Antartica

At the 12th Antartic Treaty Consultative Meeting in Canberra on 13 September 1983, the Minister for Foreign Affairs Mr. W. Hayden, Stated, in part:-

One of the principal reasons why Consultative Parties have commenced negotiations on a minerals regime is in order to ensure that no unregulated minerals activities take place, including even prospecting, which could be harmful to the Antarctic environment. That is why a moratorium on all minerals activities is being observed while the regime is being negotiated. In answer to the question which is sometimes asked: "Why negotiate a regime when minerals exploitation is unlikely to be technically possible or economically sensible for many years", it should be emphasised that it would be far more difficult to negotiate sound environmental provisions were the pressure for exploitation to increase. Much better to start now, and ensure that no exploration or exploitation can take place without adequate safeguards.

My Government has made no secret of its concern about the current proposal to raise Antarctica in the General Assembly of the United Nations. I know that our concerns are widely shared here. We believe that any attempt to negotiate a new international agreement on Antarctica or to re-negotiate parts of the Treaty would be likely to introduce uncertainty and instability into a region of hitherto unparalleled international co-operation.

In making these points to those who are proposing to raise the matter in the General Assembly, we have emphasised that the Treaty gives effect to the principles and purposes of the United Nations Charter and is open to any member of the United Nations to join. We have also emphasised the fact that there is no genuine analogy, such as has been suggested, between outer space, or the deep seabed, on the one side, and Antarctica, which has been subject to man's activity for a hundred years, and is now the object of successful international co-operation and management under the Antarctic Treaty.

CYPRUS

On 15 November 1983, The Minister for Foreign Affairs stated:-

The Australian Government is gravely concerned at reports tonight that the Turkish Federated State of Cyprus has passed a resolution approving the establishment of a so-called Turkish Republic of Northern Cyprus and a declaration of independence.

Australia condemns this declaration and calls for it to be withdrawn.

Australia will be taking immediate steps to urge upon the Government of Turkey to use whatever influence it might have with the Turkish Federated State of Cyprus to withdraw this declaration.

At the same time the Australian Government will be urging on all parties in this matter the need for restraint in the face of a potentially inflammatory situation.

The Australian Government would additionally strongly support and encourage the UN Secretary General in efforts to achieve a solution.

Our greatest concern is that the civilian authorities should not be undermined or the general stabili ty of the region be put at risk by renewed disorder.

Australia's commitment to UNFICYP (United Nations Force in Cyprus) and the presence in Cyprus of the AUSTCIVPOL (Australian Civilian Police) contingent automatically involves us in international efforts to deal with the situation

created by this action.

The Australian Government will be carefully monitoring the situation and if AUSTCIVPOL were placed in jeopardy by an outbreak of hostilities a decision would have to be taken on whether to withdraw the contingent.

GRENADA

The Minister for Foreign Affairs, Mr. W. Hayden M.P., stated on 3 November 1983:-

Cabinet reviewed the serious situation in Grenada which the Government has been following closely and which the Prime Minister discussed with President Reagan on 27 October.

The Government regrets the loss of life and injuries which have occurred on the Island following the overthrow of Prime Minister Bishop and his Government and during the current military operations. It also notes the continuing international controversy about the causes and effects of the military action on Grenada. The Government wishes to see the current military operations in Grenada ended as soon as possible and the withdrawal of the intervening forces. In his discussion with the Prime Minister, President Reagan said the U.S. looked to withdraw its forces at the earliest opportunity. The Government welcomes this assurance from the President.

While acknowledging the concern of the U.S. and the regional countries regarding the developments in Grenada and elsewhere in the Caribbean and the possible risks to foreign citizens on the Island, the Government finds it hard to justify the use of force certainly before all other possible courses of action had been exhausted. The Australian Government was not consulted or advised in advance of the intervention but in their discussion today Ministers agreed that had the Government been consulted it would have counselled against intervention.

In view of the situation on the Island and as the Commonwealth Secretary General has so rightly noted, there is an urgent need to provide the people of Grenada with the earliest opportunity to determine their own future free of pressures and constraints of any kind. There is a Grenadan constitution and there are constitutional processes that could be followed. In present circumstances efforts to restore constitutional government in Grenada appear to be the best available course of action in the search for stability, harmony and peace on the Island.

The Government notes a number of suggestions about possible involvement of Commonwealth peace-keeping forces in Grenada. It does not contemplate Australian participation in such a force should it eventuate.

