Australian Practice in International Law 2005

Compiled and edited by

Andrew Thomas

Supervised by

Justine Braithwaite, Sarah Dezoeten and Helen Horsington
International Organisations and Legal Division
Department of Foreign Affairs and Trade

Contents

I. International Law in General 333
International Law: Australian perspectives 333
II. Sovereignty, Independence and Self-Determination 334
Afghanistan 334
Iraq's New Government 335
Palestinian Territories 336
III. Aviation and Space Law 336
Aviation – Liberalisation – Europe 336
Aviation Security Agreement – Indonesia 336
Aviation Security Agreement – United States 337
IV. Law of the Sea 337
Law of the Sea – Commission on the Limits of the Continental Shelf 337
Law of the Sea – Oceans Governance and Maritime Security 338
Law of the Sea – United Nations Informal Consultative Process on Oceans and the Law of the Sea 339
Law of the Sea – International Fisheries 339
V. International Economic Law 342
Bilateral Economic Cooperation – Trade and Economic Framework – India 342
Establishment of a Joint Scheme for the Regulation of Therapeutic Products – New Zealand 342
Free Trade Agreements – Generally 343
Free Trade Agreements – United States of America 344
Free Trade Agreements – Thailand 345
Free Trade Negotiations – New Zealand – ASEAN 345
Free Trade Negotiations – United Arab Emirates 346
Free Trade Negotiations – Malaysia 347
Free Trade Negotiations – China 347
Free Trade Feasibility – Japan 348
Hague Conference on Private International Law 348
Mutual Recognition Agreement Canada on Medicines Good Manufacturing Practice – Canada 349
Promotion and Protection of Investments – Turkey 350
World Trade Organization – Disputes – EC Sugar Subsidies 351
World Trade Organization – Disputes – European Union's "Geographical Indicators" 351
World Trade Organization – Disputes – United States – Cotton Subsidies 352
World Trade Organization – Membership – Saudi Arabia 352
World Trade Organization – Membership – Tonga 353

World Trade Organization – Multilateral Trade Negotiations – Doha Round – General 353
World Trade Organization – Multilateral Trade Negotiations – Doha Round – Agriculture 354
World Trade Organization – Multilateral Trade Negotiations – Doha Round – APEC 357

VI. Individuals 358

Human Rights – Promotion 358
Human Rights – Promotion – National Institutions 359
Human Rights – Racism 360
Human Rights – Rights of the Child 360
Human Rights – Sierra Leone Special Court 362
Human Rights – Situations – Belarus 362
Human Rights – Situations – Burma 362
Human Rights – Situations – China 362
Human Rights – Situations – Democratic People's Republic of Korea 363
Human Rights – Situations – Indonesia 363
Human Rights – Situations – Iran 364
Human Rights – Situations – Nepal 364
Human Rights – Situations – Pacific 364
Human Rights – Situations – Palestinian Territories 365
Human Rights – Situations – Philippines 365
Human Rights – Situations – Singapore – Mr Nguyen 365
Human Rights – Situations – Sri Lanka 367
Human Rights – Situations – Sudan 367
Human Rights – Situations – Vietnam 368
Human Rights – Situations – Zimbabwe 368
Human Rights – Status of Women 371
Human Rights – Status of Women – Women, Peace and Security 372
Human Rights – Torture 372
United Nations – Convention Against Doping in Sport 373
Social Law – Social Security Agreement – Ireland 373
Social Law – Work and Holiday Visas – Thailand 374
Social Law – Work and Holiday Visas – Turkey 374

VII. Treaties 375

ASEAN – Treaty of Amity and Cooperation in Southeast Asia 375
Effect of Armed Conflict on Treaties 376
Reservations 377

VIII. International Organisations 377

United Nations – Bodies – Election of Australia 377
United Nations – Reform 378
United Nations – Reform – Commission on Human Rights – 1503 Procedure 381
United Nations – Reform – Human Rights Council 382
United Nations – Reform – Implementation of Human Rights Instruments 384

United Nations – Reform – Treaty Body Reform – Human Rights 385
United Nations – World Summit.. 388

IX. International Environmental Law 390

Climate Change – Asia-Pacific Partnership for Clean Development and Climate 390
Climate Change – Kyoto Protocol 391
Climate Change – United Nations – Climate Change Conference, Montreal.. 393
Oil Pollution Damage – Compensation Fund.. 394
Whaling – Commercial Whaling.. 395
Whaling – Scientific Whaling.. 395

X. Disputes...396

Israel – Palestinian Territories 396
Papua New Guinea – Bougainville 398

XI. Law of Armed Conflict and Security Matters 398

Armed Conflict – Post-Conflict Rehabilitation... 398
Chemical Weapons 399
Conventional Weapons – Convention on the Marking of Plastic Explosives for the Purpose of Detection 400
Conventional Weapons – Small Arms 401
Peacekeeping 401
Peacekeeping – Timor Leste 402
Protection of Civilians During Armed Conflict 403
Regional Security – ANZUS... 403
Weapons of Mass Destruction – Counter-proliferation 404
Weapons of Mass Destruction – Counter-proliferation – Proliferation Security Initiative 407
Weapons of Mass Destruction – Non-Proliferation – Middle East...................... 408
Weapons of Mass Destruction – Non-Proliferation – Comprehensive Nuclear Test-Ban Treaty 409
Weapons of Mass Destruction – Non-Proliferation – NPT Review Conference... 410
Weapons of Mass Destruction – Non-Proliferation – North Korea 411
Weapons of Mass Destruction – Asia-Pacific Nuclear Safeguards and Security Conference Outcomes 412
Nuclear Disarmament 413
Weapons of Mass Destruction – Proliferation – Iran.. 413
United Nations – Relief and Works Agency for Palestine 414
United States of America – Agreement on Cooperation in Science and Technology for Homeland/Domestic Security Matters..................................... 414

XII. Criminal Law...415

Extradition and Mutual Assistance – Malaysia 415
Mutual Assistance – Greece... 415
Mutual Assistance – Latvia.. 416

International Criminal Court 416
Prisoners – Transfer of Prisoners – Hong Kong 417
Terrorism – Counter-Terrorism – Pakistan 417
Terrorism – Counter-Terrorism – Memoranda of Understanding – Afghanistan 418
Terrorism – Counter-Terrorism – Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 418
Terrorism – Counter-Terrorism – United Nations – 1267 Committee 419
Transnational Organised Crime – Exchange of Financial Intelligence to Combat Money Laundering, Terrorism and other Serious Crimes – Philippines 420
Transnational Organised Crime – Financial Action Task Force on Money Laundering 421
United Nations – Convention Against Corruption 422
United Nations – People Trafficking Protocol 422
United Nations – Convention on the Safety of United Nations and Associated Personnel 423

I. International Law in General

International Law: Australian perspectives

On 23 November 2005, the Minister for Foreign Affairs, Mr Alexander Downer, delivered a speech to the Law Institute of Victoria. Extracts from the speech relating to Australia's perspective on international law follow:

> The organic nature of international law means that it can be notoriously difficult to tie down or settle definitively. But it also gives rise to its greatest strength – an ability to adapt to the needs of the international community at the time.
>
> …
>
> And adapt it must. International law must meet the global challenges of the day – if it fails to do so, it risks sliding into irrelevance.
>
> International law provides an essential framework for the pursuit of our foreign policy interests. Treaties record the understandings and commitments of states, set out the minimum standards of behaviour expected of states and the rules for their interaction, and underpin stability. I say this not as a starry eyed idealist, but as a pragmatist.
>
> Respect for the rule of law – both domestically and internationally – is not only an important principle in its own right, but essential for the peaceful co-existence of individuals and states. When respect for the rule of law is lost, anarchy and the triumph of political thuggery quickly follow.
>
> States, as both the authors and the subjects of international law, have a responsibility to guide its formation and interpret its rules carefully. States also have a responsibility to ensure the central tenets of international law are upheld by the international community.
>
> If some of the darkest episodes of the twentieth century have taught us anything, it is that international laws that lack the political will required to enforce them soon become nothing more than empty slogans and hollow principles.
>
> …
>
> International law is not written on tablets of stone, and state practice forms an inseparable part of its development and interpretation. And the value of international law – to the publics of the world – will always be judged not by its intrinsic righteousness, however great that may be, but by its effectiveness in promoting international stability and dealing with international crises.

On 19 January 2005, the Minister for Foreign Affairs, Mr Alexander Downer, delivered a speech to the Los Angeles World Affairs Council entitled 'Reforming the United Nations and Building Cooperation Towards Peace and Security'. Extracts from the speech relating to Australia's perspective on international law follow:

> In Australia, we recognise that a rules-based international system has delivered a great deal in the way of stability and security across Australia's foreign policy interests. Indeed, I come to foreign policy with an abiding belief in the need for a

> rules-based system which is flexible enough to find a balance between respect for sovereignty and the reinforcement of human rights, democracy and freedom.
>
> Australia, the United States and many others rightly recognise that the international legal system – with the body of the United Nations at its core – retains a unique and important role in international efforts to address contemporary threats.
>
> Similarly, the United States – a country whose support and leadership remains critical to the United Nations – and Australia also wish to see a United Nations system that is effective and efficient, responsive and relevant in the face of contemporary threats … able to give optimal assistance to the needy and vulnerable, as well as ensuring that responsible nation states are supported as they endeavour to build peace and security.
>
> From Australia's point of view, the magnitude and complexity of the challenges to hand also necessitate action by nations and regions … with the UN system not expected to carry full responsibility for such endeavours – whether in its current form or as a reformed and revitalised entity in the future. And particularly where we – nations individually and regions collectively – may have the resources, capacity and willingness to contribute.
>
> Indeed, it may be the case that nations and regions are uniquely placed to respond to situations … or more appropriate that nations and regions should take the lead in situations.

II. Sovereignty, Independence and Self-Determination

Afghanistan

On 29 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly concerning the situation in Afghanistan and its implications for international peace and security. Extracts from that statement follow:

> Australia congratulates the Government of Afghanistan and the Afghan people on the achievements made since the Bonn Agreement of December 2001. Australia also warmly welcomes the democratic outcome of the September 2005 national and provincial elections and applauds the courage shown by all Afghans who took part, as candidates and as voters. It is particularly gratifying to see the large number of women candidates who were successful in gaining election as Members of Parliament, reportedly yielding one of the highest proportions of female parliamentarians in the world.
>
> …
>
> Almost a quarter of a century of conflict and civil war has undermined the state structure in Afghanistan and made it a breeding ground for instability and terrorism. Recent history has shown us that States weakened by conflict should not, and cannot, be considered a localized problem or one distant from our respective borders. In our common interest of international peace and security, the United

> Nations and its Member countries have a pivotal role to play in assisting with the construction of secure, stable and economically viable States.
>
> Australia remains concerned about the damage done in Afghanistan by years of conflict. Particularly disturbing are the reports of a recent upswing in violence in the south of the country and indications that remnant Taliban and other extremist forces are reorganizing, as clearly indicated by the United Nations Secretary-General in his report to the Security Council on Afghanistan of 12 August 2005.
>
> The report states that Afghanistan is suffering from a level of insecurity, particularly in the south and parts of the east, not seen since the departure of the Taliban. There has been an increase, between May 2004 and May 2005, in attacks on Afghan civilians and members of the Afghan and international security forces, with the resulting increased rate of injury and loss of life.
>
> The reconstruction effort is of vital importance for the people of Afghanistan and provides the vehicle by which the cycles of poverty, lawlessness and violence can be broken. We welcome the May 2005 Joint Declaration of the United States-Afghanistan Strategic Partnership; the Joint Declaration of an Enduring Relationship between the United Kingdom and Afghanistan; and the 16 November European Union-Afghanistan Joint Declaration: Committing to a new EU-Afghan Partnership, as important statements of long-term commitment of major partners.
>
> …
>
> Afghanistan requires ongoing international support. We look to the London conference in January 2006 to provide the necessary planning frameworks, benchmarks and strategic direction for the future rebuilding of Afghanistan. It also provides the opportunity for the newly elected Afghan Government to clearly put forth its aspirations and ideas on behalf of all the Afghan people. Australia looks to play a constructive role in a new "Compact for Afghanistan" and remains committed to international efforts for the rebuilding of that country.
>
> Australia will continue to support Afghanistan's transition from conflict to peace and democracy.

Iraq's New Government

On 1 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release welcoming the formation of Iraq's new democratically elected government. An extract from the release follows:

> The Australian Government welcomes the formation of the new Iraqi government which reflects the diversity of Iraq.
>
> I applaud the commitment of Iraq's new leaders to working towards a unified democratic state and all Iraqis who, in the January elections, showed bravery in the face of terrorist violence perpetrated by a small minority.
>
> Iraq's new government will face an array of challenges, including writing a new constitution, rebuilding Iraq's infrastructure and services and quashing the insurgency.
>
> We are committed to helping the Iraqi people forge ahead with their democratic transition and will remain steadfast in our support.
>
> Australia welcomes the opportunity to build upon the bilateral relationship and strengthen the ties between our two countries.

Palestinian Territories

On 30 November 2005, the Parliamentary Adviser to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly concerning the Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. An extract from that statement follows:

> The establishment of a Palestinian State living in peace, security and prosperity alongside Israel remains the paramount goal of the Middle East peace process, and we were buoyed by progress made towards that objective in 2005.

III. Aviation and Space Law

Aviation – Liberalisation – Europe

On 25 February 2005, the Minister for Transport and Regional Services, Mr John Anderson, issued a media release concerning Australia's aviation talks with Europe. An extract from the release follows:

> Talks in London and Brussels have cleared the way towards negotiations towards aviation liberalisation between Australia and Europe, the Deputy Prime Minister and Minister for Transport and Regional Services, John Anderson, said today.
>
> It has been necessary to come to an understanding with the European Commission, given the now critical role played by Brussels in this area, Mr Anderson said.
>
> "There were a number of roadblocks in the way, but in discussions I have held with the European Commissioner for Transport, Jacques Barrot, it was agreed that the Commission and Australia will move to negotiations for liberal air services arrangements. The understanding reached today will also enable Australia to negotiate directly with the United Kingdom and other European nations for additional access by Australian carriers to major European markets," Mr Anderson said.
>
> "This is a step along the road to negotiating a fully liberalised agreement with the EC which would ultimately provide access for Australian carriers to all points in Europe for the first time".
>
> "I do not want to pretend that decisions can be reached overnight, but the results of these discussions are a breakthrough."

