australia will deepen and expand their bilateral cooperation in the areas of security and defence cooperation with a view to enhancing the effectiveness of their combined contribution to regional and international peace and security, as well as human security.

...

Japan and Australia will enhance joint Foreign and Defence Ministry dialogue, including through the establishment of a regular Ministerial dialogue.

On 9 September 2007, the Prime Minister, Mr John Howard, issued a media release announcing the endorsement of an Action Plan to implement the Japan-Australia Joint Declaration on Security Cooperation. An extract from the release follows:

The Action Plan identifies a range of cooperative activities to deepen the strategic partnership between Australia and Japan, which is based on shared values and interests and a commitment to regional security. We have agreed to enhance policy coordination on security issues in the Asia-Pacific and beyond and expand practical cooperation in areas including defence, law enforcement, counter-terrorism, counter

proliferation, peace operations and the exchange of strategic assessments and related information.

Weapons of Mass Destruction – Non-Proliferation

On 23 February 2007, the Ambassador and Permanent Representative of Australia to the United Nations, Mr Robert Hill, delivered a statement to the United Nations Security Council concerning resolutions 1540 and 1673. Extracts from the statement follow:

The unanimous adoption of resolution 1540 was an historic achievement. It was the first international instrument to place obligations on all States to take comprehensive action to prevent the proliferation of WMD, their means of delivery, and related materials in an integrated and comprehensive manner.

The resolution specifically focused on the risk to all States of non-State actors obtaining WMD. It makes strong national controls on WMD-related material and technologies, and the enforcement of such controls, a requirement for all States. These measures are no longer merely an option for States to consider.

Resolution 1540 required all member States of the UN to submit a report on the steps they have taken, or intend to take, to implement the resolution. Resolution 1673 called upon States that had not yet presented a report to the 1540 Committee to do so without delay. It is only through the submission of these reports that the international community can see where States have gaps in their domestic controls, or require assistance to better respond to the changing security environment. It is a matter of regret that some States have still not been able to submit their reports to the 1540 Committee.

Australia recognised that some States might require assistance in implementing the provisions of resolution 1540. This is recognised in the resolution itself. Australia has already provided such assistance bilaterally, and in conjunction with our regional neighbours, including through the Pacific Islands Forum.

...

In addition to domestic action by States, there are also a range of international regimes that address the issues covered by resolution 1540. Not all of these international regimes are suitable or appropriate for all States to join, but they demonstrate the ways in which resolution 1540 operates interactively with a range of other international non-proliferation and safeguards regimes.

For example, resolution 1540 requires States to adopt controls on brokering activities. For most States, this is a relatively new field, but it has become increasingly clear in the current security environment that controls on brokering activities involving conventional, military, and WMD-related goods have an important role to play in preventing proliferation. The Australia Group has commenced discussion on brokering activities, as have other non-proliferation and safeguards regimes.

The Republic of Korea has now taken the initiative to host an international seminar on brokering controls in Seoul at the end of March, to which members of non-proliferation and safeguards regimes will be invited, as well as other regional participants. Australia is proud to be co-chairing this important seminar with our Korean colleagues.

I must mention one other important, indeed essential, international tool which reinforces the goals of resolution 1540. Australia is a participant in the Proliferation Security Initiative (PSI) which aims to prevent trafficking in WMD, their delivery systems, and related material to and from States, and non-State actors, of proliferation concern. The PSI Statement of Principles makes clear that all PSI activities will be consistent with national legal authorities and international frameworks. Over 80 states have endorsed the PSI. I hope all States will seriously consider endorsing the PSI to give it global coverage.

On 22 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, delivered the inaugural Monash Asia Public Lecture in Melbourne concerning the International Atomic Energy Agency (IAEA) safeguards. An extract from the lecture follows:

We continue to be one of the leading advocates of International Atomic Energy Agency safeguards. We played a prominent role in negotiating the IAEA's Additional Protocol on strengthened safeguards, which significantly improves the Agency's capacity to detect undeclared nuclear material and activities.

XI. Sanctions

Autonomous Sanctions – Burma

On 27 September 2007, the Prime Minister, Mr John Howard, issued a media release concerning Burma. An extract from the release follows:

Like all Australians I am deeply concerned by the Burmese regime's heavy-handed attempt to suppress peaceful pro-reform protests in Burma, and moved by the demonstrators' courage and commitment. Reports that the security forces have killed a number of protesters and arrested many others, including Buddhist monks, are of particular concern.