In relation to Australia's vote in the U.N. General Assembly on the resolution concerning Grenada, The Minister stated on the same day:-

It is clear that the situation in New York at the time of the vote was very fluid, indeed even confused. In fact the vote was precipitated abruptly and unexpectedly by a motion from the floor of the Assembly to close the debate.

The delegation interpreted the instructions that had been cabled from Canberra as indicating that a vote in favour would be appropriate because:

> The resolution had been amended by the addition of an operative paragraph sponsored by Belgium which improved the resolution from a Western viewpoint by calling for the holding as soon as possible of free elections.

The delegation had previously registered its objection to one of the main operative paragraphs by abstaining on a separate vote on that paragraph.

The intention of a fair majority of Western delegations was to vote in support of the reslution. Of the 22 Western delegations, 15 voted in favour and 7 abstained.

It is my intention that the delegation in New York should address a letter to the Secretary-General notifying him that the Australian vote on the resolution should have been recorded as an abstention. This letter will be circulated by the Secretary-General as a document to the General Assembly and I am advised that it should be possible for an appropriate notation to be made in the relevant documents covering the Grenada debate.

AERIAL INCIDENT, SEPTEMBER 1983; DESTRUCTION OF KAL 007

Australia, along with several other states protested at the destruction of the Korean Air Lines airliner of flight 007 in September 1983. On 14 September 1983, the Ambassador of the Union of Soviet Socialist Republics was summoned to the Department of Foreign Affairs, and handed a note relating to this matter. With the kind permission of the Minister of Foreign Affairs, the Hon. W. Hayden, we publish the text of that letter.

NOTE NO. 83

The Department of Foreign Affairs presents its compliments to the Embassy of the Union of Soviet Socialist Republics and has the honour to refer to the action of the armed forces of the Soviet Union in firing upon and destroying on 1 September 1983 an unarmed Boeing 747 aircraft, Korean Airlines Flight No. 007, in the vicinity of Sakhalin Island, thereby causing the deaths of 269 innocent persons.

The Australian government considers this action to constitute a serious violation of both customary international law and treaty law. The Korean aircraft at no time represented any threat to the territory or population of the Soviet Union. The Soviet authorities should have taken sufficient and proper steps to make themselves aware both that it was a civilian airliner, and in addition that it was about to leave Soviet airspace, and that its destruction could in no circumstances be justified. The Soviet action constituted a violation of the principles of the Chicago Convention on International Civil Aviation and was inconsistent with the procedures prescribed in Annex 2 of the Convention.

Accordingly, the actions of the Soviet Union give rise to responsibility under international law to make reparation.

The Australian government therefore requests that the Soviet Union provide prompt, adequate and effective compensation to the Australian government for the lives of four Australian nationals aboard the Korean airliner, for any property or interest in property of Australian nationals

that was lost or damaged as a result of the destruction of the aircraft, and for injury to Australian interests caused by the Soviet action. The Australian government will advise the Soviet Union at a later date of the specific losses, damage and injury for which Australia considers the Soviet Union responsible under international law.

This request is in addition to any other form of redress that Australia may lawfully require from the Soviet Union for its wrongful action

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy fo the Union of Soviet Socialist Republics the assurances of its highest consideration.

DEPARTMENT OF FOREIGN AFFAIRS
AUSTRALIA
CANBERRA

CANBERRA

14 September 1983

EXTRATERRITORALITY

A report from the Joint Committee on Foreign Affairs and Defence was tabled in the House of Representatives on 5 December 1983 by Mr. David Charles M.P. In presenting the report, The Extraterritorial Application of United States Laws, Mr. Charles cited evidence from Professor K. Ryan as a summary of this complex question:-

> The Extraterritorial application of United States law is a matter of serious concern for two rather different reasons. The most obvious reason is its impact on our sovereignty and our capacity to make decisions on matters of national interest. But there is also the impact which it has on individual Australian residents and particularly Australian companies. One thing that is clear from the settlement of the Westinghouse litigation is that these two interests may not necessarily co-incide.

Concluding that certain attempts by the U.S. to extend the extraterritorial application of U.S. laws were "inconsistent with international law and comity" the committee recommends, inter alia, the introduction of "clawback" legislation which would permit full recovery of damages paid by Australian residents on those doing business Australia pursuance to certain foreign judgements based on an unacceptable application of U.S. laws. The legislation would also prohibit compliance by Australia residents on those doing business in Australia with orders which might damage Australia's trading interests. A minority of the Sub-Committee on the Pacific Basin which prepared the report dissented from this recommendation. Part of the dissent appears to be based on a press statment by the former Attorney General, Senator Durack, made on 29 June 1983 that when negotiating a bilateral agreement on this with the U.S., he as Attorney General in the former government had assured the U.S. that "... we would not proceed with any further blocking legislation unless the Agreement proved less successful than we hoped".

