VIII—INTERNATIONAL ECONOMIC LAW

International economic law—trade agreements and the Vienna Sales Convention

On 22 November 1984 the Attorney-General, Senator Gareth Evans, announced that Australia was to implement the Vienna Sales Convention in Australia: see Comm Rec 1984, 2399–2400.

On 6 March 1985 the Minister for Trade, Mr Dawkins, announced the signing of an agreement with the United Arab Emirates on trade and economic relations and technical co-operation: see Comm Rec 1985, 254–255.

International economic law—international agreements for the avoidance of double taxation

On 13 September 1984 the Minister for Finance, Mr Dawkins, introduced legislation into the House of Representatives to make clear Australia's right to tax distributions by Australian business trusts to residents of countries with which Australia has concluded a comprehensive taxation agreement, and to give effect to agreements with Belgium and Malta: see HR Deb 1984, 1286–1288. On 28 May 1985 the Treasurer, Mr Keating, announced that the agreement with Malta had entered into force on 20 May 1985: see Comm Rec 1985, 818–819.

On 24 November 1985 the Treasurer, Mr Keating, announced the signing in Beijing on 22 November 1985 of an agreement with China for the avoidance of double taxation of income derived from international transport operations: see Comm Rec 1985, 2150.

International economic law—International Commodity Agreements—participation by Australia

On 17 February 1987 the following written answer was provided to the respective questions (HR Deb 1987, 113–114):

Mr Braithwaite asked the Minister for Trade, upon notice on 20 May 1986:

(1) What is the Government's assessment of international commodity agreements.

(2) To which international commodity agreements does Australia belong.

(3) To which international commodity agreements does Australia not belong; and why.

Mr Dawkins—The answer to the honourable member's question is as follows:

(1)International commodity agreements can provide a useful forum for exchange of information and discussion between producers and consumers of problems in international commodity trade. International commodity agreements which contain economic provisions may provide the additional benefit of a better outcome in terms of export prices and market stability than would otherwise be the case. This, however, will depend very much on the conditions governing international trade in each particular commodity.

(2) GATT International Dairy Arrangement
GATT Arrangement Regarding Bovine Meat
International Coffee Agreement

International Jute Agreement
International Natural Rubber Agreement
International Wheat Agreement
International Sugar Agreement
International Tin Agreement

(3) International Cocoa Agreement

Australia is not a member because of the questionable effectiveness of the Agreement resulting from non-participation by the largest exporter (the Ivory Coast) and the largest importer (the USA).

International Olive Oil Agreement

Australia is not a member because Australia is neither a significant consumer nor producer of olive oil.

International Agreement on Tropical Timber

Membership of this agreement is presently under consideration by the Government.

International economic law—international development aid—Australian contributions

On 5 September 1984 the Minister for Trade, Mr Bowen, introduced the International Development Association (Further Payment) Bill 1984 into the House of Representatives to authorise a contribution by Australia of $A200m towards the seventh replenishment of the International Development Association: see HR Deb 1984, 654–655.

On 23 August 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer in part to a question on notice in the Senate on the question of aid to Vietnam and the projects of the Interim Mekong Committee (Sen Deb 1985, 297–298):

> All members of the United Nations have a right to aid through UN organisations. All members of the IMC have a right to the regional benefits of the Committee's projects.

On 20 March 1985 the Minister for Foreign Affairs, Mr Hayden, introduced the International Development Association (Special Contribution)Bill 1985 into the House of Representatives to authorise an additional voluntary contribution by Australia of $A60m towards the resources of the International Development Association: see HR Deb 1985, 594–595.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 4276):

> The Australian Government supports the case by case approach adopted by the International Monetary Fund to the problems of all indebted developing nations, including those in Latin America.
>
> We are sensitive to the problems of those developing countries which are going through the necessary process of economic adjustment while in many cases also attempting to rebuild democratic institutions, sometimes after long periods of authoritarian rule. I have drawn attention on a number of occasions to the need for care in the exercise of conditionality to ensure that economic recovery and political stability are not jeopardised.

Concerns of this type are broadly shared in the international community and the International Monetary Fund, through its case by case approach, is able to take these sensitivities into account. We will maintain an active interest in developments in the indebted developing countries, including those in Latin America.

International economic law—international development aid—seizure of humanitarian aid in Ethiopia

On 16 January 1985 the Leader of the Opposition, Mr Peacock, issued the following statement (Comm Rec 1985, 29):

The Leader of the Opposition, the Hon AS Peacock, today described the seizure by the Ethopian Government of Australian humanitarian aid destined to rebel held areas in Ethiopia as a matter of grave concern, and likely to worsen the plight of the people in the region. He said:

The areas of Tigre and the Eritrea were two of the worse affected areas in Ethiopia. These areas are largely under rebel control, and the Ethiopian Government has appeared to show a calculated indifference to the suffering in those regions.

The Australian people have generously given food aid and valuable water drilling rig to the Eritreans and Tigreans. There is no getting around the fact that this has now been misappropriated by the Ethiopian Government.

Mr Peacock said that it was vital that food aid be channelled to Tigre and Eritrea through the Sudan and non-governmental organisations if the famine problem was to be alleviated. He said : 'Although additional food supplied could be redirected to the Sudan to compensate for this loss, this would take weeks if not months, and the food is needed now'.

Mr Peacock said that the Government should make the strongest representations to the Ethiopian Government to obtain the unconditional release of the seized consignment. He said:

We should point out to the Ethiopian Government that they had no right to seize goods destined for unloading in another country, and that the Australian Government will continue to provide humanitarian relief to the people of Eritrea and Tigre by the most effective means available.

On 22 January 1985 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1985, 43):

The Australian Government has concluded that it is most unlikely that any of the aid items seized last week at Port Assab will be released for distribution in Eritrea and Tigre, the Minister for Foreign Affairs, the Hon Bill Hayden, said today. He said:

Australia has lodged a strong protest with the Ethiopian Government over the seizure. Firm representations to the Ethiopian Government are being continued in an effort to ensure that all seized emergency relief assistance is used for the people in needy regions according to the criteria by which aid is normally distributed to Ethiopia.

Australia's representative in Addis Ababa has been instructed to make clear to the Ethiopian Government that Australia's over-riding objective

is to get food quickly to drought victims by the immediate release of the seized wheat.

I am advised that such items as a drilling rig and motor vehicles seized at Port Assab along with the food aid are covered by insurance and that the lodgment of claims for compensation is being considered. Accordingly, the Australian Government is concentrating its efforts to get the food aid seized at Port Assab released for distribution as soon as possible in areas where it is desperately needed.

In the meantime, I have authorised the adjustment of funds within the total Ethiopian emergency relief budget so that the distribution of food aid by non—government organisations in Eritrea and Tigre will not be disadvantaged by the Ethiopian Government's action at Port Assab. It is important that dispute over the seizure or its reasons does not deflect us from our over—riding aim of feeding people who are starving.

A Press Statement issued by the Ethiopian Foreign Ministry on 16 January 1985, and a protest by the Australian Embassy in Ethiopia are as follows (texts provided by the Department of Foreign Affairs):

ETHIOPIAN PRESS STATEMENT

The Charge d'Affaires of Australia was today summoned to the Ministry of Foreign Affairs and asked to transmit to the Australian Government Ethiopia's strong representation regarding the delivery of materials and equipment by Australia to armed bandits in Ethiopia.

The Charge d'Affaires was told that the action of the Australian Government constituted a flagrant violation of the most fundamental principles of international law, namely non-interference in the internal affairs of states and respect for their territorial integrity.

This move of the Australian Government in effect represented an unacceptable challenge to the sovereign authority of Ethiopia over its territory.

While Ethiopia has always been grateful for the international relief assistance to drought-stricken Ethiopians, it cannot, under any circumstances, compromise on its unity and territorial integrity.

Socialist Ethiopia is always ready and willing to develop and maintain friendly relations with all states, including Australia on the basis of accepted principles of international law. We, therefore, hope that in the interest of developing mutually advantageous relations between the two countries, Australia will desist from actions detrimental to the national unity and territorial integrity of Ethiopia, as well as curb the activities of groups perpetrating such actions in its territory.

In this connection, the Ethiopian Government makes it clear, as it has made its position clear in the past, that it will take any steps it deems fit and proper to prevent the transfer of materials and equipment to armed rebels as well as stop any unauthorised activity by any group within Ethiopian territory.

AUSTRALIAN PROTEST (Note No 2/1985)

The Australian Embassy presents its compliments to the Minister of Foreign Affairs of the Provisional Military Government of Socialist Ethiopia and has

the honour to convey to the Ministry the text of a message, despatched on 16 January, from the Australian Government to the Government of Ethiopia:

> The Australian Government has received representations from members of the Australian public, the Australian Wheat Board and non-governmental relief associations concerned about humanitarian relief in Ethiopia about your Government's arbitrary confiscation of consignments aboard the ship MV *Golden Venture*, which was destined for Port Sudan. The Australian Government protests about the Ethiopian Government's action, which has caused great concern in Australia. The cargo consists only of humanitarian supplies which represent the response of the Australian people to the plight of needy drought victims throughout Ethiopia.
>
> Accordingly, the Australian Government appeals to the Ethiopian Government to release the confiscated cargo and allow it to proceed unimpeded.

The Australian Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Provisional Military Government of Socialist Ethiopia the assurances of its highest consideration.

International economic law—international development aid—Australian support for international institutions—World Bank and International Monetary Fund

On 12 March 1986 the Treasurer, Mr Keating, provided the following written answer to a question on notice (HR Deb 1986, 1378):

> The Government endorses the expansion of World Bank and International Monetary Fund membership where the countries in question meet the requirements of those institutions.
>
> Australia is supportive of continued expansion in the activities of the World Bank and has indicated that it would support a general capital increase for the Bank. Australia is also a strong supporter of the Bank's concessional lending arm, the International Development Association (IDA), which provides funds to the world's poorest countries. This year Australia made a voluntary contribution to IDA of $A60m. We consider that the Bank's primary aim should continue to be the provision of long-term project-oriented finance for developing countries. We have also supported the established role of the IMF as basically a revolving short-term fund. Within that framework Australia has supported the continuation of the temporary enlargement of its financial resources to meet the abnormally large and wide-spread payments imbalances being experienced.
>
> As its primary concern is the provision of long term project-oriented development finance, the World Bank is not ordinarily associated with the conditionality applying to the broad settings of fiscal, monetary and foreign exchange policies. The basic nature of IMF programs is that they are designed to support and facilitate adjustment. Such adjustments are made necessary by the circumstances of the country concerned, not by the Fund. What the Fund can do is advise on the appropriate adjustment and give financial support to the country so as to minimise the burdens involved in adjustment. The aim of Fund programs is to lessen imbalances and thereby

foster sustainable growth in the medium and long term; programs have increasingly focused on structural adjustment as well as on demand management. This Government has supported the evolution of Fund programs consistent with its basic charter and operations which provide that the Fund shall respect the domestic, social and political policies of members and the particular circumstances of members.