Aviation Security Agreement – Indonesia

On 4 April 2005, the Minister for Transport and Regional Services, Mr John Anderson, issued a media release concerning Australia's Aviation Security Arrangement with Indonesia. Extracts from the release follow:

> Australia and Indonesia have signed a new bilateral arrangement to boost aviation security cooperation, the Deputy Prime Minister and Minister for Transport and Regional Services, John Anderson, said today.
>
> The arrangement was signed by Australian and Indonesian officials during the visit by His Excellency the President of Indonesia, Dr Susilo Bambang Yudhoyono.

> "The arrangement will improve the capacity of the Indonesian Directorate-General of Civil Aviation to enforce the international standards and practices required for airport security, as well as strengthening the capacity of the agencies responsible for civil aviation security at Jakarta and Denpasar international airports," Mr Anderson said.
>
> "Under the arrangement, the Australian and Indonesian Governments will work together to develop and deliver a training programme for aviation security, which will include additional training for passenger screening staff at Jakarta and Denpasar.
>
> …
>
> "The arrangement highlights the importance that the Australian and Indonesian Governments place on aviation security, and confirms our commitment to working closely together on counter-terrorism and security issues," Mr Anderson said.

Aviation Security Agreement – United States

On 26 September 2005, the Minister for Transport and Regional Services, Mr Warren Truss, issued a media release concerning the signature by Australia and the United States of America of Implementation Procedures for Airworthiness. Extracts from the release follow:

> Australia and the United States have signed an agreement which will make it easier for Australian aviation manufacturers to export products to the United States. Australian Government Minister for Transport and Regional Services, Warren Truss and the United States Federal Aviation Administration's (FAA) Regional Director for the Asia and Pacific Region, Nancy Graham, signed the Implementation Procedures for Airworthiness (IPA) today.
>
> …
>
> Mr Truss said the IPA was negotiated through the Bilateral Aviation Safety Agreement (BASA) which is designed to provide more effective and efficient safety regulations in civil aviation.
>
> "This set of procedures will benefit and promote Australia's aviation exports to the US, and ensure that our manufacturers' products when certified and approved by the Civil Aviation Safety Authority will be recognised by the Federal Aviation Administration," he said.
>
> Mr Truss said the IPA represents a significant step in streamlining the safety processes necessary to ensure the high level of aviation standards shared by Australia and the United States. The IPA will significantly strengthen the relationship between CASA and the FAA.
>
> The Executive Agreement and IPA are expected to come into effect next year, after they pass through the Australian and US treaty ratification processes.

IV. Law of the Sea

Law of the Sea – Commission on the Limits of the Continental Shelf

On 29 November 2005, Senator Robert Ray, Parliamentary Adviser to the Australian Delegation to the 60th Session of the United Nations General Assembly

in New York, delivered a statement to the General Assembly concerning oceans and the laws of the sea. An extract from that statement concerning Australia's submission to the Commission on the Limits of the Continental Shelf (CLCS) follows:

> […] Last year, Australia lodged with the CLCS its submission on the outer limit of the shelf beyond 200 nautical miles from the territorial sea baseline. We look forward to working with the Commission in the coming months as it formulates recommendations on which our final and binding outer limit will be based.
>
> We are confident that those recommendations will emerge within a reasonable timeframe. However, we are concerned that, for reasons beyond the Commission's control, this will not necessarily be so for the States that follow us, given that the Commission only has capacity to deal in detail with two submissions concurrently.

Law of the Sea – Oceans Governance and Maritime Security

On 29 November 2005, Senator Robert Ray, Parliamentary Adviser to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, delivered a statement to the General Assembly concerning oceans and the laws of the sea. Extracts from that statement concerning oceans governance follow:

> In coming years, we should continue to focus on ensuring effective oceans governance through implementation of the Convention and related instruments. We also need to continue our work in identifying any gaps in the regime for high seas governance, and to work towards building cooperative mechanisms to properly conserve and sustainably [sic] manage the living resources of the oceans.

Extracts from that statement concerning maritime security follow:

> Threats to maritime security cannot be ignored. The potential impact of threats to maritime security on sea transportation, safety of navigation and the marine environment, as well as the threat posed to human lives and property, call for effective counter-measures at the international, regional and bilateral levels.
>
> […] We welcome and support practical measures to improve maritime security, and would be ready to explore requests for technical assistance and capacity-building.
>
> In particular, we welcome the recent adoption by the International Maritime Organisation in October this year of two protocols amending the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), and its 1988 Protocol relating to Fixed Platforms on the Continental Shelf.
>
> When implemented, the new offences created by these Protocols would represent an important tool in the fight against terrorism and the proliferation of weapons of mass destruction. Australia will give early consideration to signing and implementing the protocols in accordance with its domestic treaty-making processes, and urges other States to do the same, as soon as possible, in respect of both the original SUA Convention and Fixed Platforms Protocol, as well as the recently adopted amending protocols.
>
> In addition, Australia welcomes the adoption in November 2004 of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in

> Asia (ReCAAP). The agreement provides a transparent means of engaging countries in the Asia-Pacific region on maritime security through information sharing.

Law of the Sea – United Nations Informal Consultative Process on Oceans and the Law of the Sea

On 29 November 2005, Senator Robert Ray, Parliamentary Adviser to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, delivered a statement to the General Assembly concerning oceans and the laws of the sea. An extract from that statement concerning the United Nations Informal Consultative Process on Oceans and the Law of the Sea follows:

> […] Australia has been a long-standing champion of high seas biodiversity conservation, and is seriously concerned about the impact of a range of human activities upon the vulnerable ecosystems of the high seas. Damaging impacts are caused by a range of destructive fishing techniques, and also by the ever-present scourge of illegal, unreported and unregulated (IUU) fishing. We should not limit our focus simply to the issue of bottom trawling.

Law of the Sea – International Fisheries

On 4 March 2005, the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald, and the Minister for Justice and Customs, Senator Chris Ellison, made a joint statement about 'flag of convenience' vessels flaunting international rules. Extracts from that statement follow:

> Six fishing vessels flagged to non-CCAMLR [Commission for the Conservation of Antarctic Marine Living Resources] nations have thumbed their noses at international rules designed to protect the fragile Southern Ocean ecosystem and stocks of the valuable Patagonian toothfish.
>
> Senator Ian Macdonald, the Minister for Fisheries, Forestry and Conservation, and Senator Chris Ellison, the Minister for Justice and Customs, revealed today that the armed Australian Southern Ocean patrol vessel Oceanic Viking is currently mid-patrol deep in the Southern Ocean, operating in a region between Australia's Exclusive Economic Zone (EEZ) around Heard Island and McDonald Islands and the edge of the Antarctic ice shelf.
>
> …
>
> "The vessels were approached by the Oceanic Viking, and were instructed to leave CCAMLR waters but, because the flag states of these vessels are not members of the Commission, international law does not allow any additional action to be taken. Evidence of the vessels' fishing was gathered, and will be passed to the CCAMLR Commission and responsible fishing nations.
>
> Senator Macdonald said that the inability to take action against these vessels on the high seas demonstrated in the clearest possible way the absurdity of current international laws.
>
> "I am highly critical of the international community for not addressing the problem that has been clearly exposed again this week by the work of the Australian patrol vessel," Senator Macdonald said.
>
> …

> "The absolute stupidity of the situation is that in these flag states the administrative and government arrangements are loose and inadequate and very often corrupt," Senator Macdonald said.
>
> …
>
> Senator Ellison said the Ocean Viking, funded by a $90 million Howard Government Budget commitment, was proving its worth as an effective deterrent to fish poachers.
>
> "While the primary role of this vessel is to protect Australia's sovereign interests in the Southern Ocean, it also monitors illegal fishing activity in CCAMLR waters near the Australian fishing zone at Heard Island and McDonald Islands (HIMI).

On 15 March 2005, the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald, issued a media release about a new international resolve to tackle illegal fishing. Extracts from that release follow:

> Australia's involvement in two ministerial meetings in Europe has highlighted the international momentum to clamp down on illegal fishing.
>
> …
>
> Initiatives which came out of the Ministerial High Seas Taskforce Meeting in Paris include: an agreement to extend and resource the global monitoring, control and surveillance network; establishing a list of all vessels permitted to fish the high seas; exposing and shaming flag of convenience countries; and benchmarking and exposing the lack of control by port states.
>
> As a result of this meeting, I will also be speaking with the Attorney General about the ability of Australia, and other willing nations, to take legal action in the International Tribunal for the Law of the Sea (ITLOS) against flag states that do not honour their obligations on vessels fishing on the high seas.
>
> The Food and Agriculture Organisation of the UN (FAO) Ministerial meeting in Rome, which I had the honour to chair, reinforced the broad and growing political will to stamp out illegal fishing.
>
> …
>
> At this meeting, Australia presented its national plan of action on illegal fishing, which will be used as a template for those responsible fishing nations that have yet to complete their plans.
>
> FAO Ministers agreed to require all flag states to ensure all large scale fishing vessels operating on the high seas have vessel monitoring systems installed no later than December 2008.

On 29 November 2005, Senator Robert Ray, Parliamentary Adviser to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, delivered a statement to the General Assembly concerning oceans and the laws of the sea. An extract from that statement concerning regional fisheries management organisations (RFMOs) follows:

> We look forward to the adoption, in the near future, of *the Southern Indian Ocean Fisheries Agreement*. It … should bring best international practice to the conservation and sustainable management of all fish stocks in the relevant part of the Indian Ocean.

> And Australia is also pleased to inform members of a recent initiative of Australia, New Zealand and Chile to commence negotiations for a new RFMO to regulate currently unregulated fish stocks in the South Pacific – one of the last remaining areas of the high seas without a comprehensive international management regime for discrete and straddling stocks.

An extract from that statement concerning illegal, unreported and unregulated fishing follows:

> Australia would like to point to its strong desire for enhanced measures to tackle illegal and unregulated fishing. We continue to act firmly against unlicensed vessels fishing in Australian waters, and have responded promptly to situations of apparent illegal or unregulated vessels in areas regulated by RFMOs, in turn raising awareness among Member States.
>
> Australia recently boarded a vessel suspected of fishing illegally in the Australian EEZ [Exclusive Economic Zone] with the express consent of the flag state, Cambodia. The Australian Government is grateful to the Government of Cambodia for its cooperative approach, which sets the example for other States that become aware of illegal conduct by their flagged vessels.
>
> Consistent with the UNFSA [United Nations Fish Stocks Agreement], it is Australia's strong view that States have an obligation to either join relevant RFMOs where entitled to do so, or to otherwise refrain from fishing in the RFMO-regulated area unless they agree to apply all relevant conservation measures. Australia does not view the general obligations under UNCLOS [United Nations Convention on the Law of the Sea] and customary international law with respect to the conservation and sustainable management of marine living resources as merely aspirational or amorphous. They are concrete and substantive obligations, with direct application.

On 23 December 2005, the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald, issued a media release regarding fishing boats in contravention of international agreements. Extracts from that release follow:

> The armed Australian patrol ship Oceanic Viking has uncovered further evidence of fishing boats operating in Antarctic waters, but outside Australia's Exclusive Economic Zone (EEZ), in contravention of an international agreement designed to protect valuable species such as the Patagonian toothfish.
>
> The Australian Government Ministers for Fisheries, Forestry and Conservation, Senator Ian Macdonald and Justice and Customs, Senator Chris Ellison, today confirmed the Oceanic Viking had detected nine unregulated fishing boats during its current patrol of the Southern Ocean.
>
> …
>
> "This type of unregulated fishing undermines the strict conservation measures CCAMLR has put in place to protect our fragile Southern Ocean ecosystem and valuable Patagonian toothfish stocks."
>
> …
>
> "Many of these boats are re-flagged and renamed between trips, highlighting the problem we face in ensuring that countries operate transparent ship registers and impose adequate controls on the vessels they flag," Senator Macdonald said. "We will continue our diplomatic efforts with these countries to address the increasing problem of unregulated fishing in CCAMLR waters."

> Senator Ellison said the Oceanic Viking was proving an effective deterrent to fish poachers.

V. International Economic Law

Bilateral Economic Cooperation – Trade and Economic Framework – India

On 19 May 2005, the Minister for Trade, Mr Mark Vaile, issued a media release announcing the commencement of negotiations for a Trade and Economic Framework Agreement (TEF) between Australia and India. An extract from the release follows:

> Mr Vaile and India's Commerce and Industry Minister, the Hon Kamal Nath made the decision at the Ninth Australia-India Joint Ministerial Commission (JMC) meeting in Sydney today.
>
> "I am delighted with the results of today's talks where Minister Nath and I agreed to task our officials with developing a Trade and Economic Framework to support the further expansion of economic and commercial ties," Mr Vaile said.
>
> "India's growing strategic importance and continuing economic expansion means it is set to become one of Australia's key regional and bilateral partners."
>
> India has been Australia's fastest growing merchandise export market over the past five years with trend growth in merchandise exports at 26.4 per cent, the highest among Australia's top 30 markets. India has now overtaken the UK to become Australia's sixth largest export market. Exports of goods and services to India amounted to almost $6 billion.
>
> The proposed TEF would set the direction for the facilitation and future development of our trade and economic relationship. A key aim will be to boost cooperation and enhance policy dialogue on issues of mutual interest.

Establishment of a Joint Scheme for the Regulation of Therapeutic Products – New Zealand

On 9 February 2005, the Parliamentary Secretary to the Minister for Health and Ageing, Mr Christopher Pyne, issued a media release concerning the Trans Tasman Therapeutic Products Agency. An extract from the release follows:

> The Australian and New Zealand Governments have agreed to defer for a year the start-up of the new Trans Tasman Therapeutic Products Agency to ensure the new regulatory scheme is world class and recognising the importance of consulting with industry, consumers and other interested parties.
>
> The Parliamentary Secretary for Health, Christopher Pyne, announced today that the new agency will be operational on 1 July 2006, although if the scheme is ready before then, it could start earlier.
>
> The joint regulatory agency will replace Australia's Therapeutic Goods Administration (TGA) and the New Zealand Medicines and Medical Devices Safety Authority (Medsafe).

> "One of the main reasons for the deferral is a recognition that industry needs certainty around the introduction of the new scheme which needs time to review and comment on the rules of the regulatory agency, and to put in place transitional arrangements," Mr Pyne said.
>
> The role of the new agency will be to safeguard public health through regulation of the quality, safety and efficacy or performance of therapeutic products in both Australia and New Zealand. This includes prescription and over the counter medicines, complimentary medicines, medical devices and blood.
>
> The new agency will be accountable to both the Australian and New Zealand Governments. It will be recognised in law in both Australia and New Zealand and will assume responsibility for the regulatory functions currently undertaken by the TGA and Medsafe.

