

Report 91

Treaties tabled on 12 March 2008

Treaty on Extradition between Australia and the State of the United Arab Emirates (Hobart, 26 July 2007)

Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters (Hobart, 26 July 2007)

Convention between Australia and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income, and Protocol (Tokyo, 31 January 2008)

Film Co-Production Agreement between the Government of Australia and the Government of the People's Republic of China (Beijing, 27 August 2007)

Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films (Sydney, 7 September 2007)

Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology (Vienna, 22 June 2006)

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Membership of the Committee

Chair Mr Kelvin Thomson MP

Deputy Chair Senator the Hon Sandy Macdonald

Members	Hon Kevin Andrews MP	Senator Andrew Bartlett
	Mr John Forrest MP	Senator Simon Birmingham
	Ms Jill Hall MP	Senator David Bushby
	Ms Belinda Neal MP	Senator Gavin Marshall
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Resolution of Appointment

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and

such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



List of abbreviations

ANSTO	Australian Nuclear Science and Technology Organisation
CLA	Civil Liberties Australia
IAEA	International Atomic Energy Agency
JSCOT	Joint Standing Committee on Treaties
MA	Mutual Assistance
NIA	National Interest Analysis
NPT	Nuclear Non-Proliferation Treaty
OECD	Organisation for Economic Cooperation and Development
RCA	Regional Cooperative Agreement
RIS	Regulation Impact Statement
SCOT	Commonwealth-State/Territory Standing Committee on Treaties
UAE	United Arab Emirates
WHT	Withholding taxes



List of recommendations

2 Treaty on Extradition between Australia and the State of the United Arab Emirates

Recommendation 1

The Committee supports the *Treaty on Extradition between Australia and the State of the United Arab Emirates* and recommends that binding treaty action be taken.

Recommendation 2

The Committee recommends that new and revised extradition agreements should explicitly provide a requirement that the requesting country provide annual information concerning the trial status and health of extradited persons and the conditions of the detention facilities in which they are held.

Recommendation 3

That the Australian Government develop and implement formal monitoring arrangements for Australia's bilateral extradition treaties which include the following elements:

- the Attorney-General's Department informs the Department of Foreign Affairs and Trade of each extradition, including the terms of the relevant extradition agreement and any special conditions applying to the case.
- The Department of Foreign Affairs and Trade would be expected to formally monitor all extradited Australians through the consular network.
- In the event that a foreign national is extradited to their country of citizenship, the extradition should be made on the understanding that

the Australian Government will be informed through its diplomatic representatives of the outcome of the prosecution and the ongoing status of the person while in custody as a result of a conviction. The Australian consular network would be expected to monitor and report on the condition of the extradited person until they had served their sentence and were released.

■ In the event that a foreign national is extradited to a third country, the extradited person's country of citizenship should be informed and asked to monitor that person's trial status and health and the conditions of the detention facility in which they are held and report to the Australian Government if it has the capacity and is willing to do so. In the event that an extradited person's country of citizenship does not have the capacity to monitor the extradited person or is not willing to do so, then the Australian Government should monitor that person's trial status and health and the conditions of the detention facility in which they are held through Australia's consular network until that person is acquitted or, if convicted and imprisoned, their sentence is served, they are released and leave the country.

Recommendation 4

The Committee recommends that the Attorney-General's Department and/or the Department of Foreign Affairs and Trade include in their annual report to Parliament the following information concerning the operation of Australia's extradition agreements:

- the number of extradition requests made, granted and refused including the countries making the requests and the alleged offences involved;
- whether any waivers to provisions in an extradition treaty have been sought by any country and, if so, whether they were granted;
- the number of persons extradited (Australian citizens, permanent residents of Australia, foreign nationals); and
- whether any breaches of bilateral extradition agreements have been noted by Australian authorities and what action was taken.

Also, in respect of each extradited person the following details should be reported:

- their name, nationality and the country to which they have been extradited;

- the person's trial status, ie whether they have been tried and sentenced, and the period of detention prior to trial;
- the means of monitoring the trial status and health of extradited persons and the conditions of the detention facilities in which they are held, i.e. through the Australian consular network or by some other means; and
- the outcome of the trial, if applicable, including convictions and sentencing.

3 Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters

Recommendation 5

The Committee supports the *Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters* and recommends that binding treaty action be taken.

Recommendation 6

The Committee recommends that the Parliamentary Joint Committee on Intelligence and Security be asked to undertake a general review of Australian policy and procedures concerning police-to-police cooperation and other information exchanges, including intelligence sharing arrangements, with a view to developing new instructions to regulate police-to-police and other assistance arrangements not governed by agreements at the treaty level. The instructions should prevent the exchange of information with another country if doing so would expose an Australian citizen to the death penalty.

4 Double Taxation Convention with Japan

Recommendation 7

The Committee supports the *Convention between Australia and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* and recommends that binding treaty action be taken.

5 Film Co-production Agreements with China and Singapore

Recommendation 8

The Committee recommends that where the subject matter of a treaty has a bearing upon freedom of expression issues, the Australian Government broaden its consultation to include relevant human rights organisations.

Recommendation 9

The Committee recommends that the Australian Government utilise any opportunities to make representations to the Chinese Government to lift its 20 foreign film quota significantly higher, with a view to eventually abolishing the quota.

Recommendation 10

The Committee supports the *Film Co-production Agreement between the Government of Australia and the Government of the People's Republic of China* and recommends that binding treaty action be taken.

Recommendation 11

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the co-production of films* and recommends that binding treaty action be taken.

6 Fourth Extension to the Regional Cooperative Agreement for research, development and training related to nuclear science and technology**Recommendation 12**

The Committee supports the *Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology* and recommends that binding treaty action be taken.

Appendix A- Submissions**Appendix B - Witnesses**