International economic law—international development aid—Australia's contributions to the international financial institutions—appropriating legislation

On 15 October 1986 the Minister assisting the Treasurer, Mr Hurford, introduced the International Financial Institutions (Share Increase) Bill 1986 and explained the purpose of the Bill in part as follows (HR Deb 1986, 2075–2076):

> The purpose of the International Financial Institutions (Share Increase) Bill is to obtain parliamentary approval for Australia to take up increases in its capital subscriptions to two international financial institutions—the International Bank for Reconstruction and Development and the International Finance Corporation. Honourable members will be aware that the main activity of the International Bank for Reconstruction and Development, which was established in 1947, is that of providing loans to developing member countries.
>
> Following an increase in the International Monetary Fund's quotas in 1983, in August 1984 the governors of the IBRD approved an increase in the authorised capital stock of the IBRD of $US7 billion. This allowed the Bank to pursue the practice whereby its members' shareholdings were increased in parallel with their IMF quotas. In September 1984, the governors authorised an additional resolution which provided for those members who had suffered a relative decline in their shareholding to regain their relative share. Australia was one of the countries affected by this resolution. The text of the two resolutions, including the number of shares to which each member is entitled to subscribe, is included in the explanatory memorandum to this legislation. These two increases will allow the Bank to expand its borrowings on the world capital markets. It is these borrowings which largely finance the Bank's loans to developing countries.
>
> Australia voted in favour of the resolutions authorising these capital increases. Members, including Australia, are entitled, but not obliged, to subscribe to this authorised increase. Australia is entitled to subscribe to 745 shares under the special capital increase and to 70 shares under the increase in certain subscriptions to capital stock, a total of 815 shares, valued at $US98.32m.
>
> Under these capital increases, 91.25 per cent of the subscription is to remain on call and the other 8.75 per cent, which is $US8.60m, is to be paid in. Of the paid-in portion, 10 per cent—$US0.86m—has to be in the form of gold or United States dollars while the balance—$US7.74m—can be in Australian dollars. The latter amount, which is $A12.29m at the current exchange rate, will be paid in the form of a promissory note. The initial 10 per cent cash payment will be made by 31 December 1986. Subject to

agreement with the Bank, the promissory note will be encashed in eight equal biannual instalments of approximately $A1.54m each over the five financial years commencing 1986–87. The exact Australian dollar cost will depend on the exchange rate in effect at the time of lodgement of the promissory note.

The IBRD is an effective and efficient institution in the provision of development assistance to developing countries, and it plays an important role in the South East Asian region. This has been recognised by Australian governments over the years since the Bank's establishment. Up to the end of June 1986, the Bank had lent about $US105 billion to its member countries. Projects financed covered all the major sectors of economic development but there has been emphasis on infrastructure facilities in the transport and communications, industry and energy sectors, as well as projects for agriculture, education and water supply. I believe it to be in Australia's interest to continue its policy of support by taking up in full the increase in our capital subscription to which we are entitled under the two resolutions.

The International Finance Corporation, which was established in 1956 as an affiliate of the World Bank, is an international development institution established to promote the growth of productive private investment and to assist enterprises which will contribute to the economic development of its developing member countries. In addition to the direct financial assistance it provides, which may take the form of loan or equity investment, it also arranges other investment finance, mainly from the private sector, to be made available. Up to the end of June 1986 the Corporation had outstanding investments of about $US2.4 billion.

In view of the need to ensure that the IFC has adequate resources to expand its operations, the governors of the Corporation approved a resolution in December 1985 authorising an increase in the IFC capital of $US650m. This will double the IFC's capital. Australia voted in favour of the resolution. As in the case of the IBRD capital increase, member countries are entitled, but not obliged, to subscribe to additional shares.

Australia is entitled under the resolution—the text of which is set out in the explanatory memorandum—to subscribe to an additional 14,560 shares at a cost of $US14.56m, all of which would be paid in. Under the terms of an amendment to the resolution, the initial payment associated with the additional subscription must be made by 1 February 1987. It is expected that payment of $US5.824m will be made by that date, with the remaining commitment being paid in three annual cash payments of $US2.912m each, beginning in February 1988. The Australian dollar cost of these instalments will depend on the exchange rate in effect of the time of payment.

The IFC helps to provide the finance, technical assistance and management skills needed to develop productive private sector investment opportunities in its developing member countries. The encouragement of direct foreign investment in developing countries is particularly important given the external debt problems of those countries. I believe that it is appropriate therefore for Australia to register its support for the Corporation and its activities by taking up its full share entitlement. I commend the Bill to honourable members.

International economic law—international development aid—Australian legislation—International Development Association Bill 1987—Asian Development Fund Bill 1987—International Fund for Agricultural Development Bill 1987

On 19 November 1987 the Minister for Trade Negotiations, Mr Duffy, introduced three Bills into the House of Representatives, and explained the purpose of each of them in part as follows (HR Deb 1987, 2361–2364):

> INTERNATIONAL DEVELOPMENT ASSOCIATION BILL 1987
>
> The purpose of this Bill is to authorise a contribution of $A335m towards the eighth replenishment of the International Development Association, or IDA as it is commonly called. Grouped with this Bill are two further Bills, dealing respectively with Australia's contribution to the fourth replenishment of the Asian Development Fund (ADF) and the second replenishment of the International Fund for Agricultural Development (IFAD). I propose to discuss the substantive issues in respect of each of the three Bills in this speech, as there are a number of matters which overlap the Bills. I will then proceed to move the second reading of the Asian Development Fund Bill 1987 and the second reading of the International Fund for Agricultural Development Bill 1987, and make a short statement specific to each of those Bills.
>
> In late 1986, in the context of considering Australian contributions to the current replenishments of the Asian Development Fund and the International Fund for Agricultural Development, a number of questions arose as to the effectiveness and efficiency of those international financial institutions (IFIs) to which Australia belonged, namely the World Bank, the Asian Development Bank and the International Fund for Agricultural Development. A review of these IFIs as a basis for determining further Australian contributions to IDA, ADF and IFAD replenishments was carried out internally by the Australian International Development Assistance Bureau (AIDAB). AIDAB concluded that the IFIs are, in general, effective institutions and that Australia's participation in their activities complements our own bilateral aid program. I feel that, with regard to IFAD, a rigourous assessment needs to take account of views such as expressed by Professor Helen Hughes. In an article in the *Canberra Times* of 24 August, she points out that IFAD depends upon the World Bank and other agencies to do much of its project preparatory work; IFAD's projects are highly risky as a result of poor preparation and support by host countries; IFAD's examination system is not yet systematic; and that IFAD is weak on infrastructure and institutional support. She concludes, as I do:
>
> > It would be wise to cut aid to ineffectual organisations and retain sufficient interest in the more effective ones to be able to have something of a say in their running.
>
> I turn now to the eighth replenishment of IDA. IDA was established in 1960 as the concessional lending affiliate of the World Bank. It assists its poorest member countries by providing long term, interest free credits for sound development projects, utilising mainly grant funds provided by donor countries. The poorest countries have great need for development assistance

on concessional terms, which include lengthy repayment and initial grace periods. Honourable members will recognise that IDA, in turn, depends on developed donor countries like ourselves to provide most of the resources to carry on its work: donor funds are critical to the development needs of these countries. The eighth replenishment of IDA—IDA-8—is designed to cover concessional lending operations over the three fiscal years 1988–90. Negotiations on the size and modalities of the replenishment began in January 1986.

The substantial needs of IDA recipients were viewed against the background of the budgetary resources available in donor countries to finance multilateral aid. Donors, including Australia, argued that every effort should be made to achieve an IDA-8 of at least $US12 billion, a level of replenishment which would maintain the real level of operations under previous replenishments. After extensive deliberations, on 15 December 1986 donors agreed on a basic $US11.5 billion IDA-8 replenishment with traditional burden sharing arrangements. In addition, five countries agreed to provide voluntary special contributions totalling $US731.7m. Switzerland, a non-member, made an untied grant of $US165m. During negotiations Australia argued that our economic circumstances precluded us from increasing our relative share of IDA. Australia pledged a maximum contribution of $A335m to IDA-8. This figure maintains our IDA-7 share of 1.98 per cent of the basic replenishment.

The financial impact of the IDA-8 contribution is shown in the explanatory memorandum to this legislation. As in previous replenishments, Australia has the option of paying its contribution either in cash or by lodging non-negotiable, non-interest bearing promissory notes encashable on demand as and when funds are actually required by IDA for loan disbursements. In accordance with past practice, and in line with the practices of most other members of IDA, payment will be made in promissory notes, which will be encashed over a period of eight years, beginning in this financial year, as per the schedule in the explanatory memorandum. IDA contributions represent a major share of Australia's aid to Africa. Donors have agreed that 45 to 50 per cent of IDA-8 resources will be allocated to countries in sub-Saharan Africa. China and India are the other main beneficiaries; these two countries will receive about 30 per cent of IDA-8 resources.

Honourable members will know that Australia has a solid record of support for IDA since its inception. There has been general agreement, on both sides of the House, that IDA is a highly effective channel for disbursement of development assistance to the most impoverished countries of the world. The recent major reorganisation of the World Bank initiated by the President of the Bank, Barber Conable, will, I believe, result in an even more efficient and responsive organisation. Indicative of the changes taking place at the World Bank is the significant increase in bank resources to be devoted to environmental policy and developmental strategies. The Bank has also increased its emphasis on women in development activities. This Bill provides an opportunity to demonstrate support for IDA and our willingness to recognise, through our support for this institution, the

development assistance needs of the poorest developing countries.