Free Trade Agreements – Generally

On 18 January 2005, following the release of the 'The Future of the World Trade Organization' report, commissioned by World Trade Organization (WTO) Director General Supachai Panitchpakdi, the Minister for Trade, Mr Mark Vaile, issued a media release. The Minister's response to the report's references to bilateral Free Trade Agreements (FTAs) is extracted below:

> Australia was committed to continuing its progress on FTA's because they are in the national interest and will deliver benefits to all Australians. The new opportunities that will flow to Australia as a result of the bilateral free trade agreements with the United States and Thailand, which were WTO consistent, are enormous. He agreed with the report's recommendation that free trade agreements should support the multilateral trading system and that the WTO should develop more effective disciplines on FTAs.

On 11 February 2005, the Minister for Trade, Mr Mark Vaile, delivered a speech to the Australian Institute of Export in Sydney entitled 'Free Trade Agreements and Asia: Securing Prosperity Together'. Extracts from that speech follow:

> The government's free trade agreement agenda is one of the most exciting and dynamic developments in our recent trade policy history. It is a reflection of our strong support for market liberalisation, as well as increasing linkages with our region and key bilateral partners.
>
> In today's competitive, international market-place, where FTAs are becoming increasingly common, it is important for Australia to stay ahead of the game … to ensure that Australian companies are not disadvantaged.
>
> Of course, we have to be discerning. For instance, we will only commence FTA negotiations if we expect Australia to derive substantial economic benefits. FTAs must be consistent with the rules of the World Trade Organisation.
>
> Australia is interested in negotiating FTAs that involve comprehensive liberalisation across goods, services, investment and other issues – agreed as a single, total package. And FTAs should support Australia's broader strategic interests with the partner country or countries.
>
> FTAs concluded with Singapore and Thailand in the past eighteen months have achieved these objectives.

Free Trade Agreements – United States of America

On 1 January 2005, the Minister for Trade, Mr Mark Vaile, issued a media release on the entry into force of the Free Trade Agreement between Australia and the United States of America (AUSFTA). An extract from the release follows:

> The most significant Free Trade Agreement (FTA) in Australia's history, the Australian-United States FTA comes into force as from today, January 1 and the enormous benefits to exporters will flow through immediately according to Trade Minister Mark Vaile.
>
> "This FTA is worth billions of dollars to the economy and will create thousands of jobs," Mr Vaile said.
>
> An economic analysis undertaken by the Centre for International Economics earlier this year determined that a decade after coming into force the AUSFTA will result in an annual boost to the Australian economy of $6 billion.
>
> Other key findings from the study included:
>
> - Over the first 20 years of the Agreement, the present value of the benefit to the Australian economy exceeds $57 billion;
> - Over 30,000 jobs will be created and real wages will rise;
> - All states and territories will be better off; and
> - The FTA will have no material impact on the price of drugs.
>
> "Many critics said Australia would never get to this point but years of hard work have paid off. This agreement demonstrates the government's commitment to opening markets for Australian exporters. More trade means a stronger economy and new jobs."
>
> More than 97 percent of non-agricultural exports (excluding textiles and clothing) to the United States will be duty free from today. The FTA also delivers improved access for Australian agriculture, with around two thirds of agricultural tariff lines going to zero from today, and a further nine percent cut to zero within four years. The FTA gives Australian companies full access for the first time to the $200 billion federal government procurement market.
>
> "Austrade has identified industry sectors such as automotive parts, seafood, dairy and meat, doughs and grains, confectionery, jewellery and cut flowers as offering immediate opportunities," Mr Vaile said.
>
> "A 25 percent US tariff on light commercial vehicles is removed today, as are tariffs on auto parts, all metals and minerals, and canned tuna. There is an increased quota this year for dairy products and beef quotas start rising in 2006. There are also exciting opportunities in the US Government procurement market in areas such as information and communications technology, homeland security and biotechnology".

On 13 December 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning the expansion of the Free Trade Agreement between Australia and the United States of America (AUSFTA). Extracts from the release follow:

> Deputy Prime Minister and Minister for Trade, Mark Vaile, today welcomed the decision of two new US states – Tennessee and Oklahoma – to join the Government Procurement Chapter of the Australia-United States Free Trade Agreement.

Thirty-one US states have now signed up to the agreement, up from 26 at the conclusion of negotiations in February 2004.

"Australian exporters and businesses now have access to the government procurement markets of 31 US states in addition to the US federal government procurement market which is worth in excess of $200 billion," Mr Vaile said.

Those 31 include all of the major procuring states in the United States: California, New York, Texas, Florida, Illinois and Pennsylvania.

"This increased access to US state government markets is good news for Australian companies seeking to do business with the United States. The United States is the world's largest economy, and taken together US federal and state governments are the world's largest purchasers of goods and services," Mr Vaile said.

…

"The AUSFTA is a living agreement, creating a dynamic commercial environment for Australian business in the US government sector. I thank the Governors of Tennessee and Oklahoma for their initiative."

Free Trade Agreements – Thailand

On 1 January 2005, the Minister for Trade, Mr Mark Vaile, issued a media release concerning the entry into force of the Thai-Australia Free Trade Agreement (TAFTA). Extracts from that release follow:

TAFTA demonstrates the Government's commitment to opening up new opportunities for Australian exporters and investors in South East Asia. Thailand has the fastest growing economy in South East Asia and is the second biggest market.

"Today, Thailand will eliminate immediately its current tariffs on wheat, barely, rye and oats and its tariff and tariff rate quota on rice. It will also eliminate its 80% tariff on large passenger motor vehicles and lift its minority foreign investment limits in its mining sector."

The Centre for International Economics estimates TAFTA will boost the Australian economy by US$2.4 billion over the first twenty years of its operation.

"TAFTA is a major market opening agreement. Many Australian companies formerly locked out of the Thai market now have important new commercial opportunities."

…

TAFTA also liberalises the environment for services trade and investment.

"Certain distribution, management consultancy and construction services in Thailand can now be 100 per cent Australian owned, while restaurant, hotel and certain education and maritime cargo services can be 60 per cent Australian owned."

Free Trade Negotiations – New Zealand – ASEAN

On 21 February 2005, the Minister for Trade, Mr Mark Vaile, issued a media release concerning the commencement of ASEAN-Australia-New Zealand Free Trade Agreement negotiations. An extract from the release follows:

Trade Minister Mark Vaile launched the first round of formal negotiations on a Free Trade Agreement (FTA) between Australia, New Zealand and the 10 members of ASEAN, today in Melbourne.

> "With a population of 545 million, combined GDP of almost US$700 billion and growth rates predicted to be well above the global average in coming years, ASEAN presents exciting commercial opportunities for Australia," Mr Vaile said.
>
> "The meeting of senior trade officials is an important step in taking forward the Government's long-standing priority of strengthening our trade and economic engagement with South-East Asia."
>
> "This initial round of talks has allowed us to map out the way forward for the negotiations. Our job is to complete the FTA within two years."
>
> "Last year my ASEAN and New Zealand colleagues and I agreed that the FTA should be comprehensive, and seek to progressively eliminate barriers to trade affecting goods, services, and investment. Achieving this outcome would clearly demonstrate the region's leadership in trade liberalisation and add momentum to the multilateral trade negotiations under the WTO."
>
> Prime Minister John Howard, together with his ASEAN and New Zealand counterparts, agreed last November to commence FTA negotiations, with the Agreement to be fully implemented within 10 years.
>
> "The 10 members of ASEAN provide a market for more than $17 billion of Australian exports of goods and services. An FTA with ASEAN provides the opportunity to expand this trade significantly and will complement our bilateral FTAs with Singapore and Thailand as well as our scoping study on a possible FTA with Malaysia."

Free Trade Negotiations – United Arab Emirates

On 15 March 2005, the Minister for Trade, Mr Mark Vaile, and the United Arab Emirates' Minister for Economy and Planning, H E Sheikha Lubna bint Khalid Al-Qassimi, issued a joint media statement concerning the commencement of negations on a Free Trade Agreement (FTA). An extract from the release follows:

> [The] Ministers agreed to advance their common interest in the growth of bilateral trade and investment and economic development, and agreed to work towards securing a substantial, comprehensive FTA covering goods, services and investment that would be fully consistent with WTO rules and principles.
>
> Ministers said a high quality FTA would remove or reduce barriers to trade in goods and services between the two countries and would liberalise investment flows, building on work already done on investment protection and promotion. It would also, to the extent possible, address and resolve any bilateral impediments in areas such as industrial and technical standards, sanitary and phytosanitary issues, movement of natural persons, and government procurement. Ministers agreed that progress on these fronts would be important in building a closer economic and commercial relationship to the mutual advantage of both countries.
>
> Ministers emphasised an FTA would benefit all areas of the economic and commercial relationship but said they expected particularly strong outcomes in trade in services. They also expected an FTA could provide Australian business with more access into Middle Eastern markets, and for UAE businesses into Asia-Pacific markets.
>
> The Ministers agreed to work towards concluding a comprehensive and liberalising FTA in 2006 and endorsed a forward work program to maintain the pace of negotiations. They instructed officials to begin exploratory negotiations

> immediately following the JMC on the modalities and form of the FTA, and the principles that should underpin it.

Free Trade Negotiations – Malaysia

On 7 April 2005, the Minister for Trade, Mr Mark Vaile, issued a media release regarding the commencement of free trade agreement negotiations with Malaysia. Extracts from that release follow:

> Australia's economy could reap $1.9 billion from a free trade agreement with Malaysia, Trade Minister Mark Vaile said today.
>
> Mr Vaile made the comments following today's announcement by Prime Minister John Howard and Malaysia's Prime Minister Datuk Seri Abdullah Badawi that the two countries will begin negotiations for an FTA.
>
> "An FTA with Malaysia will be another significant step in opening access for Australian exporters regionally and will add to the Coalition Government's proud record of achievement in this area," Mr Vaile said.
>
> "Australia and Malaysia have highly complementary economies and economic modelling has estimated that an FTA could increase Australia's GDP by $1.9 billion over the next 20 years.
>
> …
>
> "Together with Australia's FTAs with Singapore and Thailand, and our FTA negotiations with ASEAN and New Zealand, an FTA with Malaysia will further deepen Australia's integration with the economies of South East Asia."

Free Trade Negotiations – China

On 23 May 2005, the Minister for Trade, Mr Mark Vaile, issued a media release concerning the commencement of Free Trade Agreement negotiations between Australia and China. Extracts from the release follow:

> Trade Minister Mark Vaile announced that the first round of China-Australia FTA negotiations will begin today in Sydney.
>
> "Today marks an historic period in our bilateral relationship, China is one of the fastest growing economies in the world and Australia is extremely well placed to take full advantage of this significant export opportunity," Vaile said.
>
> The launch coincides with an address by the Chairman of China's National People's Congress, Mr Wu Bangguo to senior Australian and Chinese business representatives at the China-Australia Economic and Trade Cooperation Forum this morning.
>
> Mr Wu, who ranks second in the Political Bureau of the Central Committee of the Communist Party of China, is the forum keynote speaker.
>
> …
>
> "In the last decade, merchandise trade between Australia and China has more than quadrupled to $29 billion and in 2004, China emerged as Australia's second largest merchandise export market and second largest source of merchandise imports," Mr Vaile said.

Free Trade Feasibility – Japan

On Monday 21 September 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning a feasibility of a Free Trade Agreement (FTA) with Japan. An extract from that release follows:

> Deputy Prime Minister and Minister for Trade Mark Vaile today welcomed the start of work on a Free Trade Agreement Feasibility Study between Australia and Japan.
>
> "Both countries have now agreed on detailed terms of reference to examine the feasibility of a comprehensive FTA covering a number of issues including trade in goods and services, investment and intellectual property rights," Mr Vaile said.
>
> The finalisation of terms of reference follows the agreement in April by Prime Minister Howard and Japanese Prime Minister Koizumi to examine ways to further enhance the economic relationship between Australia and Japan.
>
> "I am confident the study will highlight the benefits an FTA would bring to both our economies, and further cement the special nature of our relationship with Japan. An FTA would mean clear benefits to Australian business."

Hague Conference on Private International Law

On 30 June 2005 at the Twentieth Session of The Hague Conference on Private International Law, Australia agreed to amendments to the Statute of the Hague Conference on Private International Law. The amendments were tabled before the Joint Standing Committee on Treaties on 29 November 2005. Extracts from the National Interest Analysis of the nature and purpose of the action follow:

> […] Australia became a party to the Statute on 1 November 1973 without reservations or declarations. If Australia does not approve of the amendments but two-thirds of State Parties do approve, the amendments will still come into force for Australia.
>
> …
>
> This is the first time that the Statute has been amended since it entered into force in 1955.
>
> …
>
> The Statute entered into force on 15 July 1955. The Statute defines the objectives of the Hague Conference on Private International Law as being to work for the progressive unification of the rules of private international law. The goal of unification of those rules is to reduce the risks and uncertainties that result from the operation of different legal systems in situations with a trans-national dimension. This involves finding internationally agreed approaches to determine, for example, which country's courts should have jurisdiction in a particular matter, which laws should apply, the procedure for recognition and enforcement of judgments, and to establish agreed civil procedures in such areas as child protection and other family law matters.
>
> …
>
> The EC is the only REIO [Regional Economic Integration Organisation] seeking membership of the Hague Conference at this stage. The EC first requested admission in 2002, on the basis that external competence in relation to a number of matters covered by Hague Conventions was transferred by EC Member States to the EC as a result of the 1999 Treaty of Amsterdam.

[…] Since 2002, the exact nature of EC competencies over Hague Conference issues has been a source of debate. Non-EC States have difficulty determining which circumstances properly require negotiation with EC Member States and which require negotiation with the EC. Accordingly, it is desirable for the EC's competence in private international law matters to be clarified. These amendments will assist Australia when negotiating with EC Member States on Hague Conference issues by providing clarity on issues of competence without involving the Conference in any disputes.

[…] It is in Australia's interest for the issue of EC participation in the Hague Conference to be resolved as soon as possible to allow the Conference to commit resources to other areas of more immediate concern to Australia. For example, promotion and support of effective implementation of the *Convention on the Civil Aspects of International Child Abduction, 1980*, the *Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, 1993*, the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, 1996* and the judicial assistance Conventions in the Asia-Pacific region are of significant importance to Australia. Any broader adoption of these Conventions would assist Australians involved in international family law and other disputes.