To under Australia's dismay at the regime's actions and our concern for the welfare of the Burmese people, the Government will move to implement targeted financial sanctions against regime figures and supporters.

In addition:

the Foreign Minister, Mr Downer, has instructed our diplomatic missions in Beijing, New Delhi and key Southeast Asian capitals to make high-level representations encouraging host governments to use their influence with the Burmese regime to counsel restraint and push for genuine reform;

we support a strong UN role, including urgent discussion of the situation by the Security Council and a visit to Burma by the UN Secretary-General's envoy, Ibrahim Gambari, also as a matter of urgency;

we have in place strict visa restrictions on travel to Australia by senior regime figures and their associates, and will continue to ensure they are as comprehensive and effective as possible; and

we will maintain our longstanding ban on all defence exports to Burma.

Our objective remains to maximise the pressure on the regime while avoiding harm to the Burmese people.

This distasteful regime has been repressing the legitimate democratic aspirations of the people of Burma for far too long. The Australian Government calls on the

regime to respect their legitimate right to peaceful protest and to begin the process of genuine reform the country so desperately needs.

On 24 October 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the implementation of autonomous financial sanctions targeted against members of the Burmese regime. An extract from the release follows:

The Government has implemented bilateral financial sanctions targeted against members of the Burmese regime and their associates and supporters, following the announcement by the Prime Minister on 27 September. Financial sanctions have been imposed against 418 individuals, including members of the State Peace and Development Council, Cabinet Ministers and senior military figures.

Australia's bilateral financial measures have the effect of prohibiting transactions involving the transfer of funds or payments to, by the order of, or on behalf of specified Burmese regime figures and supporters without the specific approval of the Reserve Bank of Australia (RBA).

They are the strongest financial measures available under existing Australian legislation against countries or individuals that are not subject to UN Security Council sanctions.

These measures are implemented by the RBA under the Banking (Foreign Exchange) Regulations 1959. Details of the sanctioned individuals are available at the Reserve Bank of Australia and Department of Foreign Affairs and Trade websites.

Autonomous Sanctions – Fiji

On 14 February 2007, the Department of Foreign Affairs and Trade answered a question on notice from the Senate Standing Committee on Foreign Affairs, Defence and Trade additional budget estimates hearing concerning autonomous sanctions against Fiji. An extract from the response follows:

The Australian Government has instituted travel bans against perpetrators and supporters of the coup, members of the interim government and the Republic of Fiji Military Forces (RFMF) and their families. The families of RFMF below Warrant Officer Rank are not subject to the bans. Senior public servants and members of quasi-government boards appointed by the interim government are captured by the bans. Their families are assessed on a case by case basis.

Autonomous Sanctions – Zimbabwe

On 19 March 2007, the Prime Minister, Mr John Howard, delivered his weekly radio message. An extract from the message concerning Zimbabwe follows:

Australia calls on the Government of Zimbabwe to respect the rule of law and the civil and political rights of its citizens; to cease its violations of international law and to return Zimbabwe to the fold of civilised nations.

Australia has imposed progressively strengthened travel bans and financial sanctions against members of the Government of Zimbabwe since 2002. We'll also be working with other concerned countries to place greater pressure on the Zimbabwean leadership including by allowing the situation to be considered by the United Nations and its Human Rights Council.

Autonomous and United Nations Security Council Sanctions – Democratic People’s Republic of Korea (DPRK)

On 15 February 2007, the Australian Embassy and Permanent Mission to the United Nations in Vienna issued a media release concerning developments in the Six-Party Talks and Australia’s international legal obligations and autonomous sanctions in relation to the Democratic People’s Republic of Korea. Extracts from the release follow:

Australia welcomes and supports the statement reached at the latest round of Six Party Talks in Beijing (8-13 February) committing North Korea to begin permanently dismantling its nuclear weapons programs.

...

Australia is willing to support substantive six-party progress through the provision of energy assistance, bilateral development assistance and safeguards expertise, and we are now considering possible options.

Such measures will not diminish Australia’s commitment to implementation of UNSC Resolution 1718, which remains in force, or the financial sanctions that Australia implemented on 19 September 2006.