I turn now to the proposed Australian contribution to the fourth replenishment of the Asian Development Fund. As indicated, the Bill will be presented immediately following the IDA-8 legislation. Honourable members will know that since the Asian Development Bank was established in 1966 Australia has been and remains a strong supporter. The Asian Development Fund is the soft or concessional loan arm of the ADB. ADF resources complement our limited bilateral aid program to the poorest countries of South Asia, and supplement our bilateral aid to Papua New Guinea and the South Pacific. The fourth replenishment of the ADF is intended to cover concessional lending operations over calendar years 1987–90. Negotiations on the modalities of the replenishment commenced in June 1985, with Australia, Japan, Italy and the Nordic countries arguing for the $US4 billion replenishment level. This figure represented the level required to maintain the ADF's rear level of operations during the 1987–90 period.

The ADF-V negotiations were concluded in April 1986 with donors agreeing to a replenishment level of $US 3.6 billion. Australia pledged $410m, which represents a 7.98 per cent share of the replenishment. The basis for this level of contributions is that it would have been the equivalent of a 7.19 per cent share—that is, our share of the previous replenishment—if the fourth replenishment had reached the $US4 billion level which we had initially advocated. As with IDA-8, payment to the fourth replenishment of ADF will be made in the form of non-negotiable, non-interest bearing promissory notes. These will be encashed over a period of 12 years beginning in this financial year, as per the schedule in the explanatory memorandum to this legislation.

Despite our strong and continuing support for the ADB, there have been concerns over some recent trends at the bank. Our main concerns have centred to some extent on personnel practices such as the handling of staff grievances, but more importantly on certain project proposals which appeared to be of doubtful value. It has appeared at times that the bank has been prepared to sacrifice quality control in order to maintain its level of lending. The bank has to be careful that it does not become guilty of 'monumentalism' at the expense of rigourous quality control and economic justification.

Australia has been quick to voice its concerns in an open and frank manner, at the executive board and at other fora. Indeed, at the 1987 annual meeting in Osaka, Australia's governor ad interim, the honourable member for Adelaide (Mr Hurford), outlined our concerns with the bank, and joined with a number of other members in calling for a comprehensive external review of the management and organisation of the bank. I note that the bank has acknowledged its concern and declared its responsiveness to the criticisms of Australia and others.

A panel of five eminent persons has been set up as an external panel to study the role of the bank in the 1990s and provide a basis for the bank to formulate its operational directions, strategies and policies for that decade. We shall monitor the work of the panel closely and make known to the panel

our views on the future of the bank.

The Asian Development Bank and its Asian Development Fund have an important role to play in continuing to foster economic and social development in the region of immediate interest to Australia. Our contribution to the fourth replenishment will confirm our willingness to continue helping the poorest developing countries in our region with highly concessional assistance. We will continue to provide constructive criticism and comment where we feel this is necessary to ensure the continued effective operation of the ADB.

The last of the institutions which come before our attention today is the International Fund for Agricultural Development. The primary objective of the fund is to help increase agricultural production in developing countries. Australia's membership of IFAD has been predicated on political and humanitarian considerations. Organisation for Economic Co-operation and Development (OECD) donors supply 60 per cent of IFAD's resources, and the Organisation of Petroleum Exporting Countries (OPEC) the remaining 40 per cent.

IFAD has had considerable problems in attracting regular replenishments from donors, more particularly from OPEC donors whose contributions set the base for the fund and therefore the total to be subscribed. The second replenishment—IFAD-2—negotiations took nearly three years to complete. Agreement was finally reached in January 1986 on a replenishment of $US460m, considerably below the original target of $US1 billion. The low replenishment level partly reflected the OPEC group's limited capacity to contribute in the wake of substantially reduced oil prices.

Australia pledged $A8.48m to IFAD-2. This contribution represents our assessed burden share of 2.15 per cent of OECD donor contributions. Although Australia's share has increased from our 1.68 per cent share of IFAD-1, our contribution in both real and nominal terms has actually declined because of the low level of the overall replenishment.

In the present circumstances the Australian share of OECD donor contributions maintains our support of IFAD programs through to fiscal year 1991-92 when the last encashment of the Australian contributions is scheduled. As the explanatory memorandum to the legislation shows, payment of the IFAD-2 contribution will be by way of promissory notes, to be encashed over a period of three years beginning in 1989–90.

The Government has taken into account the low level of the IFAD-2 replenishment, and the protracted nature of the negotiations required to conclude the replenishment. There clearly are difficulties in terms of the commitment to some donor countries, particularly in the OPEC group, to provide a viable level of funding to IFAD. The Government has also has concerns over the developmental effectiveness of IFAD and there are questions regarding the IFAD's overlap with other developmental agencies.

As honourable members are aware, the current climate of expenditure restraint has led to Australia's overseas aid program being reduced in real terms over the past three years. This cutback has required a rationalisation of the number of international organisations that Australia supports. It is in

this context that the Government has decided to make no further contributions to IFAD after honouring our current commitment to IFAD-2. Australia accordingly will not participate in the replenishment negotiations for IFAD-3, due to start in 1988.

In summary, I have taken the opportunity whilst speaking to the International Development Association Bill 1987, to canvass also the issues involved in contributing to the fourth replenishment of the Asian Development Fund, and the second replenishment of IFAD. I believe that it is both in Australia's national interest and in the interest of the international community as a whole that we should contribute to these organisations on the basis which I have outlined. Specifically, in respect of the IDA Bill, it is proposed that Australia contribute an amount of $A335 million to the eighth replenishment.

ASIAN DEVELOPMENT FUND BILL 1987

The purpose of the Bill is to authorise a contribution by Australia of $A410m towards the fourth replenishment of the Asian Development Fund.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT BILL 1987

The purpose of the Bill is to authorise a contribution by Australia of $A8,472,570 towards the second replenishment of the International Fund for Agricultural Development.

International economic law—international development aid—World Bank—political considerations in decisions to support loans—Chile

On 30 November 1986 the Minister for Foreign Affairs, Mr Hayden, issued the following statement (Comm Rec 1986, 2158–2159):

The Minister for Foreign Affairs, the Hon Bill Hayden, today denied reports that Australia's vote for a World Bank loan to Chile was made against his advice and that of his department. The Executive Board of the Bank approved a $250m Structural Adjustment Loan (SAL) to Chile at its meeting in Washington on 20 November.

In casting his vote, the Australian Executive Director made a strong statement on behalf of both the Australian and New Zealand authorities to record that support for the loan did not imply any lessening in concern about the human rights situation in Chile. Mr Hayden rejected suggestions that Australia should have voted against the loan or abstained from support as a form of protest against Chile's human rights policies.

An important principle is at stake in the operation of the Bank, Mr Hayden said. Section 10 of Article IV of the Bank's articles of agreement states that:

> The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially...

Australia has in the past strongly supported this principle and has not done anything to prejudice the principle when requested. Mr Hayden said:

In my own area of foreign affairs I have steadfastly rejected suggestions that for instance Israel or South Africa should be expelled from multilateral bodies like the International Atomic Energy Agency. Once we go down the track of expelling bodies from multilateral forums because we don't like their political ideologies or practices then we go down a very dangerous path. That course opens up a process of competitive expulsions being moved with increasing earnestness by East and West.

We have to remember that the liberal democracies of the world are relatively few in number and that regrettably authoritarianism is much more common.

To expel is to exclude from the processes of international dialogue and pressure which multilateral forums provide. That course means the ultimate dissolution of the United Nations, the supreme multilateral body where all independent nations are entitled to participate.

The crumbling and dissolution of the United Nations, as an extreme case to illustrate a point, would be a great loss for countries like Australia. It would impoverish the world by denying it a mechanism which all[ow] so many troublesome problems to be sorted out, or modified, between nations before they get worse.

Australia votes in the World Bank as part of a constituency holding 3.36 per cent of the Bank's voting rights. Other members of our constituency are New Zealand, Papua New Guinea, Republic of Korea, Solomon Islands, Vanuatu, Western Samoa and Kiribati. Our vote reflected opposition within the constituency to the intrusion of political considerations into the Bank's processes which by its charter should be determined exclusively on technical economic grounds free of political consideration. It was in agreement with the view of virtually all the developing countries of the Bank and many other developed countries that Chile appeared to meet all the relevant criteria in order to receive the loan in question.

The Government believes that the situation in Chile is only likely to improve decisively with a return to democratic traditions and it is becoming increasingly clear that the Chilean Government must restore these traditions fully and without delay if further suffering is to be averted. In particular the regime must ensure that there is an early resumption of proper democratic practices.

International economic law—international trade agreements—bilateral agreements—Closer Economic Relations: — Treaty with New Zealand

For statements on this Treaty, see HR Deb 1986, 19 August 1986, 63 (Minister for Aviation); Comm Rec 1987, 28 April 1987, 614 (Minister for Industry, Technology and Commerce); and Sen Deb 1987, 7 May 1987, 2498 (idem).

International economic law—foreign investment—Australian Foreign Investment Guidelines

On 17 February 1987 the Treasurer, Mr Keating, provided the following written answer to a question on notice in the Senate (Sen Deb 1987, 15):

> As I announced in July 1986, the Government will continue to monitor the impact of foreign investment policy and will make further changes as and when appropriate.
>
> Over the past two years, the policy has undergone significant relaxations. The changes are intended to facilitate further worthwhile foreign direct investment in Australia and have involved both a liberalisation of the foreign investment policy criteria and a streamlining of procedures.
>
> The honourable senator can be assured that any further changes to the policy would be made with the best interests of the Australian community in mind. There are no plans to abolish the Foreign Investment Review Board.

For details on the liberalisation of Australia's foreign investment policy, see the statements of the Treasurer, Mr Keating, issued on 28 July 1986 (Comm Rec 1986, 1243–1244), and on 30 April 1987 (ibid, 629–631).