…

The second main purpose of the proposed amendments is to improve the procedure for amending the Statute. Instead of simply requiring the approval of two-thirds of the Members, as provided for by the existing Article 12, future amendments would first be adopted by the consensus of Members present at a General Affairs meeting (held annually). The changes would enter into force three months after approval by two-thirds of the Members in accordance with their domestic procedures, but not earlier than nine months from the date of adoption of those changes. This would allow greater opportunity for Members to comply with their domestic treaty-making processes. The amended procedures are clearly more suited to Australia's treaty-making processes.

Mutual Recognition Agreement Canada on Medicines Good Manufacturing Practice – Canada

On 16 March 2005, the Parliamentary Secretary to the Minister for Health and Ageing, Mr Christopher Pyne, issued a media release concerning the signing of the Mutual Recognition Agreement between Australia and Canada on Medicines Good Manufacturing Practice. An extract from the release follows:

The governments of Australia and Canada today signed a Treaty to recognise each other's assessments about the safety and quality of new pharmaceuticals seeking to enter the markets of both countries.

The Australian Government's Parliamentary Secretary for Health, Christopher Pyne and the Acting High Commissioner for Canada, Gaston Barban, signed a Mutual Recognition Agreement (MRA) that enables both countries to accept each other's Good Manufacturing Practice (GMP) audits and inspection of the makers of prescription and over the counter medicines.

At a ceremony at Parliament House in Canberra, Mr Pyne said Good Manufacturing Practice regulation is the cornerstone of ensuring that medicines that

reach the market have been manufactured at the highest standard and are safe and effective.

"In Australia GMP is rigorously regulated by the Therapeutic Goods Administration (TGA) which is a regulatory agency of the Australian Government's Department of Health and Ageing.

"The TGA is regarded as one of the top regulators in the world and has signed a number of multi-sectoral MRAs over the past few years including with the European Community, the European Free Trade Association and Singapore. The TGA also has a cooperative arrangement with the US Food and Drug Administration on GMP inspections, recalls, adverse product trends, health hazard evaluations and alert system information.

"We are particularly pleased in Australia to enter into such an agreement with Canada which offers the prospect that our respective communities will have access to the latest products which have been assessed for safety and quality to current world's best regulatory standards in as short as possible timeframe," Mr Pyne said.

Promotion and Protection of Investments – Turkey

On 29 November 2005, the Agreement between the Government of Australia and the Government of the Republic of Turkey for the Promotion and Protection of Investment was tabled in both Houses of Parliament. Extracts from the accompanying National Interest Analysis follow:

[…] The Australian Government recognises the importance of promoting the flow of capital for economic activity and its role in expanding economic relations and technical cooperation between countries. The Agreement, by guaranteeing certain treatment for investments, will encourage and facilitate bilateral investment by citizens, permanent residents and companies of Australia and Turkey, in accordance with the internationally accepted principles of mutual respect for sovereignty, equality, mutual benefit, non-discrimination and mutual confidence. The Agreement will put Australian investors in a better position to benefit from the investment opportunities in Turkey by providing them with a range of guarantees relating to non-commercial risk.

…

[…] The Agreement is intended to encourage and facilitate bilateral investment by citizens, permanent residents and companies registered in Australia and Turkey, consistent with the Australian Government's foreign investment policy. The Agreement does not limit either Government's ability to pass laws pertaining to pre-establishment investment or to regulate sensitive sectors.

[…] The Agreement would be an important safeguard for Australian companies that wish to participate in major projects in Turkey. It would send a positive message to Australian business about investing in Turkey, by providing guarantees about expropriation/nationalisation, ensuring most favoured nation treatment for Australian investments and by establishing mechanisms for resolving disputes over investment matters. The investor-State dispute resolution procedures included in the Agreement provide an avenue by which Australian investors can seek redress for wrongs without recourse to the domestic legal system (for example, by recourse to the International Centre for the Settlement of Investment Disputes). No formal dispute resolution procedures have ever been invoked against Australia in relation to

> the nineteen investment protection and promotion agreements (IPPAs) currently in force for Australia.

World Trade Organization – Disputes – EC Sugar Subsidies

On 28 April 2005, the Minister for Trade, Mr Mark Vaile, issued a media release welcoming a decision by the World Trade Organization's Appellate Body which confirmed that the European Communities (EC) must reduce sugar export subsidies. An extract from the release follows:

> The WTO's Appellate Body, in a report released in Geneva late today (28 April), upheld Australia, Brazil and Thailand's challenge to the EC's sugar export subsidies.
>
> "The EC will be required to significantly reduce its sugar exports and expenditure on export subsidies. This will result in better conditions for Australia's sugar industry, which depends on the world market for around 80% of its income," Mr Vaile said.
>
> On average, the EC exports over 5 million tonnes of sugar a year and spends around €1.3 billion (A$ 2.2 billion) a year on export subsidies. The Appellate Body has ruled that, consistent with its WTO obligations on agricultural export subsidies, the EC must limit its subsidised exports of sugar to 1.273 million tonnes a year and reduce its annual expenditure on export subsidies to €499 million (A$ 840 million) a year.
>
> "Removing up to 4 million tonnes of subsidised sugar from the world market will make a significant difference to Australian sugar producers who compete on the world stage.
>
> "This ruling once again highlights the value of Australia being a member of the WTO with its strong dispute settlement mechanism that allows us to promote and defend our key trading interests."
>
> Mr Vaile called on the EC to implement the rulings in a way that does not damage access to EC markets for some developing country sugar exporters in Africa, the Caribbean and the Pacific.
>
> "The WTO has confirmed that there is nothing to prevent the EC from observing both its treaty commitments to those developing countries as well as its WTO commitments to Australia, Brazil and Thailand."
>
> The Appellate Body report confirms the overall conclusions of the WTO Panel (in October 2004) that the EC is in breach of its WTO export subsidy obligations.

World Trade Organization – Disputes – European Union's 'Geographical Indicators'

On 20 April 2005, the Minister for Trade, Mr Mark Vaile, issued a media release concerning the World Trade Organization's (WTO) position on the European Union's 'geographical indications'. An extract from the release follows:

> The Trade Minister has welcomed the WTO's adoption today of the panel report in Australia's challenge to the EU's "geographical indications" (GIs) regime.
>
> "WTO members have now confirmed collectively that the EU's regime for protecting geographical indications is inconsistent with the EU's WTO obligations," Mr Vaile said.

> "Although the dispute concerns the EU's existing obligations, it endorses Australia's view that the EU's current demands on GIs are unnecessary and unworkable, particularly given the EU's regime is WTO inconsistent."
>
> "The EU has yet to convince us that there is any need to change existing multilateral rules governing geographical indications," Mr Vaile said.
>
> "Yet the EU continues to seek significant changes to existing rules on GIs in the WTO as payment for liberalisation of its agriculture sector."
>
> "This confirms our view that the EU's demands on GIs in the WTO are essentially intended to replace tariff and non-tariff barriers to agricultural imports with new restrictions. The EU is really only interested in protecting its agricultural interests from outside competition," Mr Vaile said.
>
> The Panel's report in the parallel challenge by the United States to the EU's GI regime was adopted at the same time.

World Trade Organization – Disputes – United States – Cotton Subsidies

On 4 March 2005, the Minister for Trade, Mr Mark Vaile, issued a media release concerning the decision by the World Trade Organization's (WTO) Appellate Body that the United States' cotton subsidies were in breach of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. Extracts from the release follow:

> Trade Minister Mark Vaile has welcomed confirmation by the World Trade Organization that United States cotton subsidies breach WTO rules.
>
> …
>
> The WTO Appellate Body upheld earlier findings that some US cotton subsidies were prohibited while some others suppressed world cotton prices. The Appellate Body's report was released in Geneva overnight (3 March).
>
> "The outcome provides a very positive result for cotton producers in Australia, in Brazil which initiated the challenge and in other developing countries," Mr Vaile said.
>
> Oxfam has estimated that the cost of US cotton subsidies to African producing countries alone is around US$300 million a year.
>
> The outcome reinforces efforts by the Australian-led Cairns Group and other like-minded coalitions to ensure that heavy users of agricultural subsidies live up to their existing WTO commitments. It also underscores the importance of Australia's efforts to pursue substantial reductions in domestic support and the elimination of export subsidies within the Doha round.
>
> "Australia also hopes that, like the welcome result today, the final outcome of the WTO dispute concerning the EU's export subsidies for sugar initiated by Australia, Brazil and Thailand, will also provide further impetus for agricultural trade reform."

World Trade Organization – Membership – Saudi Arabia

On 5 December 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning Tonga and Saudi Arabia's accession to the World Trade Organization. An extract from the release regarding Saudi Arabia follows:

[The Minister] welcomed both Tonga and Saudi Arabia to the ranks of the World Trade Organization (WTO) as its 149th member .

Speaking from the 6th WTO Ministerial Conference in Hong Kong, Mr Vaile congratulated both countries on the completion of their extensive accession negotiations.

"Australia looks forward to working with these countries in the WTO to promote our common interest in global trade reform. The commitments that they have made in their accession to the WTO will expand the scope for trade globally and, importantly, contribute to the strength of the multilateral trade system," Mr Vaile said.

Australia and Saudi Arabia have enjoyed sustained cooperation over a number of years, with combined trade in goods alone worth more than $3 billion per year. Saudi Arabia is Australia's largest market in the Middle East and we are keen to expand the commercial relationship further.

Australia's trade with Saudi Arabia has diversified in recent years from agricultural products to include manufacturing, with Saudi Arabia the largest export market for Australian motor vehicles, and a growing range of services including in construction, aerospace, health, and oilfield development.

"Saudi Arabia's efforts to open its foreign trade regime, including taking steps to reduce tariffs and to eliminate non-tariff barriers, will help to accelerate its integration into the world economy," he said.

World Trade Organization – Membership – Tonga

On 5 December 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a press release concerning Tonga and Saudi Arabia's accession to the World Trade Organization (WTO). An extract from the release regarding Tonga follows:

Mr Vaile said he is particularly pleased to welcome one of Australia's Pacific Island neighbours to the WTO.

"Tonga's membership will be significant, not only for the boost it will provide to Tonga's long-term economic growth and development, but for the positive role-model I hope it sets for other, small developing countries that this process is worth undertaking," he said.

"Tonga's WTO accession has provided Tonga with the momentum to make the domestic economic reforms necessary to opening its economy."

Australia's two-way trade with Tonga, worth approximately $A14 million in 2004-05, is expected to grow with Tonga's economy. Trade ranges from fuel energy to agricultural products, such as wheat, meat and vegetables, and telecommunications equipment. Australia is Tonga's third largest source of imports.

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

On 31 January 2005, the Minister for Trade, Mr Mark Vaile, issued a media release outlining the focus of the 2005 Doha Round of negotiations. Extracts from the release follow:

> Trade ministers have agreed to focus their efforts on five key areas which will set the course for this critical year for the Doha round following an informal meeting in Davos, Switzerland, according to Trade Minister Mark Vaile.
>
> …
>
> Whilst recognising considerable challenges, the ministers agreed to focus their efforts on five key areas:
>
> - The structure of the final package for agriculture including the abolition of export subsidies;
> - An agreed formula for achieving greater market access for industrial products;
> - A critical mass of market opening offers for services;
> - Significant progress in strengthening World Trade Organization rules in important areas such as anti-dumping; and
> - Agreement on specific measures that will cut the cost of doing business globally through the Trade Facilitation negotiations.
>
> Mr Vaile said progress in these areas will be reviewed in the run up to the Hong Kong ministerial conference and a series of meetings of ministers beginning in March in Kenya.
>
> It was also agreed that draft texts should be developed by negotiators in Geneva by mid 2005.

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

On 28 February 2005, the Minister for Trade, Mr Mark Vaile, issued a media release urging progress on the removal of international trade barriers at the Doha Round of trade negotiations. Extracts from the release follow:

> Trade Minister Mark Vaile will push Australia's desire for wide-ranging cuts to international trade barriers, particularly in agriculture, at a meeting of trade and economic ministers in Africa this week.
>
> Mr Vaile will join thirty-five World Trade Organisation ministers at a meeting in Mombasa, Kenya 2-4 March to discuss a series of initiatives aimed at progressing the current Doha Round of world trade negotiations.
>
> As chair of the Cairns Group, Australia has a key leadership role in these discussions and I will be encouraging ministers in Kenya to build on the political commitment and energy shown by them at a meeting in Davos, Switzerland in January.
>
> …
>
> "I and my ministerial counterparts, including those from the EU and US, will use the Kenyan meeting to decide what action needs to be taken in these five specific areas to move each negotiation forward," Mr Vaile said.

On 2 April 2005, the Minister for Trade, Mr Mark Vaile, issued a media release outlining Australia's aims, as a member of the Cairns Group, for progress on agricultural issues at the Doha Round of trade negotiations. An extract from the release follows:

> The Cairns Group of agricultural exporting nations are united in their commitment to ensure that the current round of world trade talks delivers significant outcomes for their farmers, Trade Minister and Chair of the Group, Mark Vaile, said today.
>
> "The fact that agriculture is at the front and centre of negotiations in the Doha round is a result of 20 years of persistence and commitment by the Cairns Group to ensure that agriculture is treated fairly," Mr Vaile said.
>
> "The key message from our meeting is that we must ensure that the World Trade Organization membership maintains the level of ambition we agreed at the start of this Round in 2001 and again in the so-called July framework last year."
>
> "We have used this meeting to effectively mark a line in the sand in these negotiations – we will not accept a result that does not deliver for our farmers."

On 29 July 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release assessing the progress of the Doha Round of negotiations. An extract from the release follows:

> Trade Minister, Mark Vaile, expressed serious disappointment today that the World Trade Organization [WTO] negotiations in Geneva have not made progress.
>
> WTO Members have failed to meet their goal of agreeing on first drafts of a new agreement on agriculture and other key issues by the end of July.
>
> Mr Vaile said "the failure to make progress on agriculture, and particularly agricultural market access, has again proved the critical stumbling block. We now face a major challenge if we are to lay the basis at the WTO Ministerial Meeting in Hong Kong in December for completing the Doha Round.
>
> "The promise foreshadowed around the time of the G8 meeting at Gleneagles in Scotland has not been turned into concrete results in the WTO."
>
> "Time is now running very short. Key players, especially the rich countries such as the EU, US and Japan that provide high levels of support for agriculture, will have to show greater leadership and political commitment to put the negotiations back on track in the lead up to Hong Kong. The stakes are too high for us to fail."
>
> "The fact the Central American Free Trade Agreement has now passed the US Congress is a positive sign that further liberalisation can occur."
>
> "The Doha Round will determine the international trade rules for the next 25 years – improved market access, reductions in trade-distorting farm subsidies and the elimination of export subsidies are essential outcomes for Australia in agriculture."
>
> "It remains the sector that is most distorted by trade barriers and agricultural trade reform is crucial to the delivery of the Doha Round's development and poverty-alleviation goals. Without progress on agriculture, we will not be able to move forward on other critical issues including industrial products and services."
>
> "Agriculture is the gateway issue, but progress is needed in all key areas of the negotiations – agriculture, industrial products, services, rules and trade facilitation, and development."
>
> "Australia remains committed to ensuring an ambitious result for our world class farmers, manufacturers and service providers."

