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with attachment on consultation

- **Statute of the International Renewable Energy Agency (IRENA) Bonn, Germany, 26 January 2009 [2009] ATNIF 23**

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Statute of the International Renewable Energy Agency (IRENA) Bonn, Germany, 26 January 2009 [2009] ATNIF 23

Nature and timing of proposed treaty action

1. The proposed treaty action is to ratify the Statute of the International Renewable Energy Agency (the Statute) which was opened for signature in Bonn, Germany on 26 January 2009. The Statute was signed by Australia on 29 June 2009.
2. The Statute will enter into force on the thirtieth day after the date of deposit of the twenty-fifth instrument of ratification, in accordance with Article XIX(D) of the Statute. As of 17 January 2010, the Statute has 142 signatories and eight ratifications.
3. The exact date of the treaty action will be the date on which Australia ratifies the Statute by depositing an instrument of ratification in accordance with Article XIX(C) of the Statute. It is proposed that Australia will ratify the Statute as soon as practicable after the conclusion of the necessary domestic procedures.

Overview and national interest summary

4. The Statute establishes the International Renewable Energy Agency (IRENA), a treaty level inter-governmental organisation whose membership will constitute States and regional economic integration organisations. IRENA's aim is to promote the widespread and increased adoption and the sustainable use of all forms of renewable energy technologies across the world. IRENA is to be governed by a Council and Assembly, and to act in accordance with the purposes and principles of the United Nations to promote peace and international cooperation, and in conformity with the policies of the United Nations furthering sustainable development.
5. IRENA aligns with the Australian Government's commitments on climate change and renewable energy action. IRENA offers an opportunity for Australia to further engage with the international community on climate change and renewable energy issues. Ratifying the IRENA Statute at an early stage will enable Australia to take an active role in helping develop the Agency and its work-plan in the years ahead.

Reasons for Australia to take the proposed treaty action

6. Ratifying the IRENA treaty will demonstrate Australia's commitment to international engagement on climate change and energy issues. This international engagement will strengthen Australia's understanding of renewable and low emission policy, technology and deployment issues.

7. IRENA's activities will include being a centre of excellence for renewable technology, offering support on all matters relating to renewable energy and helping countries to benefit from the efficient development and transfer of knowledge and technology. This will include: analysing and monitoring renewable energy practices; initiating discussion and interaction with governmental and non-governmental networks; providing policy advice, assistance and capacity building to Members on request; improving knowledge and technology transfer; and stimulating research.

8. With over 140 signatories, IRENA is already a significant mechanism for international engagement, and to ensure a rapid and effective beginning for IRENA, the Founding Conference adopted a resolution establishing a Preparatory Commission to act as the interim body until the Statute enters into force. Accordingly, IRENA is currently establishing a Secretariat, building up infrastructure and personnel, and implementing activities from the Interim Work Program adopted by the signatories. 2010 will be IRENA's first full year of operation.

9. IRENA will reach beyond the countries of the Organisation for Economic Co-operation and Development (OECD) and the International Energy Agency (IEA), with a membership that is likely to include developing countries, including those of the Asia-Pacific. Ratification of the IRENA Statute will enhance Australia's networks for the exchange, development and improvement of renewable energy technologies and bring further international attention to the energy issues and challenges faced by the Asia-Pacific region.

10. Australia has a strong interest in renewable energy and has a number of policies that will greatly increase the amount of renewable energy generation in the electricity mix. These include the proposed Carbon Pollution Reduction Scheme, the expanded Renewable Energy Target, the Solar Flagships program and the Australian Centre for Renewable Energy. As a member of IRENA, Australia will have an opportunity to share skills and expertise in renewable energy technology and integration, and assist in improving global capability in this area.

Obligations

11. The provisions of the Statute relate principally to the structure of IRENA, including the establishment and operation of the Assembly, the Council and the Secretariat, rather than to the obligations of individual Members.

12. The Assembly, which is the supreme decision-making organ of IRENA, will consist of one representative from each Member, and will meet annually unless it decides otherwise (Article IX(B)). Each Member will have the right to participate in all of the decisions taken by the Assembly, including on the budget and work programme, the election of members of the Council, and applications for membership (Article IX(G) and (H)).

13. The Council will be responsible for facilitating consultation and cooperation among Members, and developing and submitting the draft work programme and annual report to the Assembly (Article X(F)) It will be composed of between 11 and 21 representatives of the Members, elected by the Assembly (Article X(A)). The Council will meet twice a year unless it decides otherwise (Article X(B)).

14. As a Member, Australia will have an obligation to pay mandatory contributions toward the budget of IRENA (Article XII(A)). Such contributions will be based on the scale of assessments of the United Nations, as determined by the Assembly. If a Member is two years or more in arrears with its financial contributions, it will not have the right to vote unless the Assembly is convinced that the non-payment is due to circumstances beyond the Member's control (Article XVII(A)).

15. IRENA will have international legal personality and, in the territory of each Member and subject to its national legislation IRENA will have such domestic legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes (Article XIII). The Statute provides that Members will decide on a separate agreement on privileges and immunities for IRENA (Article XIII). This has not been agreed upon as yet.