International economic law—foreign investment—investments of the former Philippines President Marcos—possible repatriation

On 1 May 1986 the Minister representing the Minister for Foreign Affairs in the Senate, Senator Gareth Evans, said in answer to a question in part (Sen Deb 1986, 2187–2188):

> I have been advised by the Minister for Foreign Affairs that the Treasury has undertaken a preliminary examination of its confidential records on Philippines investments submitted to the Government over the past several years and has supplied the Department of Foreign Affairs with some factual information, some of which is already public, as well as some confidential information. To date investigations have shown that, on the basis of the available data, Philippine investment in Australia has been small, of the order of $32m at 30 June 1984 and mostly in services and primary industries. Australian officials have also perused the documents made public in the United States by the Solarz Committee. The contents of those documents did not identify Australian transactions or dealings for identifiably Australian transactions that involved Philippine assets.
>
> The Australian Government will consider sympathetically, as we have said previously, a request from the Philippines Government for assistance in the repatriation of Philippine assets and will give whatever assistance it can consistent with Australian law and policy. No such request has yet been received.

International economic law—foreign investment—foreign ownership of Australian land

On 27 May 1986 the Minister for Primary Industries provided the following written answer in part to a question on notice in the Senate (Sen Deb 1986, 2806):

> The Australian Bureau of Statistics has advised that there are no figures available on the total land area in Australia which is foreign owned. However, results of an ABS survey of foreign ownership of agricultural land as at 31 March 1984 showed that an estimated 28.5 million hectares were foreign

owned representing 5.9 per cent of the total area of agricultural land in Australia.

Figures from the survey showed that most foreign ownership of agricultural land was attributed to the USA and UK.

International economic law—New International Economic Order—Lima Declaration—reservations by Australia

On 29 May 1986 the Minister for Industry, Technology and Commerce, provided the following written answer in part to a question on notice in the House of Representatives concerning Australian support for the Lima Declaration adopted on 27 March 1975 (HR Deb 1986, 4325):

> The so called 'Lima Declaration' is a declaration agreed to by the Second General Conference of the United Nations Industrial Development Organisation at Lima, Peru, in March 1975. It is not an international instrument requiring either signature or ratification.
>
> As explained above, Australia has not signed the Lima Declaration.
>
> In supporting the Declaration in 1975 the leader of the Australian delegation presented a statement of reservation and interpretation in which the Australian Government's position was effectively explained. In that statement the delegation leader said, inter alia: 'The Australian delegation has supported the Declaration and Plan of Action because of the aspirations it embodies for a fairer, more co-operative and more progressive world order. We have done so notwithstanding reservations on a number of matters.' Reference was then made to Australian reservations made on the program of Action on the Establishment of a New International Economic Order (NIEO) and on the Charter of Economic Rights and Duties of States (CERDS). The delegation leader then expressed specific reservations or interpretations on a number of paragraphs in the Declaration, including paragraphs 17, 19, 28, 40, 42, 43, 44, 47, 59(c), (d) and (e) and 60(e) and (f).
>
> Around the time that statement was made and subsequently, a more difficult economic environment and increasing competition, particularly from developing countries in the region, was revealing major deficiencies in Australian manufacturing industry. This resulted in a significant change in the Government's approach to manufacturing industry policy.
>
> That policy is now aimed at making the manufacturing sector more internationally competitive, export-oriented, flexible and innovative, and capable of operating in the longer-term with minimal levels of government assistance and regulatory intervention.
>
> A recognised consequence of this approach is the need for a gradual restructuring of industry.
>
> The Government also continues to be actively involved as appropriate in assisting the process of industrialisation in developing countries. Means by which Australia pursues this objective include the Australian System of Tariff Preferences, the foreign aid program, and involvement in a range of activities under the auspices of the United Nations Industrial Development Organisation (UNIDO) and the Commonwealth Heads of Government Regional Meeting (CHOGRM) Working Group on Industry.

The Government will continue to pursue its broad industry policy which is aimed at achieving a high and sustained rate of economic growth, and a resultant improvement in overall living standards and increased employment. Continued pursuit of this policy will be to the overall benefit both of Australia and the developing countries of the world.

International economic law—international trade—sanctions and embargoes—Fiji

On 9 October 1987 the Minister representing the Minister for Foreign Affairs and Trade in the Senate, Senator Gareth Evans, said in part in answer to a question (Sen Deb 1987, 936):

> The Government has made very clear its attitude to the current events in Fiji. We have condemned Colonel Rabuka's second coup on 25 September. We have made it clear that we do not recognise the republic declared by him on 7 October or any government established by him. We continue to recognise the executive authority of the Governor-General. We have taken action to reinforce that condemnation of the coup by suspending the aid program with the exception of training costs for on-going students from Fiji. We have done it by continuing the suspension of the defence co-operation program and by noting that the nature and level of our representation in Fiji is now under review. What we have not done is to implement trade or economic sanctions and it is the Government's policy not to do so in this situation. We simply do not see economic sanctions as being practicable. There might be a short period when they would have an impact but Fiji would be able to put alternative supply arrangements in place quickly, as was demonstrated during the period of trade unions bans after the first coup. Fiji put considerable effort into diversifying sources of supply away from Australia and New Zealand with a manifest degree of success although admittedly it was not conclusive because the bans were lifted and Fiji's efforts then ceased.
>
> Another consideration is that Fiji is a major transhipment point for goods and services to many of the smaller island countries in the South Pacific. They would be more likely to be affected earlier and more severely than Fiji by Australian sanctions. Prima facie it would be extremely difficult to supervise effective sanctions on exports of Australian goods, for example, to ensure that commodities shipped from Australia to other destinations were not then subsequently transhipped to Fiji. Generally speaking, sanctions are only likely to be effective when they are broadly based and have a wide measure of international support. It is our judgment that any attempt by Australia to co-ordinate an international campaign to bring about such sanctions in the context of Fiji is highly unlikely to be successful.

On 20 October 1987 Senator Evans said in answer to a further question (Sen Deb 1987, 961):

> The Government has made it clear all along that we do not support the imposition of trade or economic sanctions against the military regime in Fiji, notwithstanding our obvious position in relation to that regime—our non-recognition of it and our appreciation of the concerns and indeed our sharing of the concerns of the trade union movement about the treatment of unionists

in Fiji. It needs to be appreciated that the particular bans that are being imposed at a maritime level and being talked about in an aviation context are not an attempt to bring down the regime as such or even to impose political pressure on it; rather, they are a response to the situation which is a very unhappy one so far as the treatment of fraternal trade union organisations and individual trade unionists is concerned.

Notwithstanding all of that, the Government's position is one of a belief that such sanctions are likely to be counterproductive and, certainly in the Fijian context, are not likely to be effective given the ready availability of other sources of supply for the commodities that are involved and the lack of any evident regional or, for that matter, larger international will to join in any sanctions exercise. So against that background we are continuing to talk with the trade union movement to make it see the force of the argument that we are putting about the likely lack of utility of any such sanctions exercise. We hope that in due course, and sooner rather than later, that approach by the Government, which is, realistically, the only approach we can adopt at this stage, will bear fruit.

International economic law—export of uranium—nuclear safeguards agreements—co-operation in the peaceful uses of nuclear energy

For the message sent by the Minister for Foreign Affairs, Mr Hayden, to the Chairman of the Conference on Confidence and Security Building Measures and Disarmament in Europe which opened in Stockholm on 17 January see Comm Rec 1984, 58.

On 22 February 1985 the Minister for Resources and Energy, Senator Gareth Evans, tabled a statement on the subject of a uranium shipment to France, part of which read as follows (Sen Deb 1985, 76):

> No difficulty will in fact arise in tracking the end use of this material, if it is in fact delivered in the first instance to France rather than Germany.
>
> Once the shipment enters France, it will be covered by the terms of our bilateral Safeguards Agreements with that country and with Euratom, and the notification and tracking procedures under that Agreement will apply. If it should first enter Germany, it will be covered by the Euratom Agreement.
>
> France is obliged under the Agreement to seek prior consent before any Australian-origin nuclear material is transferred out of its territory.
>
> The tracking of the material, here as elsewhere, is done by the Australian Safeguards Office (ASO), based in Sydney, which operates a highly sophisticated and comprehensive accounting system to ensure the proper implementation not only of the kind of bilateral agreements involved here, but also the multilateral safeguards arrangements established by the International Atomic Energy Agency under the Nuclear Non-Proliferation Treaty.
>
> Before any exports are authorised the ASO is in touch with its counterparts in all countries through which exports pass. (In the case of Europe this body is the Euratom Safeguards Directorate which tracks and accounts for uranium in the EC.)
>
> Australia has 10 bilateral safeguards agreements in place which embrace 17 countries. Each approved export contract provides for uranium exported

under those contracts to be subject to our bilateral safeguards agreements. The agreements themselves provide that transfers to third countries can only take place with Australian consent.

Hence commercial customers not only are required to ensure that uranium is used consistently with peaceful purposes as provided for in our agreements, but they are unable to onsell any uranium to countries with which we do not have a safeguards agreement.

On 17 September 1985 the Minister representing the Minister for Foreign Affairs, Senator Evans, said in part in answer to a question in the Senate without notice (Sen Deb 1985, 623–624):

The Government's position is that neither the nuclear safeguards agreement between Australia and Euratom nor that between Australia and France requires Australia to supply uranium to France. The suspension of uranium exports for end use in France continues in view of French testing of nuclear weapons in the South Pacific. The international safeguards system and the provisions of our bilateral treaty network provide assurance that Australian uranium is not being diverted for use in nuclear weapons by France or any other state.

As a matter of policy, as Senator Sanders would know, Australia is prepared to conclude safeguards agreements only with countries which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Non-nuclear weapons states party to the NPT have undertaken not to develop nuclear weapons. France is already a nuclear weapons state and is the only exception to that general principle in Australian policy; the basis of the exception being that although France is not a party to the NPT, France has undertaken to act as if it were an NPT party and it has upheld that undertaking. As to the question of our condonation of French military activities in the Pacific, I say simply that the Government's condemnation of France's nuclear testing in the Pacific is a matter of ample record.