On 20 October 2005, the Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning the European Union's participation in the Doha Round of negotiations on agricultural issues. An extract from the release follows:

> Deputy Prime Minister and Minister for Trade, Mark Vaile says the European Union's refusal to offer more farm tariff cuts had blocked world trade negotiations and could take them to the brink of collapse.
>
> Speaking from Geneva, Switzerland Mr Vaile's comments follow a crucial round of talks between ministers of the Five Interested Parties (Australia, the US, EU, India and Brazil).
>
> "The failure of the EU to make a meaningful offer on agricultural market access is deeply disappointing," Mr Vaile said.
>
> "Those EU member states who talk up their contribution to development are now blocking the most significant steps the global community could take in years to create new opportunities for the world's poorest countries."
>
> "The EU are the ones putting the development round under threat, and developing countries will suffer most. The World Bank has estimated that the Round could increase global GDP by close to $300 billion and raise 140 million people out of poverty."
>
> "With only seven weeks left until the Hong Kong Ministerial Conference in December, we have just about run out of time. If Hong Kong fails there is little chance of completing negotiations in 2006, putting the future of multilateral trade reform at serious risk for the short term," Mr Vaile said.
>
> Mr Vaile said the United States had moved a long way in talks last week but the EU has failed to deliver and the ball was now squarely in the EU's court.

On 28 November 2005, Acting Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning a statement on the Doha Round issued by the Commonwealth Heads of Government Meeting (CHOGM). An extract from that release follows:

> Acting Prime Minister and Minister for Trade Minister, Mark Vaile said a strong statement on the Doha Round of world trade talks from CHOGM over the weekend puts even more pressure on the European Union and G10 to move on the key issue of agricultural market access.
>
> It follows similar statements recently from APEC leaders meeting in Korea.
>
> "Importantly CHOGM, led by the Prime Minister, has specifically targeted the EU and other rich nations which are holding up the Doha Round by refusing to agree to real reform of agriculture," Mr Vaile said.
>
> "The statements from CHOGM and APEC cannot be taken lightly. Together the two groups represent 4.4 billion people or more than two thirds of the world's population, well over half the world's total trade and about 65 per cent of its GDP.

On 13 December 2005, Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning the Sixth World Trade Organization Ministerial Conference in Hong Kong. Extracts from that release follow:

> Mr Vaile said the Doha round of world trade talks must be finalised in 2006 so a positive outcome in Hong Kong is essential.

> "Failure is not an option. Australian farmers and exporters deserve the chance to compete on a level playing field.
>
> "The Doha Round will determine the international trade rules for the next 25 years – improved market access, reductions in trade-distorting farm subsidies and the elimination of export subsidies are essential outcomes for Australia in agriculture," Mr Vaile said.
>
> …
>
> "We will keep negotiating in Hong Kong to keep the pressure on so that we can finalise the round in 2006," Mr Vaile said.
>
> "Equally there needs to be a sign from developing countries such as Brazil and India that they are committed to liberalisation in manufactured goods and services.
>
> "WTO members agree that the three areas which should be addressed in Hong Kong are agriculture (specifically market access), industrial products and development.
>
> "I hope there will be strong political will to significantly advance these issues. If we can't then the Doha round will be in serious trouble," Mr Vaile said.

On 18 December 2005, Deputy Prime Minister and Minister for Trade, Mr Mark Vaile, issued a media release concerning progress at the Sixth World Trade Organization Ministerial Conference in Hong Kong. An extract from that release follows:

> […] Deputy Prime Minister and Minister for Trade, Mark Vaile, said today that an agreement to set deadlines to finalise agricultural market access was a significant step in the right direction.
>
> Mr Vaile said, "Improved access to the world's markets for Australia's farmers has been one of Australia's highest trade priorities.
>
> "Given the lack of progress over recent months our expectations coming into this meeting were not high, so to negotiate these commitments is certainly a step in the right direction. These deadlines must be met."
>
> Mr Vaile also welcomed the agreement on 2013 as an end date for the total elimination of agricultural export subsidies.
>
> "This is a positive breakthrough given Australia has been pursuing this issue for 50 years.
>
> "Liberalising world trade will not only provide Australian farmers with the opportunity to compete on a level playing field, but will also help hundreds of millions of poor people in developing countries trade their way out of poverty."

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

On 3 June 2005, the Minister for Trade, Mr Mark Vaile, issued a press release concerning the Asia-Pacific Economic Cooperation (APEC) countries' progress on tariff reductions for industrial goods. An extract from the release follows:

> In a major breakthrough toward progressing the World Trade Organization (WTO) trade negotiations, APEC economies have agreed for the first time on a common formula for tariff reductions for industrial goods.

> Attending a meeting of APEC Ministers Responsible for Trade on Jeju Island, Korea, Australian Trade Minister Mr Vaile said, "This decision is a significant step forward because the APEC Trade Ministers from both developed and developing economies represent almost half of world trade."
>
> "The agreement announced today will inject new momentum into the World Trade Organization negotiations. I will now urge other WTO members to support the Swiss formula as a basis to begin tariff negotiations on industrial goods."
>
> "The Swiss formula, as its known, involves steeper cuts to higher tariffs in order to harmonize tariff rates across countries. This greatly reduces the gap between high and low tariff rates and in addition sets a top limit for all tariffs."

VI. Individuals

Human Rights – Promotion

On 14 March 2005, Australia's Ambassador and Permanent Representative to the United Nations in Geneva, and Chair of the Commission on Human Rights, H E Mr Mike Smith, delivered a statement to the 61st session of the Commission concerning the promotion of human rights. An extract from the statement follows:

> In my view what we need to do is provide the tools, the know-how and the moral support at the country level so that universal human rights standards can be promoted there in ways that are appropriate to the culture and social circumstance of each country. We need to support the work of national human rights institutions, of independent judiciaries and of reformers within Government bureaucracies who understand that recognizing people's individual rights and of making government accountable for decisions that affect people's daily lives, are fundamental to improving their quality of life. Importantly they also build productive communities and more prosperous countries. And we need to do this not only through the 6 weeks of this Commission, nor indeed only in this forum in Geneva. We should be doing it as Governments, as NGOs, and as experts, in every relevant UN forum. And we should encourage other institutions in the field, such as the treaty bodies, to do the same.
>
> That takes me back to the recommendations of the High Level Panel Report and of previous UN reform initiatives. The only way in the long term that human rights goals will be steadily advanced on a broad front is if human rights considerations are part of the work of every UN body. I therefore strongly endorse the message of Action II launched by the High Commissioner and the Heads of UNDP and UNICEF in New York last year, which would see human rights integrated into the day to day work of UN country teams.

On 28 April 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release relating to Australia's re-election to the Commission on Human Rights. An extract from the release follows:

> […] Australia welcomes our re-election to the Commission on Human Rights as an opportunity to continue to improve the body's functioning and operational focus.

> Our prime objective, as always, will be to develop and implement practical and constructive measures to promote and protect human rights on the ground.
>
> Australia has been highly active and effective during our current term on the Commission on Human Rights, serving as a Vice-Chair in 2003 and Chair in 2004. We have sought to introduce efficiencies into the Commission's work to free up resources that can be used to bring practical benefits to peoples' lives. We have also sought continued reform of the UN treaty bodies to better streamline and coordinate their work and facilitate States' reporting and compliance responsibilities. We will continue this work in our new term.

On 23 November 2005, the Minister for Foreign Affairs, Mr Alexander Downer, gave a speech to the Law Institute of Victoria which referred to Australia's role in promoting human rights. An extract from the speech follows:

> The UN's existing human rights machinery faces a credibility crisis. Human rights discussions are hijacked for the purposes of political point-scoring. Human rights crises are ignored whilst the debates of years past are fought over and over again. And a perverse system of representation sees some of the most egregious human rights violators elevated to positions of leadership.
>
> This credibility crisis must be overcome if the UN is to regain its moral authority on the topic. Australia is hopeful that a new Human Rights Council will do just this, and we are playing an active role in negotiations to ensure this outcome.

On 10 December 2005, the Parliamentary Secretary to the Minister for Foreign Affairs, Mr Bruce Billson, issued a media release concerning Australia's longstanding support for human rights internationally and additional human rights funding. An extract from the press release follows:

> […] "Australia has long been committed to promoting and protecting human rights internationally and this latest assistance will help organisations make a difference to the lives of ordinary people," Mr. Billson said.
>
> "Protecting and promoting human rights is fundamental to people being able to be all they can be and for countries to fully realise their own potential. They are also integral to reducing poverty as people need to build their livelihoods and live securely to feel safe."

Human Rights – Promotion – National Institutions

On 20 April 2005, Ms Julia Feeney of the Australian Mission to the United Nations in Geneva, delivered a statement on behalf of Australia to the 61st session of the Commission on Human Rights, introducing the Resolution 'National Institutions for the promotion and protection of human rights'. An extract from the statement follows:

> This resolution has attracted more than 60 co-sponsors.
>
> The resolution reconfirms the important contribution that National Institutions play in both promoting and protecting human rights and fundamental freedoms on the ground and in developing and enhancing public awareness and education of those rights. The resolution also welcomes the significant strengthening in all regions of cooperation among national institutions.
>
> Importantly the resolution welcomes the report of the Secretary-General on enhancing the participation of national institutions in the work of the Commission

on Human Rights and its subsidiary bodies and in accordance with its recommendations decides to implement measures to deepen their capacity to effectively engage in the Commission deliberations.

Human Rights – Racism

On 21 March 2005, Australia's Ambassador and Permanent Representative to the United Nations in Geneva and Chair of the Commission on Human Rights, H E Mr Mike Smith, delivered a statement to the 61st session of the Commission on Human Rights which referred to racial discrimination and xenophobia. An extract from the statement follows:

> [W]e regret that there is no consensus within this Commission and in the UN system generally on an issue of such importance to all peoples, countries and the international community. It is to be hoped that we will see a return to consensus as soon as possible. I note that Australia, once a co-sponsor of the CHR resolution on racism, had to abstain on the resolution last year. While we welcomed the adoption of the Declaration and Program of Action by the World Conference Against Racism (WCAR), Australia, as was the case with many other states, made clear that there was some language with which we could not be associated. However, in recognition of the overall significance of World Conference outcomes, we examined these in undertaking work on Australia's National Framework for Human Rights, which the Australian government launched in 2004. Australia regrets that an important issue such as racism, and such significant initiatives aimed at addressing racism, remain a cause for disagreement not consensus and unanimous approaches.

Human Rights – Rights of the Child

On 13 September 2005, the United Nations Office at Geneva issued a media release concerning Australia's report to the Committee on the Rights of the Child. An extract from the release follows:

> […] Presenting the reports, Mike Smith, Permanent Representative of Australia to the United Nations Office at Geneva, said they underlined Australia's respect for its obligations, and its commitment to upholding the principles contained in the Convention. Australian Governments were responding to compelling evidence that investment in early childhood was an effective and cost-effective strategy for improving outcomes for children both now and in the future, and recognized the need for coordination of nation-wide activity to promote child development in the country. Family law reforms, which were announced in July 2005, would facilitate shared parenting, consistent with the best interest of the child, and would also address the specific needs of indigenous children in the family law system. Further developments in immigration detention policy, particularly the movement of families with children out of detention facilities into the community, ensured that the current immigration detention policy was administered with greater flexibility, fairness, and in a timelier manner.

On 19 October 2005, Ms Jessica Blitt of the Canadian Mission to the United Nations, delivered a statement on behalf of Canada, Australia and New Zealand to the Third Committee of the 60th Session of the United Nations General Assembly which referred to the rights of the child. Extracts from that statement follow:

> Canada, Australia and New Zealand place the very highest priority on the rights of the child. The annual omnibus resolution on the rights of the child provides the

> major framework for debate on this important issue at the United Nations. At the General Assembly and at the Commission on Human Rights, our delegations have accordingly been among the most active cosponsors and supporters of this resolution. For the past three years, however, we have called on the resolution sponsors to consider new approaches to this issue. We repeat that call today. Each year we spend too much time going over old ground, repeating debate on standards that have already been agreed. Insufficient time is left for us to address new and critical issues. Moreover, it is simply not possible for us to give the proper attention to implementation of the Convention.
>
> […] In our view, the status of the Convention on the Rights of the Child should be examined biennially by the General Assembly, as is the case with the Convention on the Elimination of Discrimination Against Women.
>
> …
>
> We welcome the adoption of Security Council Resolution 1612 [on] this issue in July. This was a groundbreaking call for action. It established a comprehensive monitoring and reporting mechanism with the threat of targeted measures aimed at those who continue to commit violations. We applaud the ongoing efforts of the UN agencies, SR SG [Special Representative of the Secretary-General] on Armed Conflict and NGOs.

On 7 April 2005, New Zealand delivered a statement to the Commission on Human Rights on behalf of Canada, Australia and New Zealand, which referred to the rights of the child. Extracts from the statement follow:

> […] Canada, Australia and New Zealand are longstanding cosponsors of the omnibus resolution on the Rights of the Child. This resolution provides the only platform for progressing international debate on the rights of the child internationally. We continue, however, to be concerned that it does not live up to this important role. The length and detail of this resolution are not conducive to constructive debate. Again, we wish to reiterate our belief that it is important for the resolution sponsors and Member States to arrive at a more focused, responsive and effective resolution that propels debate forward and can help achieve concrete advances for children throughout the world.
>
> The Committee on the Rights of the Child also plays a key role in promoting implementation of the Convention. We welcome the efforts of the Committee to make its work more effective, and note with gratitude the work accomplished by the Committee over the past year. We also welcome the decision to allow the Committee to meet in split chambers to address the backlog of treaty body reports. In this regard, we also call on States Parties to fully cooperate with the Committee, including by honouring their reporting obligations.
>
> Mr Chairman, our countries support efforts to strengthen monitoring, reporting and accountability for violations of children's rights in armed conflict. We welcome the increasing efforts by the Security Council to mainstream this issue into its deliberations and the ongoing work by the OHCHR, UNICEF, other UN agencies, the Special Representative of the Secretary-General on Armed Conflict and NGO partners. Coordination and information sharing on the ground remain essential. We stress the importance of the Optional Protocol on the Involvement of Children in Armed Conflict, which Canada and New Zealand have ratified and Australia is in the process of ratifying. We also encourage those States that have not yet ratified the Rome Statute of the International Criminal Court to do so without delay.