16. Members of IRENA are required to settle any dispute between them concerning the interpretation or application of the Statute by peaceful means, in accordance with Article 2(3) of the Charter of the United Nations (Article XVI(A)). To this end, Members must seek a solution by the means indicated in Article 33(1) of the Charter (negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice).

Implementation

17. No new legislative measures are required to implement the obligations for Australia's participation in IRENA.

18. Australia's participation in IRENA will be managed by the Department of Resources, Energy and Tourism, in consultation with the Department of Foreign Affairs and Trade, the Department of Climate Change and the Department of the Environment, Water, Heritage and the Arts.

19. There will be no change to the existing roles of the Commonwealth Government or the State and Territory Governments as a result of Australia's ratification of the Statute and membership of IRENA.

Costs

20. As a Member of IRENA, Australia must provide a financial contribution in accordance with Article XII(A)(1). The initial annual mandatory contribution is estimated to be up to A\$1.4 million, to be paid in the currency of the United States. The equivalent of one Departmental officer will also manage Australia's participation in IRENA, which will involve some associated travel. The cost of Australia's participation in IRENA will be drawn from the allocation to the Australian Centre for Renewable Energy (ACRE) which is the responsibility of the Department of

Resources, Energy and Tourism. This will enable international skills and knowledge gained from membership in IRENA to be shared with Australia's renewable energy community.

21. Costs incurred by other agencies in their participation in IRENA, including international travel to meetings, will be borne by those agencies.

Regulation Impact Statement

22. The Office of Best Practice Regulation in the Department of Finance has been consulted, and confirmed on 9 July 2009 that a Regulation Impact Statement is not required.

Future treaty action

23. Article XV(A) of the Statute provides that amendments to the Statute may be proposed by any Member, and the text of any amendment proposed shall be communicated to all Members by the Director-General at least ninety days in advance of its consideration by the Assembly.

24. Amendments will come into force for all Members when approved by the Assembly, after consideration of observations submitted by the Council on each proposed amendment, and after all the Members have consented to be bound by the amendment in accordance with their respective constitutional processes. Members must express their consent to be bound by depositing an instrument with the Depositary (Article XVI(A)).

25. Any amendment would be subject to Australia's domestic treaty processes.

Withdrawal or denunciation

26. At any time after five years from the date that the Statute enters into force, a Member may withdraw from IRENA by notice in writing to that effect given to the Depositary, which shall promptly inform the Council and all Members (Article XV(C)). The withdrawal will take effect at the end of the year in which it is expressed, and will not affect the contractual obligations or the financial obligations for the year in which the Member withdraws (Article XV(D)).

Contact details

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ATTACHMENT ON CONSULTATION

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CONSULTATION

27. In May 2009, the Department of Resources, Energy and Tourism (RET) convened an interdepartmental committee to discuss Australia's potential membership of the organisation.

28. Approval for Australia to proceed with membership to IRENA was received from all Australian Government Ministers who have a portfolio interest in Australia joining IRENA. Approval was received from the Attorney General, Minister for Foreign Affairs, Minister for Climate Change and the Minister for the Environment, Heritage and the Arts. The Prime Minister announced that Australia would join IRENA on 17 May 2009.

29. State and Territory Governments have been advised of the proposed ratification of the Statute through the Standing Committee on Treaties' (SCOT) Schedule of Treaty Action. The Statute has been on the list of treaties under negotiation, consideration or review by the Australian Government since 17 September 2009. No objections or concerns have been raised by the State or Territory Governments as a result of this notification.

30. A public consultation process was conducted between 16 September 2009 and 13 October 2009. The consultation process consisted of:

- a. A letter of invitation seeking submissions sent to 36 stakeholders including renewable energy industry and broader business groups, non-government organisations, and energy and policy experts; and,
- b. A public notice placed in the Australian Financial Review on 18 September 2009 inviting public comment on ratification of IRENA.

31. The Department has received 3 submissions to its public consultation process. All submissions supported Australia's action to join IRENA, and extracts from those submissions are provided below.

“As a major potential provider of renewable energy to power Australia in the coming decades, Geodynamics welcomes the Australian Government recognition that renewable energy will play an important role in meeting Australia's energy needs, and that international cooperation is considered to be important if Australia is to drive the development and deployment of renewable energy technologies.”

Mr Gerry Grove-White
Geodynamics Pty Ltd

“Hydro Tasmania supports the Australian Government’s commitment to membership of IRENA and encourages immediate ratification of this membership. We believe that IRENA will provide a significant role to facilitate the accelerated growth of renewable energy in terms of both its immediately achievable contribution and future potential. This includes recognition of the key role renewable energy must assume in climate change action and the transition to a lower carbon intensive global energy sector.”

Alex Beckitt, Manager Strategic Policy
Hydro Tasmania

“REEEP supports the Australian Government’s commitment to membership of IRENA and encourages immediate ratification of this membership. IRENA as an intergovernmental body will have the potential to help facilitate an increased uptake as well as development of renewable energy technologies. This includes recognition of the key role renewable energy plays in action against climate change as well as the transition to a low-carbon global energy sector. Given that market transformation requires multiple actors promoting sustainable energy at all levels, IRENA adds important pieces to the international renewables puzzle, particularly in its function as a think-tank on renewables.”

Eva Oberender Regional Director
Southeast Asia and Pacific Renewable Energy & Energy Efficiency Partnership
(REEEP)