International economic law—international trade—sales of uranium to France—embargo—lifting of embargo—nuclear safeguards—IAEA

On 19 August 1986 the Minister for Trade, Mr Dawkins, issued the following statement (Comm Rec 1986, 1448):

As announced in the Budget, the Government has lifted the embargo on Australian exports of uranium for end-use in France. The Minister for Trade, the Hon JS Dawkins, said tonight:

Under arrangements between the Government and Queensland Mines Ltd, the Government was required to purchase the balance of the Queensland Mines-Electricite de France uranium contract tonnage not shipped as a result of the embargo. Removal of the embargo would provide substantial budget savings, amounting to $66.4m in 1986–87, $26m in 1987–88 and $13m in 1988–89, and has enabled the Government to resist pressure for expenditure cuts in other areas.

Renewed access to the French uranium market, the largest in Europe, also offers significant opportunities for aiding Australia's balance of trade position.

> It is also likely that further sales representing hundreds of millions of dollars will occur over a number of years. The Government does not believe that, at a time of severe difficulties in finding markets for our commodities, it should allow these possibilities to be overlooked. It is obvious that Australia's refusal to sell will lead only to this market being filled by our trade competitors.
>
> Exports of Australian uranium for end-use in France are subject to the terms of the Australia-France and Australia-Euratom nuclear safeguards agreements. These agreements establish a framework which gives total assurance that, in accordance with Australia's nuclear safeguards policy requirements, Australian origin nuclear material in France remains in peaceful, safeguarded use and does not in any way at all contribute to the French nuclear weapons testing program.

On 20 August 1986 the Prime Minister, Mr Hawke, said in answer to a question, referring to the embargo imposed on uranium exports to France (HR Deb 1986, 317–318):

> We made a decision in 1983, which we gave effect to in 1984, because we hoped that the suspension of the sale of uranium to France may play some part in persuading France to cease its nuclear testing in the Pacific. That was a legitimate hope and we took that decision in the understanding of the very real and legitimate concerns felt by many people, particularly the young people in this country.
>
> We have found in fact that, although we have made the most persistent representations to the Government of France, that has made no difference, and in light of the circumstances confronting us in this Budget we decided that it was no longer appropriate to continue that process. The effect on France of the ban was that we inflicted a penalty on it of forcing it to buy uranium cheaper on the spot market than it could have under the contractual arrangements. It seemed no longer sensible for us to continue that policy. Let me say that I will ensure that every relevant Minister—myself, the Minister for Foreign Affairs, the Minister for Trade and every other Minister who has contact with France after the resumption of sales—will take every opportunity to continue to put to the Government of France the opposition of this Government to nuclear testing.
>
> Having said that, let me say this as to the budgetary impact of the decision we have taken: Because of the fact that sales will be resumed, the net positive result in terms of the Budget will be $66.4m. If one looks at what the position will be in terms of our balance of payments in the years ahead, it is reasonable to assume that Australia may get up to something like $200m per year in current terms through the 1990s.
>
> Let me make the position quite clear in regard to safeguards. While France is not a party to the Treaty on the Non-proliferation of Nuclear Weapons, in terms of safeguards it has a commitment to behave exactly as those states which have signed the Treaty, and has done so. The safeguards agreements which are in place have established a framework for assurance that, in accordance with Australia's nuclear safeguards policy requirements, Australian origin nuclear material exported to France remains in peaceful use.

Madam Speaker, as you know, as Australia knows and as the International Atomic Energy Agency knows, Australia has the most stringent safeguard requirements in the world and on safeguard grounds there is confidence about selling uranium to France. Nuclear safeguards on Australian origin nuclear material in France are applied under the Australia-France and the Australia-European Atomic Energy Community nuclear safeguards agreements.

I notice that in some quarters it has been alleged that Australian nuclear material has been used in the French weapons program, either in the Super Phoenix fast breeder reactor program or indirectly after the reprocessing of spent fuel. Those allegations are incorrect, as the Super Phoenix reactor is operated for peaceful purposes as part of a European program of co-operation in breeder development for peaceful purposes. No Australian uranium has been used in Super Phoenix; no Australian uranium has been reprocessed by France. If it had been, it could only be used for peaceful purposes under the safeguards agreement.

I repeat that the decision of this Government was taken in good faith in the first place. It served no purpose in terms of producing the result that we still want to achieve; that is, the cessation of French nuclear testing in the South Pacific. I repeat that I, the Foreign Minister and all relevant Ministers at every opportunity will continue to put to the people of France that they should desist from nuclear testing in the South Pacific.

On 22 August 1986 Senator Gareth Evans provided the following further written answer (Sen Deb 1986, 357):

Yesterday Senator Vallentine asked me about the nuclear safeguards arrangements applying to Australian uranium in France and how the requirements of the Government's nuclear safeguards policy are actually met in respect of this nuclear material. Assurance that uranium supplied to France by Australia would be used for strictly peaceful purposes stems from the requirements of the Australia/France and Australia/Euratom nuclear safeguards agreements and application of nuclear safeguards by the International Atomic Energy Agency and Euratom to nuclear material supplied to France for peaceful purposes.

Australia's bilateral safeguards arrangements with France are based on international legally-binding undertakings and obligations. They provide that Australian uranium will not be diverted to military or nuclear explosive purposes nor used for research thereon; and that Australian uranium and derived nuclear material will be covered by IAEA safeguards to verify compliance with this.

The bilateral safeguards agreements, together with France's 'voluntary offer' to accept IAEA safeguards on nuclear material in peaceful use provide the basis for applying safeguards entailing the accounting for and control of Australian origin nuclear material in various stages of the fuel cycle. Australian origin nuclear material in France is also subject to Euratom safeguards. The Euratom safeguards system verifies by inspection and accounting procedures that nuclear material supplied for peaceful purposes is not diverted to military or nuclear explosive purposes.

Under the Administrative Arrangements to Australia's bilateral safeguards arrangements a system of records and reports has been established by which the Australian Safeguards Office is kept informed of Australian origin nuclear material in its various forms in bilateral treaty partner countries. This information provides the basis for periodic reconciliation of accounts kept by the ASO with those kept by its counterpart organisations. These accounting procedures confirm that Australian uranium in France remains in exclusively peaceful use. Further information on the way in which the ASO accounts for Australian uranium is set out in its 1984–85 Annual Report which I tabled in Parliament earlier this year.

Senator Vallentine fails to appreciate that in accounting for Australian uranium supplied to France it is not necessary for this material to be physically separated from uranium provided by other countries. National origin is attributed to nuclear material on the basis of equivalent quantities rather than particular atoms of nuclear material. This is the basis of nuclear accounting and is a well established approach in a number of other domestic and international commodity areas where there is a mingling of material from various sources. A rough analogy may be drawn with banking; we do not expect to withdraw the [very] same notes and coins as we have previously deposited but we do ensure that the value is the same. In the same way we are concerned to ensure that the requisite quantities of nuclear material in France are identified as of Australian origin and accounted for in accordance with our nuclear non-proliferation requirements.

Each country which is a nuclear weapon State has a separate fuel cycle for production of high enriched uranium for weapons production purposes. In the case of France, this weapons grade enriched uranium is produced at the Pierrelatte facility. The civil nuclear enrichment facility to which Australian uranium is transferred is located at Tricastin. For operational reasons, including that of nuclear criticality, it is not possible to produce high enriched uranium, in a civil plant. This physical separation at one of the most sensitive stages of the fuel cycle provides an additional measure of assurance.

Data made available to the ASO confirm that the quantities of Australian origin nuclear material anticipated to be present in the French civil nuclear fuel cycle do actually exist, are precisely accounted for and are clearly labelled with the obligations which Australia has imposed by virtue of its nuclear safeguards agreements with both France and Euratom. In addition to IAEA safeguards applied to Australian uranium in France this material is at all times subject to safeguards measures prescribed by Euratom and is available for inspection by Euratom Safeguards Directorate inspectors. It is the imposition of these obligations on Australian uranium that ensures that it is not diverted into nuclear weapons fuel cycles.

International economic law—international trade in cultural material—1970 UNESCO Convention prohibiting the illicit trade of cultural property

On 27 November 1985 the Minister for Arts, Heritage and Environment, Mr Cohen, introduced the Protection of Movable Cultural Heritage Bill 1985 into

the House of Representatives, and explained the purpose of the Bill in part (HR Deb 1985, 3739–3742):

> The purpose of this Bill is to protect Australia's heritage of cultural objects and to extend certain forms of protection to the cultural heritage of other nations. As a result of these steps, Australia will be able to accede to the 1970 United Nations Educational, Scientific and Cultural Organisation Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. All nations possess objects which illustrate in unique or significant ways their history and culture. In Australia's case, some of these objects date back beyond recorded history to the deep roots of Aboriginal life; others relate to the period of exploration and settlement and to the progressive growth over the last 200 years of a distinctively Australian society.
>
> In speaking of cultural objects I am not simply referring to works of art, although the cultural heritage obviously embraces paintings, prints, crafts, sculpture, manuscripts, books, furniture and other art objects. I am referring to the full range of cultural heritage material. This also includes stamps, coins, maps, military objects and technological objects, including machinery, scientific material, inventions, archaelogical finds, artefacts from Aboriginal life, government records, important documents, photographs, films and television material.
>
> Rare and valuable cultural objects are increasingly sought after by collectors. In recent decades a thriving international market has developed with high prices being paid for rare objects. In some instances systematic looting of cultural treasures is known to be organised by black market operators in the big buying centres. The loss of material has reached crisis level in certain countries, particularly in the Third World, which has already suffered depletion at the hands of explorers, colonists, traders and missionaries. UNESCO has long been active in encouraging its member states to protect the finite and vulnerable evidence of their cultural histories. In 1970 UNESCO drew up a convention to deal with the question of illicit international trafficking in cultural treasures. Fifty-three nations have now become parties to this Convention, which imposes treaty obligations to return important cultural objects illegally exported from other parties.
>
> The definition of cultural material given in the Convention is broad, embracing archaeology, pre-history, history, literature, art and science and includes the range of material which I mentioned a moment ago. Although its primary focus is on illegal international traffic, the Convention proposes other forms of protection, including a national inventory of protected cultural property, support for collecting institutions, rules for curatorial conduct, educational measures, controls on antique dealers and supervision of archaeological sites.
>
> Australia's decision to accede to the 1970 Convention was announced by the Minister for Education (Senator Ryan) to the General Conference of UNESCO in Paris in October 1983. The legislation before the House will put us in a position to do this. These steps have been long advocated by our museums, galleries, libraries and archives. The States are big holders of cultural collections and have a direct interest in this matter. I have been

anxious to ensure therefore that whatever steps the Commonwealth took should be acceptable to the States. The proposals embodied in the Bill have the support of the States.