Human Rights – Sierra Leone Special Court

On 1 October 2005, Minister for Foreign Affairs, Mr Alexander Downer, issued a media release affirming Australia's continued support for the Sierra Leone Special Court. An extract from the release follows:

> Australia has pledged a further $100,000 for the operations of the Special Court for Sierra Leone.
>
> Set up jointly by the Government of Sierra Leone and the United Nations, the Special Court is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law, and the law of Sierra Leone, since November 1996.

Human Rights – Situations – Belarus

On 6 September 2005, the Federal Member for Melbourne Ports, Mr Michael Danby, asked the Minister for Foreign Affairs, in writing, whether Australia had protested the suppression of free speech and press freedom in Belarus. The Foreign Minister replied:

> At the 61st session of the UN Commission on Human Rights, held in Geneva earlier this year, Australia co-sponsored a resolution on the human rights situation in Belarus. The resolution, which contained a reference expressing deep concern about restrictions placed on the media in Belarus, was adopted by a comfortable margin.

Human Rights – Situations – Burma

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly and referred to the human rights situation in Burma. An extract from that statement follows:

> Mr Chairman, Australia is deeply concerned about the situation in Burma and we strongly urge the Burmese Government to commit to a peaceful and inclusive democratic transition and national reconciliation, and to deal with international concerns regarding the deteriorating humanitarian situation. The regime has failed to ensure that basic standards of human rights are met in accordance with its international obligations. Australia continues to support the work of Special Envoy Razali and Special Rapporteur Pinheiro.

Human Rights – Situations – China

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the United Nations in New York, Dr Andrew Southcott, delivered a statement to the 60th Session of the United Nations General Assembly which referred to the human rights situation in China. An extract from that statement follows:

> We value China's constructive approach to our bilateral human rights dialogue and note that China appears increasingly aware of the need to improve its human rights practices. We encourage China to press ahead with reform, including in relation to the death penalty and reform of the reeducation through labour system. We urge China to allow its citizens greater freedom of expression, association and assembly and freedom of religious practice. We continue to urge China to ratify the International Covenant on Civil and Political Rights as soon as possible.

On 27 June 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a press release concerning the ninth round of the Australia-China Human Rights Dialogue. Extracts from the release follow:

> The ninth round of the Australia-China Human Rights Dialogue is being held in Beijing today.
>
> The Australian delegation are raising a range of issues including China's legal system, labour rights, women's rights, religious freedom, Tibet and Xinjiang and the treatment of political activists and Falun Gong. Australian officials will also raise individual cases.
>
> The dialogue was initiated by the Australian Government in 1997 to facilitate exchanges on human rights issues of mutual concern.
>
> This year the dialogue is focusing in particular on the problem of HIV/AIDS. The Australian delegation will visit Hunan province to examine how China deals with this problem on the ground.
>
> …
>
> The meeting in Beijing is expected to agree on activities to be conducted in 2005-06 under the Human Rights Technical Cooperation Program. Under this program, Australia and China work together to make practical improvements to human rights on the ground, especially in legal reform, women's and children's rights and ethnic minority rights.

Human Rights – Situations – Democratic People's Republic of Korea

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly which referred to the human rights situation in the Democratic People's Republic of Korea. An extract from that statement follows:

> We urge the DPRK to reconsider its decision to end the in-country humanitarian operations of multilateral organisations by the end of 2005; and to address international concerns over alleged human rights violations, including the arbitrary detention and execution of political prisoners, severe restrictions on the movement of people and on religious freedoms. It is critical that the DPRK provide access to the country by the Special Rapporteur on human rights.

Human Rights – Situations – Indonesia

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly which referred to the human rights situation in Indonesia. An extract from that statement follows:

> Mr Chairman, Australia warmly welcomes the signing of the historic agreement to end hostilities between the Government of Indonesia and the Free Aceh Movement. We also welcome President Yudhoyono's renewed commitment to resolve the problems of Papua by August 2006. We encourage the Indonesian Government to ensure freedom of worship as permitted under Indonesian law and to prosecute those who commit violence against people of faith (regardless of religion).

> We are also encouraged by the agreement with Timor Leste to establish a Truth and Friendship Commission to take forward justice processes relating to past human rights abuses.

Human Rights – Situations – Iran

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly which referred to the human rights situation in Iran. An extract from that statement follows:

> Australia remains concerned by the human rights situation in Iran, including ongoing suppression of freedom of expression, discrimination against women and minority groups (including the Baha'i community, Christians, Jews, and Kurds) and deficiencies in the administration of justice. We have been particularly concerned about the execution of minors, including for what are considered morality crimes. We urge Iran to engage further with the United Nations and the international community on human rights issues.
>
> Mr Chairman, the comments by the Iranian President calling for Israel to be 'wiped off the map' are completely unacceptable and in contravention of the UN Charter under which all UN members have undertaken to refrain from the threat or use of force against the integrity or political independence of any state. The comments do nothing to reassure the international community that Iran is prepared to be a responsible international citizen.

Human Rights – Situations – Nepal

On 4 February 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the human rights situation in Nepal. An extract from the release urging the return to multiparty democracy follows:

> The recent dismissal of Nepalese Prime Minister Deuba and his Government by the King of Nepal and the appointment of an unelected Council of Ministers are developments of concern to Australia.
>
> The action is contrary to the principles of multiparty democracy and is a setback to hopes for lasting peace and stability in Nepal. Australia supports the immediate return to multiparty democracy and respect for civil liberties and freedom of expression.
>
> The Government of Australia calls on all parties to avoid actions which could worsen the situation and supports efforts which promote peace and stability for the people of Nepal. Australia will continue to monitor developments closely.

Human Rights – Situations – Pacific

On 1 April 2005, the Parliamentary Secretary to the Minister for Foreign Affairs, Mr Bruce Billson, issued a media release which referred to Australia's involvement in addressing the human rights situation in the Pacific. An extract from the release follows:

> Australia is providing $270,000 to the United Nations Office of the High Commissioner for Human Rights (OHCHR) to undertake work in the Asia Pacific region, the Parliamentary Secretary for Foreign Affairs and Trade, Mr Bruce Billson announced today.

"The Australian Government is committed to supporting practical initiatives to promote and protect human rights, particularly in the Pacific region where formal mechanisms to protect and promote human rights are rare," Mr Billson said.

"My colleague, Liberal Senator Marise Payne, who has been attending the Commission on Human Rights annual meeting in Geneva, is having discussions today with the UN High Commissioner for Human Rights and will present this new commitment for the work of the OHCHR in our region."

Senator Payne said, "The work of the OHCHR is vitally important to furthering the cause of human rights and its continued importance to the Pacific region cannot be understated."

Human Rights – Situations – Palestinian Territories

On 23 March 2005, Australia's Ambassador and Permanent Representative to the United Nations in Geneva and Chair of the Commission on Human Rights, H E Mr Mike Smith, delivered a statement to the 61st session of the Commission which referred to the human rights situation in Palestine. An extract from the statement, regarding the item entitled "violation of human rights in the occupied Arab territories, including Palestine", follows:

> Australia opposes the maintenance of Agenda Item 8. Australia is concerned that this stand-alone agenda item allows for unbalanced criticism of Israel. The singling out of one country for criticism under a unique agenda item is anomalous when there is an existing, separate agenda item for the consideration of human rights issues in all other countries.
>
> Australia welcomes the good progress made recently on the Middle East peace process. In particular, we are encouraged by the renewed commitment and efforts of the Palestinian Authority to stop terrorism and incitement to further bloodshed. Australia supports Israel's right to defend itself. It is essential that the Palestinian Authority take active measures to stamp out terrorist organisations in order for the peace process to move forward. We welcome Israel's recent withdrawal from Jericho and commitment to withdrawing from Gaza and other parts of the West Bank. We urge all sides to maintain the momentum of the peace process and to continue to ensure that any steps taken are consistent with the Roadmap.

Human Rights – Situations – The Philippines

On 2 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly which referred to the human rights situation in The Philippines. An extract from that statement follows:

> We welcome the Philippines Government's commitment to negotiate a peace settlement with the Moro Islamic Liberation Front (MILF) and commend Malaysia's role in facilitating this process.

Human Rights Situations – Singapore – Mr Nguyen

On 31 October 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the House of Representatives concerning the decision by the President of Singapore not to grant clemency to an Australian national, Mr Nguyen, in respect of the death penalty. Extracts from the speech follow:

> Can I just say that I support the motion moved by the Leader of the Opposition, and I appreciate his initiative in doing so. The government deeply regrets the President of Singapore's rejection of Nguyen's appeal for clemency. We of course must respect the decisions of the Singapore government and constitution, and this decision was made according to the due processes of Singapore law. While the Australian government has always taken a strong stand against drug trafficking, we have argued strongly that there are compelling compassionate circumstances in this case to justify clemency. Let me make it clear that I always oppose capital punishment.
>
> …
>
> I can assure the parliament that the government will continue to do everything we can to plead the special circumstances of Mr Nguyen's case with the Singapore government in the hope of preventing his execution. Following the rejection of the clemency appeal, which I received from the Singapore Minister for Foreign Affairs the Friday before last, I wrote again to foreign affairs minister George Yeo to underline the government's strong desire to see this young Australian's life spared. The Prime Minister and I are also meeting Mr Nguyen's Melbourne barrister, Lex Lasry, this afternoon to discuss whether there are any other avenues the government might usefully pursue. Reflecting the depth of our conviction that his sentence should be commuted, the government has raised Mr Nguyen's case at every level of the Singapore government at every opportunity we thought it appropriate and where we thought it would make a difference, emphasising the compelling reasons for clemency.
>
> …
>
> The reason I mention all of these representations – and it is rather a long list – is that we have made an enormous effort on behalf of Mr Nguyen, and it pains me above all that it is proving extraordinarily difficult to win a reprieve for him. It has proved enormously difficult. Despite all our best efforts, still we have been unsuccessful. From time to time, so as to ensure the public are in no way misled about this, I have said that we remain pessimistic about our prospects of persuading the Singapore President to grant clemency, but we will continue to try.

On 2 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer gave a doorstop interview concerning the execution of Mr Nguyen. An extract from the interview follows:

> […] the Prime Minister has already indicated that the Australian Government is very saddened by the execution of Van Nguyen this morning. I understand from our High Commissioner, who I've been talking to today that he was executed at 7 minutes past 6 at Changi Prison. The Australian Consul, Ross Tysoe, and the Deputy Consul, have identified the body formally and there is to be a funeral, a private funeral service, this afternoon in Singapore and the body will subsequently be repatriated to Australia. I won't go into all the details of that but this is a very sad thing. The Government, the Opposition, the Australian Parliament did all we could to try to save Van Nguyen. We appreciate that what he had done was wrong: to traffic drugs. And it does bring very severe penalties, especially in Asia, and we are all trying to stop the trafficking of drugs and the drug industry but we oppose the death sentence and we're very saddened that he was sentenced to death and it wasn't possible to find a way of getting the sentence commuted.
>
> I said at the beginning when the appeal failed that I was pessimistic that we'd be able to do anything more. We tried a whole range of different options from

> diplomatic to legal but not surprisingly none of them proved to be workable or effective. That's a very sad thing and I know many Australians do feel very sad about this.

Human Rights – Situations – Sri Lanka

On 8 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release condemning violations of the Ceasefire Agreement in Sri Lanka. An extract from the release follows:

> Australia is deeply concerned about the recent escalation in violence in the North and East of Sri Lanka, and condemns in particular the two attacks in Jaffna on 4 and 6 December by the Liberation Tigers of Tamil Eelam (LTTE), which killed fourteen members of the Sri Lanka Army.
>
> Australia also condemns the recent killings of civilians in eastern coastal areas of Sri Lanka.
>
> The recent attacks represent the most serious violations of the Ceasefire Agreement since its commencement in February 2002.
>
> Australia welcomes the restraint shown by the Government of Sri Lanka in not retaliating against these provocations, but remains concerned about persistent violations of the Ceasefire Agreement.
>
> I call upon both the Government of Sri Lanka and the LTTE to take appropriate steps to bring an end to the current violence and to work towards the implementation of the letter and spirit of the Ceasefire Agreement as a crucial step in seeking a just and sustainable peace settlement.

Human Rights – Situations – Sudan

On 8 April 2005, Canada delivered a statement to the 61st session of the Commission on Human Rights on behalf of Canada, Australia and New Zealand which referred to the human rights situation in Sudan. Extracts from the statement follow:

> It has been a year since the United Nations Secretary-General provided at this Commission his clarion call for protective action for the people of Darfur. It has been over two months since the International Commission of Inquiry presented its searing indictment of the crimes against humanity that have occurred in Darfur. Yesterday, the Secretary-General reiterated his plea for action to deal with the appalling suffering in Darfur when addressing our Commission.
>
> Australia, Canada and New Zealand condemn the ongoing grave violations of human rights and international humanitarian law in Darfur, Sudan which are having a huge impact on the civilian population in that part of the country.
>
> …
>
> While the Government of Sudan is responsible for the lack of protection afforded to civilians and for many of the serious violations of human rights and international humanitarian law amounting to crimes, as documented by the International Commission of Inquiry on Darfur, rebel groups and armed militias share the responsibility for such egregious crimes as well. Armed groups carry out brutal attacks against internally displaced people, terrorizing them and robbing them of any hope for security. Armed groups are also carrying out attacks against humanitarian

> workers, impeding their ability to help an increasingly vulnerable population. Sadly, unimpeded humanitarian access in Darfur is still not fully realised.
>
> We call on the Government of Sudan to acknowledge these violations of human rights and international humanitarian law, and for it and all parties to the conflict in Darfur to take the necessary measures to halt the atrocities being committed against the civilian population and to respect their international legal obligations. Furthermore, armed militias and rebel groups must immediately cease all actions that impede the delivery of humanitarian aid.
>
> We urge the Government of Sudan to further protect civilians, in particular, individuals living in camps as a result of being internally displaced. Police assigned to the camps must be properly instructed to provide security to and assist internally displaced persons, fully investigate allegations of sexual violence, and cooperate with the African Union and human rights and humanitarian agencies.
>
> The international community is acting upon its responsibility to protect, as witnessed by the recent decisions of the United Nations Security Council. We are particularly pleased that the UN Security Council has referred the situation in Darfur to the International Criminal Court in accordance with the recommendation of the International Commission of Inquiry. As we have said many times, this referral represents the best option for ensuring timely accountability for these serious international crimes and for deterring further atrocities not only in Darfur. The International Criminal Court was established precisely to fulfill these dual roles – to ensure accountability for, as well as to deter, the commission of the most serious international crimes.