On 18 June 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning UN Security Council Sanctions against the Democratic People’s Republic of Korea. An extract from the release follows:

Australia is willing to support substantial progress in the six-party talks, including through bilateral development assistance and other steps forward in our relationship with North Korea. This assistance is conditional upon North Korea meeting its undertakings and consistent with our obligations under UN Security Council Resolution 1718. Once North Korea implements its 13 February commitments, we could again consider accepting an official North Korean delegation, which I have put on hold pending implementation.

United Nations Security Council Sanctions – Iran

On 21 February, 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing Australia’s implementation of United Nations Security Council sanctions against Iran. Extracts from the release follow:

Australia has taken action to implement fully in Australian law the United Nations Security Council sanctions against Iran. These sanctions were imposed following Iran’s failure to comply with Security Council demands that Iran suspend uranium enrichment and reprocessing activities, and all UN member states are obliged to implement the sanctions. All sanctions contained in resolution 1737 are reversible should Iran suspend its uranium enrichment and reprocessing activities.

The new *Charter of the United Nations (Sanctions - Iran) Regulations 2007* implements Australia’s obligations under United Nations Security Council Resolution 1737, adopted on 23 December 2006. The Resolution imposes a targeted trade embargo against Iran and imposes financial sanctions against designated Iranian persons and entities. The Regulations take effect on 21 February 2007, and apply to all persons in Australia and to Australian nationals overseas.

Under the new Regulations, it is an offence to engage in any conduct resulting in the supply, sale or transfer of specified military and dual-use items (items capable of use

in nuclear and ballistic missile programs) to, for the use in, or for the benefit of Iran. It is also an offence to provide Iran with technical training, advice, services or assistance, or financial resources, related to such specified items. Further, it is an offence to procure specific military and dual-use items from Iran. Pursuant to the Resolution, Australians should not engage in any training of Iranian nationals which may support Iran's nuclear proliferation sensitive programs.

The new Regulations freeze the assets and economic resources owned or controlled by persons or entities designated by the Security Council as providing support for Iran's nuclear or missile programs. It is an offence to engage in any financial or commercial dealings with such persons or entities.

...

We will continue to implement strictly the measures mandated by the Security Council until Iran fully complies with the provisions of United Nations Security Council Resolution 1737.

On 28 February 2007, the Minister representing the Minister for Foreign Affairs, Senator Helen Coonan, answered a question on notice concerning the implementation of United Nations Security Council resolution 1737. An extract from Senator Coonan's response follows:

Australia already has mechanisms in place to control the export from Australia of military and dual-use items set out in UN Security Council Resolution 1737 (2006). The export of such items is prohibited under Regulation 13E of the Customs (Prohibited Exports) Regulations 1958 without the permission of the Minister for Defence. I have written to the Minister for Defence requesting that he exercise his authority under these Regulations to refuse applications to export prohibited goods to Iran. Further, my department has requested the Attorney-General's Department to draft new regulations under the Charter of the United Nations Act 1945 to implement Resolution 1737, including export prohibitions and related assistance. These Regulations will apply to Australian nationals overseas.

Resolution 1737 imposes financial sanctions on persons and entities listed in the Annex to the Resolution or designated from time to time by the Security Council or the sanctions committee established by the Resolution (the Iran Sanctions Committee). The new regulations under the Charter of the United Nations Act 1945 will prohibit financial dealings with designated persons and entities. Resolution 1737 does not prohibit the entry into, or transit through, Australian territory of designated persons. The Resolution requires states to exercise vigilance in respect of such travel by designated persons and report travel in their territory to the Iran Sanctions Committee. The persons listed in the Annex to the Resolution have been entered onto the Department of Immigration and Citizenship's (DIAC) Movement Alert List (MAL) and DIAC will inform my department should a designated person apply for a visa or be found to hold a visa. I will then make a determination as to whether the person's presence in Australia would be contrary to Australia's foreign policy interests or the person is associated with the proliferation of weapons of mass destruction. If such a determination is made, DIAC will refuse to grant or will cancel the visa in accordance with the provisions of the Migration Act 1958 and the Migration Regulations 1994. Should a designated person be granted a visa to enter Australia, the Iran Sanctions Committee will be notified in accordance with Resolution 1737.

On 25 March 2007, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release welcoming the adoption by the United Nations Security Council of resolution 1747 on Iran. An extract from the release follows:

Australia welcomes the unanimous adoption by the United Nations Security Council of Resolution 1747 on Iran, which underlines the international community's serious concerns in regard to Iran's nuclear program. The unanimity of the Security Council's decision to adopt this resolution, in response to Iran's failure to comply with two earlier Security Council resolutions which made mandatory the suspension of all Iran's uranium enrichment and reprocessing activities, is testimony to the international community's firm resolve on this issue.