Most of the protective measures set out in the 1970 Convention have long been practised in Australia, both at Commonwealth and State levels. The Customs Act 1901 and the Aboriginal and Torres Strait Islanders Heritage (Interim Protection) Act 1984 provide protection for certain categories of cultural material. The States and Territories have laws which affect the removal of objects from archaeological sites and regulate the operations of antique dealers. All governments in Australia support collecting institutions which fulfil many of the Convention's objectives, namely conservation, security, presentation and public education. In general our record on protection of our cultural heritage is good and the responsibility is widely shared.

In deciding how to approach the matter of accession to the 1970 Convention the Government has taken the view that the Commonwealth should not attempt to subsume or replace arrangements already in hand at State or local level. However there are certain steps which must be taken at Commonwealth level before accession and those steps are the subject of this Bill.

In summary the Bill provides for:

New export and import controls to regulate the movement of important cultural objects. This will enable the establishment of reciprocal arrangements with other countries for the return of illegally exported material.

A national heritage fund to help with the acquisition of important cultural objects prohibited from export and for associated purposes.

New administrative arrangements to manage these Commonwealth initiatives and maintain liaison with the States.

...

The import controls will apply only to important cultural material which has been imported into Australia without the requisite export authorisation from the country of origin. There will be no search of incoming luggage or freight. The import controls exist solely to enable Australia to respond if an official complaint is received from a foreign government that an illegally exported object has been brought to Australia. If a foreign government does not consider an object sufficiently important to lodge such a complaint, we do not consider ourselves as having an obligation to protect that country's cultural property on its behalf. Although these controls relate essentially to Australia's treaty obligations under the 1970 Convention, they will also make it possible for the Government to provide this form of protection to countries which may not yet be party to the Convention. An institution or individual buying an important cultural object from overseas will need to be satisfied that the requisite export authorisations have been issued in the country of origin. This is already the practice of all reputable collecting institutions and private collectors. In any case the interests of innocent third parties are safeguarded by the 1970 Convention. A country requesting the return of an object is required by the

Convention to offer financial compensation to an innocent third party purchaser.

International economic law—transnational corporations—code of conduct

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, wrote in answer to a question on notice in the House of Representatives as follows (HR Deb 1985, 4075):

Does the Government intend to introduce a strict code of conduct for Australian transnational corporations and financial institutions investing in developing countries to ensure that the operations respect the independence of the host country and enhance the prospect of equitable self-reliant development; if so, when?

Not at present. Australia was, however, a party to the Declaration made on 21 June 1976 by the member countries of the Organisation for Economic Co-operation and Development on International Investment and Multinational Enterprises. The Declaration contains voluntary guidelines addressed by OECD countries to multinational enterprises operating in their territories intended to encourage the contributions of these enterprises to economic and social progress, especially in developing countries, and to minimise any difficulties which arise from their operations.

Also, the United Nations Commission on Transnational Corporations is considering a draft Code of Conduct for Transnational Corporations (TNCs) which, in effect, is designed to ensure that the operations of TNCs in developing countries 'respect the independence of the host country and enhance the prospect of self-reliant development'. In common with other western industrialised countries Australia supports the adoption of a voluntary code, with comprehensive application to private, mixed and state-owned enterprises and which provides for fair, equitable and non-discriminatory treatment of TNCs by states in accordance with national and international law.

International economic law—Australian Government sanctions on trade with the USSR and Iran—compensation scheme

On 4 June 1984 the Minister for Finance, Mr Dawkins, tabled a report entitled 'Report on the operation of the Scheme to Compensate Persons Affected by the Government Sanctions Imposed against the USSR and Iran', and made a statement as follows (HR Deb 1984, 2770–2772):

In 1980 the former Government announced the establishment of a scheme to compensate individuals and firms for direct expenditure—excluding overheads and profits forgone—which was unable to be recouped as a consequence of that Government's response to the Soviet invasion of Afghanistan and to the holding of United States of America hostages in Iran. Honourable members will well remember the extraordinary double-standards and bullying tactics employed by the former Government and particularly the former Prime Minister in order to enforce selective sanctions against the Union of Soviet Socialist Republics in particular. While Australian Olympic athletes and organisations associated with Australia's 1980 Olympic Games

effort were being pressured by the Prime Minister of the day into withdrawing from their involvement, that same Prime Minister was overseeing record sales of wheat and wool to the USSR.

At the time, the Federal Labor Opposition stated quite clearly its condemnation of the actions of the governments of the Soviet Union and Iran. As a government, we continue to condemn unequivocally the Soviet occupation of Afghanistan. However, we also made it clear that we did not support trade sanctions because they simply would not work. The establishment of the compensation scheme which is the subject of this report should be viewed in that light. Setting aside considerations of the appropriateness of the former Government's response to developments in Afghanistan and Iran in 1980, it is simply not possible nor, in the Government's view, desirable to compensate all individuals, organisations and firms that are adversely affected by government policies.

When a decision is taken to provide compensation, governments must recognise that such a decision has the potential to raise problems of equity and consistency. The then Government, in establishing the guidelines for this scheme, considered several precedents that existed at the time for compensation payments of an ex gratia nature. A summary of these precedents is set out in Attachment 1 of the tabled report. The end result was a set of guidelines which specified that for any firm, organisation or individual to be eligible for compensation, their losses had to be a direct result of government policy or actions and outside the control of that firm, organisation or individual. Only recouped direct expenditure was eligible for compensation with lost profits and general overhead expenses not being eligible for compensation. The Minister for Finance had primary carriage of the scheme but was to involve other Minsters with a portfolio interest in a particular claim in the assessment of that claim.

Even where compensation is given along such strictly defined guidelines, however, dissatisfaction and ill-will can and did arise. For example, some recipients have considered that their losses were greater than the assessed amount. Furthermore, such schemes inevitably involve relatively high administrative costs because of, inter alia, their one-off nature. In the case of this particular scheme, the direct administrative costs to the Commonwealth have not been trivial in comparison to the extent of the compensation paid. My Department has estimated that government administrative costs probably represent some 6 to 8 per cent of total benefits. Of the 46 claimants offered compensation, we estimated that 14 claims involved administrative costs of the same order, if not higher, than the compensation involved. In addition 17 claimants have received no compensation.

There are a number of factors which contribute to these relatively high administrative costs. In lodging their claims many claimants submitted what were, effectively, ambit bids, and as a consequence, assessment of claims required close scrutiny in order to weed out the inappropriate components. As claimants were not charged for the processing costs of their claims, there was obviously no financial disincentive to pad claims. Another consideration is that many of the claims involved consultation between Departments, and also, not infrequently, between relevant Ministers. This inevitably created

problems in consistency of treatment between claims with a resultant adverse effect on the cost of the scheme's administration.

In addition to the various administrative costs associated with such schemes, there is a less obvious cost. The establishment of schemes such as this encourages the community to devote resources into anticipating, and attempting to influence, future compensation arrangements. Such anticipatory or lobbying activity would not seem to produce any net benefits for the general community. Finally, despite the intent of the compensation scheme and its guidelines, the practical application of the scheme allowed for a further indirect cost. The compensation guidelines state, inter alia, that compensation is payable for unrecouped expenditure. This had the effect that firms could 'dump' products affected by the sanctions without incurring the normal penalty of correspondingly lower revenues. Whilst we are not aware of any specific case in which this took place, it is conceivable that it did occur.

A conclusion drawn by the report is that the implementation of specific compensation schemes is fraught with major difficulties and that they should therefore be avoided. Given that this particular scheme was introduced, however, it is not readily apparent that the operation of the scheme was greatly defective. Nor do my criticisms of specific compensation schemes automatically lead me to the conclusion that this particular scheme should have been terminated by the Government. To have done so would obviously have invited complaints of inequitable treatment being meted out to those whose claims had been unresolved by the former Government. These claims were submitted in good faith in accordance with the published requirements of the compensation scheme and had been under consideration for some time. During that time, the claimants had had every reason to believe that their claims would be treated in the same manner as the other claims that were being progressively settled. However, following the change of government a number of unsuccessful applicants sought to have their cases reconsidered. My approach was that it would be inappropriate to re-open cases which may have then been dealt with differently to others settled prior to the change of government. Within the guidelines established under the scheme, I ensured that these cases were properly assessed.

In tabling this report and making this accompanying statement, it has been the Government's intention to bring to public notice both certain deficiencies in specific compensation schemes and a factual report on the operation of the USSR-Iran Compensation Scheme.

International economic law—export of natural resources—ban on export of sand from Fraser Island, Queensland—settlement of claims by Dillingham

On 15 June 1984 the Deputy Prime Minister and Minister for Trade, Mr Bowen, issued the following statement (Comm Rec 1984, 1079):

The Deputy Prime Minister and Minister for Trade, the Hon Lionel Bowen, today announced that a settlement, involving a $4m ex gratia payment, had been made with the DM Minerals partners, Murphyores Incorporated Pty Ltd and Dillingham Mining Pty Ltd concerning their long-standing claims which

resulted from the banning in 1976 of export of mineral sands mined on Fraser Island. Ex gratia payments have already been made to another mining company and to other contractors on Fraser Island.

Mr Bowen expressed his satisfaction that this long-standing dispute has been resolved on a mutually satisfactory note through good faith on both sides. Mr Bowen and the managing company for DM Minerals agreed that its resolution will be perceived in international and mining circles as an action which maintains Australia's reputation as a secure arena for investment.