Human Rights – Situations – Vietnam

On 19 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release on the Australia-Vietnam Human Rights Dialogue. An extract from the release follows:

> Australia and Vietnam are holding their fourth round of annual bilateral human rights talks in Canberra today.
>
> The dialogue is an example of the Australian Government's practical and constructive approach to addressing human rights issues.
>
> The dialogue will cover a range of issues such criminal justice matters, including the death penalty and prison management, freedom of religion and expression, women's rights and reform of the UN human rights machinery.
>
> Vietnam and Australia are expected to introduce a program of technical cooperation on human rights in 2006.
>
> The program will provide opportunities to foster practical cooperation between agencies such as the Vietnam Women's Union and the Ministry of Justice and Australian institutions with human rights responsibilities.
>
> Areas of cooperation include support for raising awareness for human rights treaty obligations, dissemination of legal information, enhancement of access to justice, women's rights and postgraduate study in Australia in human rights related subjects.

Human Rights – Situations – Zimbabwe

On 27 April 2005, Australia's Deputy Permanent Representative to the United Nations in New York, Mr Peter Tesch, delivered a statement to the Economic and

Social Council in response to Zimbabwe's re-election to the Commission on Human Rights: An extract from the release follows:

> Australia is very disappointed that Zimbabwe has been re-elected to the Commission on Human Rights. The Mugabe regime and the international community can be in no doubt about our views on Zimbabwe's human rights record. We condemn the systematic use of state-sponsored violence, intimidation and harassment and call for the repeal of anti-democratic legislation that denies rights of free expression, association and assembly.

On 28 April 2005, Minister for Foreign Affairs, Mr Alexander Downer, issued a media release following Zimbabwe's re-election to the Commission on Human Rights. An extract from the release follows:

> Australia is disappointed that Zimbabwe has been re-elected to the United Nations Commission on Human Rights for a further three-year term after it was nominated unopposed by the African group.
>
> Given Zimbabwe's consistent efforts to block resolutions critical of egregious human rights during its current term on the Commission, including resolutions critical of its own record, Zimbabwe's re-election is particularly unacceptable.
>
> Robert Mugabe's regime has repeatedly demonstrated its complete lack of respect for democratic norms and basic human rights as it clings desperately to power. Its record is one of harassment and violent intimidation of opposition supporters and non-government organisations, arbitrary arrests and detention as well as anti-democratic legislation which severely curtails freedoms of the press, speech and assembly.
>
> Zimbabwe's recent parliamentary elections were a fraud with numerous irregularities, an electoral roll in shambles, large numbers of voters turned away from polling stations on election day and most disturbingly, intimidation of opposition supporters including the use of food to coerce voters.
>
> The elections were merely the latest example of the Mugabe regime's desire to retain power at enormous cost to ordinary Zimbabweans.
>
> Australia's statements at the UN Commission for Human Rights have repeatedly called for a return to accountable democratic government, the rule of law and respect for human rights in Zimbabwe. We question how a government that has so clearly violated the human rights of its own people can be re-elected to the body.
>
> Australia firmly believes that Zimbabwe's re-election reflects badly on the credibility and functioning of the Commission and underscores the need for fundamental reform of the United Nations' human rights machinery. Australia will work with others to resolve these issues in the lead-up to the United Nations' summit in September.

On 24 July 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release on the human rights situation in Zimbabwe. This followed the release of a report of the UN Special Envoy on Human Settlement Issues in Zimbabwe in response to the housing demolitions conducted by Zimbabwe as part of 'Operation Murambatsvina'. An extract from the release follows:

> I welcome the Report of the Special Envoy of the UN Secretary-General, Anna Tibaijuka on Operation Murambatsvina (Clean out Rubbish).

> The Report underlines international concerns surrounding recent events in Zimbabwe, which are described as 'a disastrous venture'. It calls on Zimbabwe Government to halt further demolitions. It states that up to 700,000 people made homeless or jobless and another 2.4 million people affected and that operations were carried out in 'an indiscriminate and unjustified manner with indifference to human suffering.'
>
> UN Secretary-General Kofi Annan has called these evictions 'a catastrophic injustice' and Australia shares his view that those responsible should be held to account for their actions.
>
> The international community needs to address promptly the findings of the Report, including through the Security Council. Australia is working with like-minded countries to achieve this.
>
> Australia remains at the forefront of international action against Zimbabwe. I agreed with New Zealand Foreign Minister Goff on 2 July on a range of international actions against Zimbabwe. These are being pursued vigorously. Australia also maintain a smart sanctions regime against Zimbabwe, which we strengthened recently.

On 2 July 2005, the Minister for Foreign Affairs, Mr Alexander Downer, and the New Zealand Minister for Foreign Affairs, Mr Phil Goff, issued a joint media release on the action Australia and New Zealand had agreed to jointly pursue in respect of Zimbabwe. An extract from the release follows:

> The continued failure of the Zimbabwean Government to respect democracy and human rights needs to be addressed firmly by the international community.
>
> The Australian and New Zealand Foreign Ministers today agreed on a range of measures aimed at increasing international pressure on the Mugabe regime to cease its abhorrent and egregious destruction of its people's homes, livelihoods and basic human rights. [These include:]
>
> - Joint representations to the International Cricket Council urging it to alter the rules to allow teams to forfeit tours to countries where serious human rights abuses are occurring;
> - Explore with like-minded countries a total sporting ban on all Zimbabwe representative teams;
> - Urge G8 members to address the Zimbabwe issue during its 6-8 July meeting in Scotland;
> - Make urgent representations to the UN Commissioner for Human Rights and members of the Security Council to urge the UN to investigate past and present human rights abuses in Zimbabwe;
> - Support continued moves to expel Zimbabwe from the International Monetary Fund (IMF);
> - Joint Australia/New Zealand demarche to South African Development Community (SADC) members, including South Africa, urging them to place diplomatic pressure on Zimbabwe to conform with international human rights standards; and
> - Propose to Members of the Security Council that the actions of the Mugabe regime be referred to the International Criminal Court.

Human Rights – Status of Women

On 6 April 2005, Australia's Deputy Permanent Representative to the United Nations in Geneva, Ms Amanda Gorely, delivered a statement to the Commission on Human Rights on behalf of Australia, Canada and New Zealand on the human rights of women. Extracts from the statement follow:

> […] Our reaffirmation of the Beijing Declaration and Platform for Action at the 49th session of the Commission on the Status of Women earlier this month reflects the international community's commitment to advancing the human rights of women.
>
> The consensus reaffirmation of the Beijing Declaration and Platform was a demonstration that it has stood the test of time and continues to be the cornerstone of our policies and actions to realise fully women's rights. The reaffirmation was an essential reminder to all governments that the agenda set out in Beijing is more valid and relevant than ever and the realisation of its vision and objectives is still a pre-requisite to achieving international sustainable development, peace and security.
>
> …
>
> Ten years after Beijing, a great deal of work remains to be done for the full implementation of the Platform. We have spent too much time in recent years debating nuances and shades of meaning within the standards we have long agreed to as an international community.
>
> As we stated at last year's Commission on Human Rights and more recently in our comments at the 49th session of the Commission of the Status of Women, following a decade of awareness raising and standard setting we must now focus on the implementation of effective programmes and strategies to advance women's human rights.
>
> …
>
> Finally, we wish to express our support for the Secretary-General in his goal of bringing the United Nations fully into line with today's realities, as a representative and efficient world organization, open and accountable to the public as well as to governments. As our deliberations on this matter continue, we must take every measure to ensure that this organisation fully integrate a gender perspective in all its policies and programs with a view to becoming a powerful tool in delivering tangible improvements for the world's women.

On 13 October 2005, Ms Nicola Hill of the New Zealand Mission to the United Nations, delivered a statement on behalf of Canada, Australia and New Zealand to the 60th session of the General Assembly concerning the Convention on the Elimination of All Forms of Discrimination Against Women. An extract from the statement follows:

> Ratification of CEDAW is fundamental to the implementation of Beijing and to the promotion and protection of the rights of women around the world. There are now 180 States parties to this Convention. We welcome the recent ratifications of this core human rights treaty by the United Arab Emirates, Kiribati, Federated States of Micronesia, Swaziland, San Marino and Monaco. There is a clear and steady momentum towards universal ratification. We call on those States who have not yet done so to ratify it as a matter of the highest priority.
>
> Support for CEDAW must, however, translate into support for the Committee on the Convention on the Elimination of All Forms of Discrimination Against Women,

> Madame Chair. Only a matter of weeks ago, our leaders committed themselves to improving the effectiveness of the treaty body system, including through more timely reporting. CANZ acknowledges the consequences of the ever-growing number of States parties to this Convention. It is simply not possible for reports from 180 States parties to be considered in the meeting time available. We support extra meeting time and extra resources for the Committee. We call on all States to honour the commitment made by our Leaders and to ensure that the CEDAW Committee is resourced to do the job required of it.

Human Rights – Status of Women – Women, Peace and Security

On 27 October 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth LVO, delivered a statement to the Security Council on resolution 1325 on 'Women, Peace and Security'. Extracts from the statement follow:

> Australia warmly welcomes the reaffirmation by leaders at the 2005 World Summit of their commitment to the full and effective implementation of Security Council Resolution 1325 on women, peace and security.
>
> Their reaffirmation of the landmark resolution adopted five years ago demonstrates an increased international awareness of the gender dimensions of conflict and a recognition of the importance of women's full involvement in all efforts to promote peace and security.
>
> …
>
> Australia places importance on providing continued training on Resolution 1325 to personnel from within the Australian Defence Forces. In this regard, we welcome the Secretary-General's new, comprehensive plan for reinforcing and integrating women's issues into the world body's peacekeeping and post-conflict operations. Greater sensitivity to the interests of women will also make a vital contribution to the challenge we face in addressing sexual exploitation and abuse by peacekeepers is an appalling situation and a blight on a key area of UN activity.

Human Rights – Torture

In accordance with Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Australia submitted its 4th Report to the Committee Against Torture in 2005, which related to the period July 1997 to October 2004. Extracts from the Introduction to the Report follow:

> The Australian Government is pleased to present to the Committee against Torture (Committee) Australia's Fourth Report under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* […]. Australia ratified the Convention on 8 August 1989. The Convention came into force for Australia on 7 September 1989.
>
> This report demonstrates that Australia takes its obligations under the Convention seriously and continues to progressively implement, monitor and enforce mechanisms to proscribe and prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in all Australian jurisdictions. Australia strongly supports international action against torture and deplores such behaviour wherever and whenever it occurs.

> […] The report includes information on major or significant developments in law and practice relevant to Australia's obligations under the Convention. It also addresses the issues raised by the Committee in response to Australia's Second and Third Report under the Convention (Australia's Second and Third Report) in its 25th session in November 2000.
>
> This report supplements and should be read in conjunction with Australia's previous reports under the Convention and Australia's Core Document. Together, these documents outline the legislative, judicial, administrative and other measures in Australia which give effect to Australia's obligations under the Convention. For the most part, these measures remain substantially unchanged in this reporting round. Thus, where particular articles are not addressed in this report, the Committee is referred to Australia's previous reports, particularly the Second and Third Report, for up to date information.

United Nations – Convention Against Doping in Sport

The United Nations Educational, Scientific and Cultural Organization International Convention Against Doping in Sport was done at Paris on 19 October 2005. Extracts from the National Interest Analysis assessing whether Australia should accede to the Convention follow:

> […] Given its strong international advocacy for measures to fight doping in sport, ideally Australia would like to be one of the first countries to accede to the Convention. In any case, to avoid potential international criticism, Australia should accede to the Convention prior to the commencement of the Melbourne Commonwealth Games on 15 March 2006.
>
> […] In recent years there has been a concerted effort to harmonise anti-doping policies and practices internationally to ensure all athletes are subject to a comprehensive and fair testing regime. In March 2003, the World Anti-Doping Agency (WADA), established to coordinate anti-doping efforts worldwide, released the World Anti-Doping Code (the Code). The Code is the first document to harmonise anti-doping frameworks across all sports and all countries. The Code works in conjunction with four International Standards aimed at aligning the technical and operational aspects of countries' anti-doping programs.
>
> …
>
> While Australia is already compliant with the mandatory provisions of the Code, and has fully operational and robust anti-doping programs in place, this is not the case for many other countries. It is in Australia's interests to encourage these countries to accede to the Convention and to assist them to improve their anti-doping policies and programs. Australia owes it to its athletes who train hard and play clean to minimise opportunities for sporting cheats to excel. The fundamental aim of the Code and of the Convention is to achieve a level international playing field where all athletes are subject to the same doping rules and sanctions.

Social Law – Social Security Agreement – Ireland

On 21 June 2005, the National Interest Analysis for the Agreement on Social Security between Australia and Ireland was tabled in both Houses of Parliament. Extracts from the National Interest Analysis follow:

> […] On entry into force, the proposed Agreement will replace the previous Agreement between Australia and Ireland on Social Security ([1992] ATS9) in

accordance with Article 22(1) of the new Agreement. This Article preserves the entitlements of those persons receiving benefits under the current Agreement.

…

The new Agreement provides for access to certain Australian and Irish social security benefits and portability of these benefits between the countries. Portability of benefits allows for the payment of a benefit from one country into another country and is an underlying principle of Australia's bilateral agreements on social security where the responsibility for providing benefits is shared. Under the new Agreement, residents of Australia and Ireland will be able to move between Australia and Ireland with the knowledge that their access to benefits is recognised in both countries.

Social Law – Work and Holiday Visas – Thailand

On 31 August 2005, Minister for Immigration and Multicultural Affairs, Senator Amanda Vanstone, issued a media release announcing a work and holiday visa scheme between Australia and Thailand. An extract from the release follows:

Minister for Immigration, Senator Amanda Vanstone, confirmed that a Work and Holiday (W&H) Visa arrangement between Australia and Thailand came into effect today.