The new resolution imposes increased measures on Iran, including, inter alia, a legally binding embargo on the transfer of arms from Iran, limits on arms transfers to Iran and an expansion of the individuals and entities subject to financial measures. Australia will proceed to implement the terms of the resolution as required by all United Nations members.

It remains open to Iran to show its international credentials and cooperate fully with UN Security Council resolution 1747, the measures in which are fully reversible, by suspending uranium enrichment. Australia strongly urges Iran to do so.

On 21 May 2007, Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning Australia's implementation of United Nations Security Council Resolution 1747 imposing further sanctions against Iran. Extracts from the release follow:

Australia has taken action to implement fully in Australian law United Nations Security Council Resolution (SCR) 1747 imposing further sanctions against Iran.

These sanctions were imposed following Iran's failure to comply with SCR 1737 which required Iran to suspend uranium enrichment and reprocessing activities. All UN member states are obliged to implement the sanctions. All sanctions contained in Resolutions 1737 and 1747 are reversible should Iran suspend its uranium enrichment and reprocessing activities. The measures imposed by SCR 1747 are additional to those imposed by SCR 1737, which remain in force.

The Government has amended the Charter of the United Nations (Sanctions - Iran) Regulations 2007 to implement Australia's obligations under United Nations Security Council Resolution 1747, adopted on 24 March 2007. The Resolution adds new measures including a ban on the procurement of arms or related materiel from Iran and extending the list of persons and entities subject to financial sanctions. The amendments to the Regulations took effect on Tuesday 15 May 2007 and apply to all persons in Australia and to Australian nationals overseas, and - for financial sanctions - to Australian bodies corporate overseas.

Under the amended Regulations, a new offence has been added of engaging in any conduct resulting in the procurement from Iran of arms or related materiel. The amended Regulations require persons to freeze the assets and economic resources owned or controlled by an additional 28 persons and entities designated in Resolution 1747 as providing support for Iran's nuclear or missile programs. It is an offence to engage in any financial or commercial dealings with such persons or entities.

...

I recommend that persons considering commercial or other dealings with Iran familiarise themselves with the operation of the sanctions regime under SCR 1737 and SCR 1747, and, if necessary, seek independent legal advice before making commercial decisions. The Charter of the United Nations (Sanctions - Iran) Regulations 2007 should be read in conjunction with the Customs (Prohibited Imports) Regulations 1956, and the Customs (Prohibited Exports) Regulations 1958. The provision of goods or services which may be connected to weapons of mass destruction program is also regulated under the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995.

We will continue to implement strictly the measures mandated by the Security Council until Iran fully complies with the provisions of United Nations Security Council resolutions 1737 and 1747.

On 9 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning Iran's uranium enrichment program. An extract from Mr Downer's response follows:

Australia has raised its concerns that Iran has failed to suspend its enrichment-related activities as required by United Nations Security Council (UNSC) resolutions in bilateral discussions with all five permanent members of the UNSC. In its statement delivered to the First Committee of the UN General Assembly in October 2006, Australia supported the UNSC engagement on Iran's nuclear program. Australia has also raised its concerns about Iran's enrichment activities at the quarterly meetings of the IAEA Board of Governors, of which Australia is a member.

United Nations Security Council Sanctions – Sudan

On 9 August 2007, the Minister for Foreign Affairs, Mr Alexander Downer, answered a question on notice concerning the implementation of United Nations Security Council sanctions in relation to Sudan and Darfur. Extracts from Mr Downer's response follow:

Australia has strongly supported and implemented UN Security Council sanctions in relation to Sudan and Darfur. These include an arms embargo and a ban on the provision of military technical assistance, advice and training, as well as travel bans and financial sanctions on individuals designated by the UN Security Council as having impeded the peace process, constituting a threat to stability in Darfur and the region, or having committed violations of international humanitarian or human rights law or other atrocities (Resolution 1591 of March 2005).

...

The UN Security Council has imposed and Australia has implemented sanctions against individuals designated by the Security Council as having impeded the peace process, constituting a threat to stability in Darfur and the region, or having committed violations of international humanitarian or human rights law.