International economic law—unitary taxation—United States

On 9 January 1984 the Australian Government made the following submission to the United States Task Force on Unitary Taxation (text provided by the Department of Foreign Affairs):

> The Australian Government is concerned by the application of unitary tax to Australian companies trading in the United States and refers to the Note presented to the State Department on 7 November 1984 (a copy is attached).
>
> The Australian Government has received representations from a number of Australian companies and business organisations regarding the unfair and onerous nature of unitary tax assessments. The views of these companies and organisations have been separately submitted to the Task Force. These representations focus on the effects of unitary tax on individual company operations and general questions of arms' length taxation principles, the administrative and cost burden of unitary assessment and the uncertainty that unitary tax introduces into company investment decision.
>
> The Australian Government considers that commercial relations between our countries benefit from the establishment of clear and equitable rules for commercial transactions. Under such rules commercial decisions and activities can be conducted within a predictable and stable environment. However, there is evidence that the imposition of unitary taxes by some US States is detracting from this environment.
>
> By taxing the world-wide profits of Australian companies, trading arrangements developed by these companies in the United States are subject to tax liabilities not related to the commercial standing of ventures but rather to business developed in Australia and third countries. Apart from the possibility of double taxation such companies may be disadvantaged in competing with local companies as they are subject to a higher tax burden based on world-wide income. This liability may raise the commercial costs of these companies, thus effectively discriminating against trade arrangements of Australian companies and introducing a serious degree of uncertainty over future commercial operations in the United States.
>
> The imposition of unitary tax is particularly onerous where companies seeking to develop new opportunities in the United States are geared to sustain losses during the establishment phase in order to create a sound business base. Under the unitary method these companies, during an early stage of development, may incur tax liabilities based on the profitability of their often unrelated operations in other countries and states. Any extra burden of taxation makes the development of new opportunities a more

hazardous proposition. There is a danger that the climate for investment in the United States could be affected as the threat of unitary tax assessments becomes a reality in more and more States.

It needs to be recognised that the continued application of unitary tax to income earned internationally by foreign companies trading in the United States may lead to the introduction of similar taxation in other countries.

The Government of Australia sees the application of this method of taxation of the overseas income of Australian companies trading in the United States as incompatible with internationally accepted taxation principles embodied in, for example, the Model Double Taxation Convention endorsed by the OECD in a recommendation which the United States has approved. Moreover, the same principle which the unitary tax offends is found both in the previous and revised taxation treaties between the Governments of Australia and the United States. In this regard, the Government of Australia shares the view expressed by the Government of Japan that the proliferation of unitary tax systems greatly impairs international efforts to prevent international double taxation.

The Note of 7 November 1983 referred to above was as follows (text provided by the Department of Foreign Affairs):

The Embassy of Australia presents its compliments to the Department of State and has the honour to refer to the application by some states of the United States of the unitary method of taxation of the foreign income of Australian companies conducting business in the United States.

The Government of Australia sees the application of this method of taxation to the overseas income of Australian companies trading in the United States as incompatible with internationally accepted taxation principles embodies in, for example, the Model Double Taxation Convention endorsed by the OECD in a recommendation which the United States has approved. Moreover, the same principle which the unitary tax offends is found both in the existing and replacement taxation treaties between the Governments of Australia and the United States.

The method of unitary apportionment raises the real likelihood that economic relations between the United States and other countries such as Australia will be hindered. It creates the possibility of double taxation of income derived from Australian sources of Australian companies carrying on business in the United States. Such Australian companies will be placed in an inequitable position since they would have to undertake onerous administrative tasks to provide the necessary information to state taxation authorities for assessment of tax liability under the world-wide apportionment formula.

As some Australian companies have already been advised they are liable for payment of unitary taxation the Government of Australia believes the Government of the United States should take action as soon as possible to minimise the serious implications for international economic relations arising from the application of unitary tax to Australian companies. The need for action is more pressing in light of the recent Supreme Court decision in *Container Corporation of America versus Californian Franchise Tax Board.* In this regard the Government of Australia notes that the Supreme Court

decision may lead to movement by more State Governments away from the 'arms-length' tax method to the world-wide apportionment formula. It also poses the danger of foreign countries adopting this method of taxation and thus undermining an accepted international basis of taxation.

The Government of Australia notes the establishment of a study group charged with developing federal policy on the unitary tax problem. The Government of Australia would appreciate receiving from the Department of State advice on the action of the Government of the United States to resolve this problem.

The Embassy of Australia avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

On 27 January 1984 Australia joined with several other countries in submitting the following note to the United States State Department on unitary taxation (text provided by the Department of Foreign Affairs);

The Embassies of the Member States of the European Community, the European Commission and the Embassies of Australia, Canada, Japan and Switzerland present their compliments to the Department of State. A copy of this Note is also being delivered to the Department of the Treasury for the attention of the Working Group on Worldwide Unitary Taxation.

Our countries constitute the United States' main trading partners, accounting for more than half of US trade. We also account for approximately $76 billion of direct investment in the United States (84% of the total) and US direct investment in our countries amounts to $154 billion (69% of total US direct investment abroad). Our governments are all deeply concerned about the use of the world-wide unitary basis of taxation in some individual States of the United States of America and have submitted our views to the Working Group set up by the President and chaired by the Secretary of the Treasury, Donald T Regan.

At this time, when the Task Force is nearing the completion of its work, we reiterate our concern that the Working Group itself and the US Administration in formulating proposals for action on its recommendations should give full weight to the combined views of the United States' main trading partners so that an internationally-agreed solution to this growing problem may be implemented quickly thereafter. The achievement of this objective would represent the removal of a serious obstacle to the further development of our trade and investment relationships.

The below-mentioned diplomatic representatives take this opportunity to renew to the Department of State the assurances of their highest consideration.

Signed...Ambassadors of all the Members States of the EC, Ambassadors of Australia, Canada, Japan and Switzerland Head of the Delegation of the European Commission

(The signature of the Australian Ambassador, Sir Robert Cotton, KCMG was attached hereto.)

On 28 November 1984 the Ambassador of Belgium in the United States addressed the following informal note on unitary taxation to the Governor of Florida on behalf of the Governments of Australia, Belgium, Canada, Denmark, Finland, France, The Federal Republic of Germany, Greece, Ireland, Italy,

Japan, Luxembourg, the Netherlands, Sweden, Switzerland, The United Kingdom and the Commission of the European Communities (text provided by the Department of Foreign Affairs):

> 1. The Government of the countries listed..., whose companies account for about 85 per cent of inward direct investment into the United States, and the EC Commission, are opposed to the application of the unitary method of taxation because they do not regard it as an acceptable alternative to the internationally-accepted separate accounting method for the taxation of multinational companies. Inevitably, where the worldwide unitary method is used, it constitutes a discouragement to inward investment. It can lead to double taxation, which the existing international network of tax treaties seeks to avoid, and places a heavy burden of compliance on taxpayers.
>
> 2. We therefore take this opportunity to express the strong hope that with your support the Florida legislature will, at its forthcoming Special Session on 6 and 7 December, repeal the unitary tax legislation that was enacted in 1983. This would be mutually beneficial. It would remove a major obstacle to inward investment into Florida and lead to an improved climate for our companies doing business in your State.

The legislation was repealed on 7 December 1984.

International economic law—sanctions—sanctions against Nicaragua—action by the United States Government—response of the Australian Government

On 2 May 1985 the Minister for Foreign Affairs, Mr Hayden, issued a statement on the imposition of a trade boycott by the United States against Nicaragua: see Comm Rec 1985, 600.

On 14 May 1985 the Acting Minister for Foreign Affairs, Senator Gareth Evans, said in answer to a question without notice in the Senate (Sen Deb 1985, 1879):

> On 10 May the Security Council unanimously adopted resolution 562 on the situation in Central America. In the Council's debate Australia regretted the imposition of a trade embargo against Nicaragua. This is consistent with the statements that have recently been made both by the Prime Minister and the Minister for Foreign Affairs.
>
> During the debate our representative expressed understanding of the United States concerns in the region but noted the right of all Central American countries to live in peace and security, free from outside interference. He also recognised Nicaragua's right to choose its own form of government and called for support for the actions of the Contadora group of countries which is seeking a peaceful and negotiated solution to the conflicts of the region.
>
> The Australian delegation participated actively in negotiations to promote a constructive resolution. So far as the actual voting is concerned, the United States delegation adopted the somewhat unusual procedure of requesting a separate vote on each of the 16 paragraphs of the resolution. The United States vetoed three paragraphs, including the key paragraph regretting the imposition of a trade embargo and calling for its immediate end. Australia supported all paragraphs.

The resulting resolution, although, accordingly, without a direct reference to the trade embargo as a result of the United States veto, was a positive result insofar as it amounted to a call for negotiations between the United States and Nicaragua an a re-affirmation of support for the efforts of the Contadora countries. Australia's future activities in relation to this matter will, accordingly, be in accordance with the tenor of that resolution to support such further negotiations and to continue in the way that we have to try to discourage a trade embargo of the kind that has been mounted by the United States and to seek a sensible political solution.

On 29 November 1985 the Minister for Foreign Affairs, Mr Hayden, wrote in answer to a question on notice in the House of Representatives (HR Deb 1985, 4057):

> The United States economic embargo against Nicaragua was a unilateral action which did not receive significant international support and was not joined by any other country. As also pointed out in my statement of 2 May, the embargo was also unhelpful to the Contadora process. It was the Government's assessment that in these circumstances, the embargo was a severe step which would not succeed in bringing about changes in the attitude of the Nicaraguan Government desired by the United States. The Government's belief that the action was likely to increase the resolve of the Nicaraguan Government to resist United States pressure has in fact proved to be the case.
>
> The situation in South Africa and the international community's response to it is not analogous to that of Nicaragua. The Government takes the view that concerted international economic and other measures are important and effective means of exerting pressure on South Africa to encourage peaceful change. This approach is in keeping with the recent Commonwealth Heads of Government Meeting in Nassau where the Government committed itself to encourage an effective process of change and reform in South Africa. The main elements of the Government's approach is the implementation of a range of measures to be introduced in a graduated way and the establishment of mechanisms for dialogue through a group of eminent persons.
>
> The Government does not seek to impose sanctions measures for their own sake. We seek rather to play a constructive role in developing proposals to assist the peaceful transition of South Africa to a non-racial society based on universal adult suffrage.