The interesting question which arises from this is whether this would constitute a unilateral declaration, binding on the Australian Government. If an Attorney General has the same capacity in this regard as a Head of State, Head of Government or Foreign Minister (contrast the provision on treaty making in the Vienna Convention) then the U.S. might be on strong ground in asking Australia not to proceed with this legislation.

It is pertinent to note that among those who gave evidence or made submissions, as well as the Specialist Advisor, Dr. Gillian Triggs, are members of the ILA Australian and New Zealand Branch Committee on Extraterritorality.

On 7 December 1983, the Attorney General Senator Evans introduced proposed new blocking legislation into the Senate, the Foreign Proceedings (Excess of Jurisdiction) Bill, 1983.

EXPORT CREDIT

The Deputy Prime Minister and Minister for Trade, the Hon. Lionel Bowen, announced on 9 November 1983 that:

The Government planned to introduce measures designed to strengthen the supporting services available to exporters through the Export Finance and Insurance Corporation (EFIC).

EFIC's facilities are to be expanded to enable the Corporation to provide foreign currency financing and give Australian exporters access to lower interest rate currencies for medium and long-term credit with which to meet the terms being provided by competitors. The existing credit insurance cover provided by EFIC would be extended to enable the Corporation to provide exporters with up to 100 per cent cover against the risk of non-payment arising

from political causes overseas.

AUSTRALIAN STATE TRADING CORPORATION

The Deputy Prime Minister and Minister for Trade, the Hon. Lionel Bowen announced on 11 November 1983 that:-

the Australian Bank Limited had been appointed as a consultant to assist the Department examine the feasibility of establishing an overseas trading company.

The proposal to consider the formation of an overseas trading company is one of a number of trade development initiatives to re-vitalise Australia's export sector, which was announced as part of the 1983-4 Budget, and the further initiatives taken in relation to the re-vitalisation of EFIC and export incentive schemes generally. The Minister stated that at the present time, about 30 per cent of all world trade is conducted on a government-to-government basis and many foreign governments, particularly the centrally planned economies prefer to deal with trading corporations that are government backed

AUSTRALIAN MEMBERSHIP OF ASSOCIATION OF TIN PRODUCING COUNTRIES

On 22 November 1983, the Acting Prime Minister and Minister for Trade, the Hon Lionel Bowen MP announced that the Commonwealth Government has decided that Australia will become a member of the Association of Tin Producing Countries (ATPC)

The text of the Agreement for the establishment of the Association was negotiated in March this year at a meeting in London of major tin producing nations including Australia. The Agreement entered into force on 16 August 1983 with five founding members - Bolivia, Indonesia, Malaysia, Thailand and Zaire. Nigeria joined on 31 August 1983. These countries together with Australia account for some 90 per cent of western world tin production.

Membership of the Association the Minister said was consistent with the Government's policy of supporting developing countries in their efforts to improve international trade arrangements and will continue the long record of co-operation Australia has had with other tin producers and, in particular, with the major producing countries in the ASEAN region. With Australia's membership, all producing member countries of the Sixth International Tin Agreement will be members of the new Association.

ATPC, which is headquartered in Kuala Lumpur, will be the major forum for regular consultations among tin producing countries at both the Ministerial and official levels. The main objectives of ATPC are to obtain renumerative returns for tin producers and adequate and stable supplies for consumers at fair and reasonable prices, to facilitate co-operation in the marketing of tin, to extend its use and to encourage tin processing and manufacturers in member countries. Consistent with Australia's view, the ASEAN producing countries have indicated that they see the Association working to complement and support activities under the International Tin Agreement.

NEW FOREIGN EXCHANGE ARRANGEMENTS

On 28 October 1983, the Treasurer, the Hon. P.J. Keating announced the following new foreign exchange arrangements to take effect from 31 October 1983, he stated:-

First, the trade-weighted index of value of the Australian dollar will continue to be set each morning, as now, on the same basis as has appli d sinc November 1976. It will not be altered during the course of the day.

The exchange rate, in terms of the trade-weighted basket, will continue to be kept under review in accordance with Ministerial decisions.