International economic law—sanctions—South Africa—Australian measures

On 22 May 1985 the Acting Minister for Foreign Affairs, Senator Gareth Evans, said in answer to a question without notice in the Senate (Sen Deb 1985, 2335–2336):

> Successive Australian governments have expressed strong opposition to the apartheid policies of successive South African governments. Australian governments have not always been followed by their troops, in relation to the opposition, but the record has been long and consistent so far as governments are concerned. The present Australian Government maintains

this consistent and total opposition to apartheid while maintaining nonetheless correct diplomatic relations with South Africa.

In keeping with the Government's strong stand against apartheid and its wish to give effect to measures that would strengthen pressure on South Africa to dismantle apartheid, Australia would support and vote in favour of mandatory economic sanctions in the United Nations Security Council. In the absence of such sanctions the Government's policy is to permit normal commercial relations with South Africa to continue, but without avoidable official assistance. Consistent with this policy there is no governmental promotion of Australian trade with or investment in South Africa.

In line with this policy the Government has recently introduced, as people will be well aware, a draft code of conduct for Australian companies with interests in South Africa. Such codes of conduct have broad international acceptance. The Government does not consider that unilateral action by Australia would be an effective means of increasing economic pressure on South Africa.

We are sometimes asked why the boycott on sporting contacts is not also applied in the trade area. The short answer is that the Government gives full support to the Gleneagles declaration on apartheid in sport and the Brisbane code of conduct. The obligations arising from these documents are similarly endorsed by Commonwealth countries and members of the international community. There are not as yet similar international obligations in the trade and economic area which are observed and implemented by South Africa's major trading partners.

On 31 May 1985 the Minister for Foreign Affairs, Mr Hayden, wrote in answer to a question on notice in the House of Representatives (HR Deb 1985, 3218):

Australia co-sponsored United Nations General Assembly resolution 39/72G (1984). It did so as an expression of the abhorrence of apartheid felt by the Australian Government and people. The resolution requested states to consider taking various steps in their relations with South Africa. The Government has given careful and sympathetic consideration to the proposals in the resolution and has concluded that Government action accords clearly and closely with the thrust of the resolution, as shown by the following information.

Operative paragraph 7 of resolution 39/72G:

(a) The Government makes no investments in or loans to South Africa. Pending the imposition of mandatory economic sanctions against South Africa by the United Nations Security Council, which the Government is prepared to support and, if adopted, to implement, the Government will request Australian companies operating in South Africa to abide by the voluntary code of conduct, the terms of which I announced in the House of Representatives on 18 April.

(b) All Government promotion of trade with South Africa has ceased.

(c) Australia conducts no military or intelligence co-operation with South Africa. In the interests of law enforcement in Australia occasional contact is maintained between the law enforcement authorities.

(d) There is no nuclear collaboration between Australia and South Africa.

Operative paragraph 8 of resolution 39/72G:

(a) Australia contributes to various multilateral funds designed to provide educational and training assistance for Namibian and South African students.

Some of the recipient bodies are solely concerned with Namibia while others have wider objectives and interests but include Namibians in their programs. Australia has pledged $A220,000 in 1985 to a number of United Nations funds for southern Africa, which include the United Nations Education and Training Program for Southern Africa (UNETPSA) and the United Nations Fund for Namibia (UNFN). Since 1978 Namibians have been awarded scholarships under the auspices of the Commonwealth of Nations to study in Australia. There are five students currently studying in Australia. A Namibian participated in the Foreign Service Training Course of the Department of Foreign Affairs in 1984.

Australia's membership of the UN Council for Namibia is an indication of the Government's concern over the territory and its people.

Australia provides educational assistance (scholarships) to South Africans disadvantaged by apartheid to pursue tertiary and other studies in South Africa.

(b) On 26 October 1983 the Government announced that it was prepared to see the establishment in Australia of information offices for the South West African People's Organisation (SWAPO) and the African National Congress (ANC). The ANC established an information office in Australia in December 1983 and a SWAPO representative arrived in Australia on 25 March 1985 to do the same. Australia does not provide direct support to African liberation movements.

(c) The Australian Government supports the efforts of the Front Line States and the Southern African Development Co-ordination Conference (SADCC) to promote and strengthen regional and national economic development to reduce dependence on South Africa. Australia provides bilateral and multilateral assistance to the Front Line States mostly in terms of food aid. While the Government is not currently considering an increase in allocation of aid to SADCC and the Front Line States, it is developing a program of long term aid to Africa which is intended to focus on food security. The Australian Government was also active in the recent International Development Agency (IDA) negotiations and was one of the first countries to offer a contribution additional to its previous proportional level.

Operative paragraph 9 of resolution 39/72G:

The Australian Government does not provide assistance to South Africa in academic, cultural or sporting fields: neither does it encourage the development of relations in these areas. In keeping with its rejection of apartheid, the Government has a strong policy of discouraging all forms of representative sporting contact between Australia and South Africa. In 1983 the Government established a program whereby prominent opponents of apartheid are invited to Australia as guests-of-government. Bishop Desmond

Tutu and Dr Alan Boesak, both prominent opponents of the South African Government, have visited Australia under this program. As mentioned under 8(a) above the Government has established a scholarship program for black South Africans disadvantaged by apartheid.

On 21 November 1985 the Minister for Trade, Mr Dawkins, provided the following written answer to a question on notice in the House of Representatives (HR Deb 1985, 2570–2571):

The Government has recently reviewed Australia's relations with South Africa and measures introduced by the Government in respect of trade with South Africa are set out in the attached statement issued by the Minister for Foreign Affairs on 19 August 1985.

SOUTH AFRICA

Cabinet met again today to review the situation in South Africa. It did so in the light of decisions reached on 12 August concerning measures to be taken by the Australian Government and the statement made by South Africa's President Botha on 15 August.

Ministers expressed their grave concern and extreme disappointment that President Botha's statement was so negative and unhelpful. It did not offer the majority of the South African people a commitment to clear and defined progress towards a genuinely multiracial society. It held out little hope that the state of emergency will be lifted in the near future. It gave no commitment for the release of Nelson Mandela and other political detainees who will be necessary participants in any negotiations with the South African Government on black rights. Indeed, it failed to provide a credible basis upon which any representative black leaders could play an effective part in South Africa's political process. The statement missed the opportunity to create the atmosphere which could help lessen the present violence in South Africa.

Ministers were assisted in their discussions today by the Australian Ambassador to South Africa, Mr Birch. They decided that Mr Birch should return to South Africa in order that the Government should continue to have his advice on developments there, including steps the South African Government might take to implement its stated commitment to press ahead on a reform program.

They noted that the South African President's statement was unlikely to bring about significant early reforms and that effective action in the form of mandatory and comprehensive economic sanctions imposed by the United Nations Security Council are unlikely to be achieved in the near future. Consequently, Ministers decided to confirm the measures that were previously agreed at their 12 August meeting.

Accordingly, the Government has decided that, while continuing to work closely with other governments in the United Nations and Commonwealth contexts for positive action to foster peaceful change in South Africa, Australia will introduce a range of selective economic and other measures consistent with recent United Nations Security Council resolutions.

Ministers have decided that:

1. the Minister for Foreign Affairs develop a strategy to seek positive action in the UN context for effective sanctions against South Africa for

presentation by the Prime Minister at the forthcoming CHOGM meeting in Nassau, including proposals for consideration at CHOGM (and, if appropriate, the UN General Assembly) for:

the appointment of a group of international authorities to advance proposals for the peaceful transition of South Africa to a multiracial society based on universal adult suffrage; and,

the appointment of an international expert group to study how the suspension of new investment in South Africa might be implemented and co-ordinated;

2. Australia, conscious of the inadequacy of unilateral sanctions, reaffirms its preparedness to work at the UN for the imposition of effective, mandatory economic sanctions against South Africa;

3. Australia's current policies on sporting [contacts] and civil aviation policies be maintained;

4. Australia maintain its diplomatic representation in South Africa at current levels but close the Trade Commission in Johannesburg from the end of September 1985;

5. normal trade relations with South Africa be maintained but avoiding official government assistance and that the Government also:

prohibit exports to South Africa of petroleum and petroleum products, computer hardware equipment and any other products known to be of use to the South African security forces, and

prohibit the import from South Africa of Krugerrands and all other coins minted in South Africa and all arms, ammunition and military vehicles;

6. all new investment in South Africa by the Australian Government and public authorities be suspended, except for that which is necessary to maintain Australian diplomatic and consular representation in South Africa;

7. all Australian banks and other financial institutions be asked to suspend making new loans, either directly or indirectly, to borrowers in South Africa; and

8. direct investment in Australia by the South African Government or its agencies be prohibited.

In addition, and as a corollary to an earlier Government decision to deny Government construction contracts to majority-owned South African firms operating in Australia, Ministers have decided:

to place an embargo on all new Government contractual dealings with majority-owned South African firms for contracts above $20,000; to terminate all export facilities available through EFIC*, EMDGS*, and AOPC* and certain industry assistance to such firms; to avoid Government procurement of supplies from South African sources, save that necessary for the maintenance of Australian diplomatic and consular representation in southern Africa and to restrict Government sales of goods and services to South Africa. South African Government agencies are included in this embargo.

Furthermore, Ministers have decided that the way be prepared, through amendments to be proposed to relevant legislation, for the facilities available through EFIC, EMDGS and AOPC, and tourism assistance under TOPS* to

be withdrawn in respect of South Africa at short notice in the light of the Government's assessment of developments in South Africa and international responses to these developments.

These measures should be viewed in the context of actions taken earlier against South Africa in such areas as civil aviation, sporting [contacts], business conduct and positive programs to help disadvantaged black South Africans. They show the Government's complete and unambiguous rejection of apartheid and its intention to demonstrate its rejection in as effective a way as possible.

Ministers emphasized that in implementing these further economic and other measures, the Government wished to contribute to international pressure to accelerate a process of reform and peaceful change in South Africa. Ministers saw the Government's actions as part of a graduated step-by-step process, with the pace and nature of any further Australian Government action being conditioned by the South African Government's own response to the political aspirations of its black community.

Australia wished to avoid a further deterioration in the situation in South Africa and believed that the establishment of a multiracial society based on universal suffrage should be the goal of Australian policy.

- EFIC (Export Finance Insurance Corporation)
- EMDGS (Export Market Development Grant Scheme)
- AOPC (Australian Overseas Projects Corporation)
- TOPS (Tourism Overseas Promotion Scheme)