The $A/$US mid-rate, on the basis of which the Reserve Bank will settle net foreign exchange positions with the banks at the end of each day, will not be announced finally until the end of the day. An "indicative" rate will however be announced at the beginning of the day to provide some guidance to the market.

The margins around the $A/$US mid-rate which apply to the Reserve Bank settlements of net spot positions at the end of the day will be widened. In addition, the Reserve Bank will cease to quote specific limits on the margins which apply to banks dealings in spot foreign exchange in $US with their customers during the course of each day.

Secondly, the Reserve Bank will no longer underwrite the official forward market. It will not quote forward exchange rates and it will not absorb the trading banks' net positions in forward exchange at the end of each day.

Henceforth, the responsibility for providing forward cover will be essentially a private sector matter. The changes noted above will assist the banks in the development of their forward foreign exchange operations.

As a result of increasing upwards pressures on the exchange rate, the Treasurer announced a free float of the Australian dollar on 9 December 1983. Exchange control will be substantially relaxed.

The main changes announced on 9 December were:-

- Restrictions on the timing of trade and other current payments (leads and lags) have been removed;

- Residents may enter into contracts with non-residents without approval;

- Remaining restrictions on overseas portfolio and direct investment by Australian residents have been removed.

- Loans to non-residents will be permitted.

- Residents may have accounts denominated in foreign currencies.

Applications for Reserve Bank approval will still be required so that account may be taken of "possible implications of overseas transactions for the Government's tax screening and foreign investment policies".

AUSTRALIA AND THE IMF AND IBRD

The Treasurer the Hon. T.J. Keating addressed the annual meetings of the International Monetary Fund and the International Bank for Reconstruction and Development (the World Bank) in September 1983: Press release of the Treasurer 29 Sepember 1983, no.102/83. In his address the Treasurer stated: "It is important that the eighth quota review increase should come into effect by the end of 1983. As far as Australia is concerned legislation has already cleared one house of Parliament and I expect its passage to be completed in time for us to consent to a proposed quota increase by 30 November. The level of quotas is, of course, a key factor in the Fund's operations". (The U.S. congress finally passed the relevant U.S. legislation on 18 November 1983).

Mr. Keating assured these international organisations of the Australian government's continued strong support.

SOUTH AFRICA

Sporting Contracts

On 26 October 1983, the Minister for Foreign Affairs announced what was described as a significant strengthening of its policy on sporting contracts with South Africa. He said that this action was in line with the Government's total rejection of apartheid. South Africa was the only country which bas d its social and political system on an institutionalised form of racial discrimination. The inequities of apartheid pervaded all aspects of that society The Government believed that non-racial sport could not be played or organised in a society based on apartheid.

Mr. Hayden said that the Government, after carefully reviewing the question of sporting contacts had also decided:

- no South African sporting teams would be allowed entry to Australia;

  Australian sportsmen and women would be discouraged from competing in South Africa;

  "third country" contacts, in which Australians compete against South Africans in other countries, would be opposed;

  the Government would seek to persuade Australian sports bodies to bring pressure to bear to have South Africa expelled from international sports federations and competitions;

- the Government would seek to persuade other Governments to discourage South African participation in sporting competitions in their country.

Mr. Hayden said that the existing bans on entry to Australia of West Indian, Sri Lankan and English cricketers who had taken part in "rebel" tours of South Africa would be lifted. The Government considered it was not the responsibility of Australia nor consistent with the Gleneagles Agreement for Australia to take action against the nationals of other countries over their sporting contacts with South Africa.

South African Airways

Mr. Hayden also noted that there had also been considerable speculation in the press recently on the operation of South African Airways into Australia He said that his colleague, Mr. Beazley had made it quite clear last week that the Government's examination of Southern African airlinks had yet to be completed Already the Government had taken action to decrease SAA flights to Australia from twice to once a week. The arrangements for peak period special flights by SAA, and Qantas, to Southern Africa would still represent a reduction of 40 per cent in the SAA flights operated over the same period in 1982/3. A range of options for the longer term future of air links to Southern Africa would be examined early next year, and it would be premature to speculate at this time on the outcome of that review.

ANC/SWAPO Offices

Mr Hayden said that the Government had received a number of approaches se king our reaction to the possible establishment in Australia of an information office for the African National Congress (ANC) and for the South-West Africa People's Organisation (SWAPO). These two organisations maintained offices in several European and Third World countries. Their primary function was to disseminate information on apartheid and conditions within South Africa They carried out a role which to some extent counter d th barrage of propaganda put out by the South African Government