"The new arrangement means that 18 to 30 year-old Thai and Australian nationals who have already completed their university education will be eligible to apply for W&H visas for stays of up to 12 months in Australia or Thailand," Senator Vanstone said.

"The W&H program allows young overseas professionals to get to know Australia and its people while affording Australians the opportunity to improve their understanding of other cultures through undertaking working holidays overseas."

Any work undertaken must be incidental to the main purpose of holidaying in Australia or Thailand and W&H visa holders are only permitted to work with the one employer for a maximum of three months.

Social Law – Work and Holiday Visas – Turkey

On 8 December 2005, Minister for Immigration and Multicultural Affairs, Senator Amanda Vanstone, issued a media release announcing a work and holiday visa scheme between Australia and Turkey. An extract from the release follows:

Young professionals from Australia and Turkey now have the opportunity to work in either country through a Work and Holiday visa agreement announced today.

University-trained Australian and Turkish travellers aged between 18 and 30 years will be able to work and holiday in the other country for up to 12 months.

"The Work and Holiday visa agreement means young people from the two countries wishing to travel and experience different lifestyles and cultures will now be able to work to subsidise their holiday," Minister for Immigration and Multicultural and Indigenous Affairs, Amanda Vanstone, said.

"The Work and Holiday visa is different to a 'Working Holiday Maker' visa arrangement, in that it requires an applicant to have the support of their government, hold post-secondary qualifications and have some English ability."

VII. Treaties

ASEAN – Treaty of Amity and Cooperation in Southeast Asia

Australia acceded to the Treaty of Amity and Cooperation in Southeast Asia on 10 December 2005, so enabling Australia's participation as a founding member of the East Asia Summit. Extracts from the National Interest Analysis follow:

> Following a decision by leaders of ASEAN States in November 2004 to establish a new regional forum, the East Asia Summit, the Government assessed it to be in Australia's national interest to seek to be an inaugural participant in the Summit.
>
> …
>
> ASEAN States further elaborated their vision for the East Asia Summit at an ASEAN Foreign Ministers' retreat in Cebu, The Philippines, in April 2005. That meeting identified three criteria which states other than ASEAN, China, Japan and the Republic of Korea (the ASEAN plus three) would be required to meet to receive an invitation to participate in the East Asia Summit: a State would be required to be a full dialogue partner of ASEAN; to have substantive relations with ASEAN; and to be party to, or intend to become a party to, the Treaty.
>
> Australia met two of these three criteria, being a full dialogue partner of ASEAN and having substantive relations with ASEAN States. However Australia was not party to the Treaty, and had not previously expressed an intention to become party to the Treaty. Given that this was an essential criterion for participation in the East Asia Summit, the Government decided to give consideration to becoming party to the Treaty.
>
> The Treaty is an important document for ASEAN Member States. When adopted in 1976, it established the principles which were to guide the relations of the original six Member States of ASEAN with each other. The Treaty aims to promote peace, amity and cooperation between States Parties. It does so through a range of provisions which are set out below. It also establishes a mechanism for the settlement of disputes between States Parties to the Treaty, the High Council (although that body has never been convened). The Treaty also has considerable symbolic importance for ASEAN States, and is often referred to by those States as a foundation for their cooperation and interaction.
>
> Although the Treaty was initially open to ratification only by the original Member States of ASEAN, it was amended in 1987 by the First Protocol to permit additional States in Southeast Asia to accede to the Treaty, to permit States outside Southeast Asia to accede to the Treaty with the consent of the Southeast Asian States then party to the Treaty, and to specify the circumstances in which States outside Southeast Asia could participate in the High Council. The Treaty was amended again in 1998 by the Second Protocol in order to expand the category of Southeast Asian States the consent of which is required to permit States outside Southeast Asia to accede to the Treaty, so as to reflect the expansion of ASEAN. Since 1998, it has been a diplomatic objective of ASEAN States to encourage other States in the region to accede to the Treaty (to date, China, India, Japan, Mongolia, New Zealand, Pakistan, Papua New Guinea, Republic of Korea and Russia have acceded).
>
> …

> Following the Government's decision to consider accession to the Treaty, officials embarked on a range of consultations with ASEAN States on the question of Treaty accession, and the interpretation of the key provisions of the Treaty, so as to address a number of issues which had been identified with aspects of the Treaty. Through these consultations a number of understandings were reached between Australia and ASEAN States concerning the interpretation of key provisions of the Treaty. These understandings provide the necessary assurance to the Government that accession to the Treaty will not affect Australia's existing rights and obligations under international agreements to which Australia is party, including the Charter of the United Nations, that the Treaty will not apply to, nor affect, Australia's relations with States outside Southeast Asia, and that the dispute resolution mechanism established by the Treaty, the High Council, would only apply to Australia if Australia so consented.
>
> …
>
> Article 2 of the Treaty provides a number of fundamental principles which shall guide the relations between the States Parties to the Treaty. These principles include mutual respect for sovereignty, independence, equality, territorial integrity of all nations; the right of every state to lead its national existence free from external interference, subversion or coercion; non-interference in the internal affairs of one another; settlement of disputes by peaceful means; and the renunciation of the threat or use of force.

Effect of Armed Conflict on Treaties

On 2 November 2005, an Adviser to the Australian Mission to the United Nations in New York, Ms Georgia Woollett, delivered a statement to the Sixth Committee of the United Nations General Assembly concerning the Report of the International Law Commission on the Work of its 57th Session on the effect of armed conflicts on treaties. An extract from the statement follows:

> We would like to make preliminary comments on three particular aspects of the draft articles; namely, draft articles 2, 4 and 7. We strongly agree with the Special Rapporteur's suggestion that the Commission not attempt to embark upon a comprehensive definition of armed conflict in draft article 2. We also agree that a possible way around this dilemma might be to adopt a simpler formulation, stating the articles applied to armed conflicts whether or not there was a declaration of war.
>
> Draft article 4 adopts the intention of the parties to a treaty as the indicia of its susceptibility to termination or suspension. We share concerns expressed by other States about this criteria. Given that when negotiating treaties States do not usually consider the effect that going to war may have on any given treaty, any relevant intention may be absent or difficult to prove. Australia considers that there is a need to examine the question of intention further, as well as other possible criteria. In particular, it will be important to ensure that any criteria concerning termination or suspension included in the draft articles clearly conform to the Vienna Convention on the Law of Treaties.
>
> Draft article 7 will prove highly controversial given its attempt to outline those categories of treaties which are likely to remain in force during armed conflicts. Australia notes that the list is intended to be illustrative, and not exclusive, in character. Australia looks forward to contributing to debate on the proposed categories of treaties to be included and on relevant state practice.

Reservations

On 26 October 2005, an Adviser to the Australian Mission to the United Nations in New York, Ms Georgia Woollett, delivered a statement to the Sixth Committee of the United Nations General Assembly concerning the Report of the International Law Commission on the Work of its 57th Session on Reservations to Treaties. Extracts from the statement follow:

> Turning to the topic of reservations to treaties, Australia congratulates the Special Rapporteur this year for seeking to clarify the interpretation of Article 19 of the Vienna Convention on the Law of Treaties. The draft guidelines in this year's report provide definitions of 'reservations', 'objections' and the 'object and purpose' of a treaty. The guidelines also provide direction on what categories of reservations may be considered contrary to the object and purpose of a treaty under Article 19(c) of the Vienna Convention on the Law of Treaties. Australia appreciates that the draft guidelines are not intended to be a set of binding rules, but rather a code of recommended practices.
>
> …
>
> Australia, of course, expects a State making a reservation would only do so in good faith, and would not attempt to frustrate its own stated purpose of entering into the treaty.
>
> Where a State makes a reservation in good faith upon becoming Party to a treaty, and that reservation is objected to by another State, Australia expects the provision to which the reservation relates would not apply between the reserving State and the objecting State.
>
> There may also be instances where the objecting State objects to the treaty as a whole, and not just the provision to which the reservation relates, entering into force between itself and the reserving State. But Australia recognises there may be good reasons why the objecting State would not go down this route, and might instead prefer some elements, at least, of the treaty in question to apply between itself and the reserving State. It is difficult to identify all possible situations in which this may be the case.
>
> The Vienna Convention on the Law of Treaties does, of course, address these issues. In particular, Articles 20 and 21 canvass the effect of an objection to a reservation upon the treaty in question entering into force between the reserving and objecting States. But it is possible these articles were not intended to apply to reservations prohibited by Article 19.

VIII. International Organisations

United Nations – Bodies – Election of Australia

On 28 April 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing Australia's re-election to three United Nations' bodies. An extract from the release follows:

> I am delighted to announce that Australia has been re-elected to three important United Nations bodies in elections overnight in New York.

> Australia was re-elected to the Commission on Human Rights for a further three-year term (2006-08) and to the Commission on Narcotic Drugs and the Commission on Sustainable Development for further four-year terms (2006-09).
>
> Australia welcomes our re-election to the Commission on Human Rights as an opportunity to continue to improve the body's functioning and operational focus. Our prime objective, as always, will be to develop and implement practical and constructive measures to promote and protect human rights on the ground.
>
> Australia has been highly active and effective during our current term on the Commission on Human Rights, serving as a Vice-Chair in 2003 and Chair in 2004. We have sought to introduce efficiencies into the Commission's work to free up resources that can be used to bring practical benefits to peoples' lives. We have also sought continued reform of the UN treaty bodies to better streamline and coordinate their work and facilitate States' reporting and compliance responsibilities. We will continue this work in our new term.
>
> The years 2006-08 will be critical for the United Nations' human rights machinery in general. Australia will be closely engaged on reform issues including in the context of proposals put forward by the UN Secretary-General. These proposals will be debated in the lead-up to and at the UN Summit to be held in New York in September. Any reforms must enable the United Nations' human rights machinery to deal more effectively with persistent and egregious human rights violations. Reforms must also deal with the problem of the election of some of the world's worst human rights violators to UN human rights bodies, including the Commission on Human Rights.
>
> Australia has also been active in the Commission on Narcotic Drugs since 1973. Our long record of support reflects our deep concern over the enormous social and economic impact of drug use and the international drug trade. Australia will use its new term on this body to continue its work with other countries on tackling the international drug challenge.
>
> Australia's re-election to the Commission on Sustainable Development for 2006-09 provides a platform for our continued strong international engagement in promoting sustainable development through the United Nations system. Australia sees its election as an important opportunity to continue the reform process with a focus on achieving strong social, economic and environmental protection outcomes.

United Nations – Reform

On 22 March 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release in response to the Secretary-General's Report entitled 'In Larger Freedom'. An extract from the release follows:

> I welcome the UN Secretary-General's report on reinvigorating the United Nations and strengthening international cooperation on development, security and human rights.
>
> The report contains a package of action-oriented and ambitious measures to enhance global responses to the complex and inter-related challenges facing the world today.
>
> I am pleased the report calls for strengthening of the non-proliferation framework to prevent the spread of weapons of mass destruction, and tackles the issue of concluding a comprehensive terrorism convention.

> The report also calls for greater efforts to combat poverty, infectious diseases and environmental degradation, and makes some bold proposals to improve respect for human rights and promote democracy.
>
> The Secretary-General has proposed major institutional reforms, including expansion of the Security Council to ensure it better reflects current political realities. Australia has long supported expansion of the Council's permanent membership through the addition of Japan, India, Brazil, an African country and possibly Indonesia.
>
> UN member states will now intensify discussions on the Secretary-General's reform proposals in the lead-up to the world leaders' summit in New York in September.
>
> Australia remains committed to ambitious yet achievable outcomes at the summit, and stands ready to participate actively and constructively in the summit negotiations. The summit presents a watershed opportunity to adapt the multilateral system to the challenges of the twenty-first century.
>
> Australia strongly supports Kofi Annan's ongoing efforts to make the United Nations more responsive and accountable. I look forward to studying the various elements of his reform package in greater detail over the coming weeks.

On 7 April 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth, delivered a statement to the General Assembly addressing the Secretary-General's Report entitled 'In Larger Freedom'. Extracts from the statement follow:

> Australia welcomes the Secretary-General's report "In Larger Freedom". It contains action-orientated and ambitious measures which, taken as a whole, can effect significant improvements to the UN and its ability to respond to the diverse threats and challenges facing us in the 21st century. Australia also agrees with the Secretary-General's emphasis on the importance of such comprehensive reform to better equip this organisation and its members in dealing with the complicated inter-linkages between security, development and human rights.
>
> We are pleased that the Secretary-General has provided a clear direction for discussion at the High-level summit in September and a comprehensive package of concrete outcomes for consideration. We must seize the unique opportunity he has given us to adopt watershed reforms of the UN. Failing to reach broad agreement on a comprehensive reform package would be a severe blow to our shared interests in improving international cooperation.
>
> …
>
> We also consider that the summit should reaffirm the provisions of the UN Charter governing the use of force. Although the guidelines put forward by the High-Level Panel, and endorsed by the Secretary-General, remain valuable in guiding actual Security-Council deliberations, we should ensure they do not develop into unnecessarily prescriptive constraints on the work of the Council. Australia also supports reaffirmation by the Secretary-General that Article 51 of the Charter adequately covers the inherent right to self-defence against actual and imminent attack.
>
> …
>
> Extensive discussions already are taking place on the need for Security Council reform, and it is imperative we reach an outcome this year which is broadly

> acceptable to all. As we have made clear, Australia supports the expansion of the permanent membership through the inclusion of Japan, India, Brazil, an African country and possibly Indonesia. Australia sees proliferation of weapons of mass destruction (WMD) as a clear threat to international peace and security. As recognised by the Secretary-General, robust action is needed to address the issue of WMD proliferation, including by the Security Council. One important consideration in assessing the credentials of prospective new members should be their willingness to support a firmer, more active Security Council role in countering WMD proliferation.

On 27 April 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth, delivered a statement at the informal consultation session of the General Assembly on reform of the United Nations. Extracts from the statement follow:

> [The UN] must make reforms to the three principal organs and the Secretariat that address the specific problems in each. It must lead to an adaptation of structures and practices and a new political commitment to use our institutions more productively.
>
> …
>
> Australia fully agrees with the proposals of the Secretary-General. The Assembly's agenda should focus on the major issues of the day and this can be done while maintaining the broad role for the Assembly envisaged in Articles 10 to 15 of the Charter. The committee structure needs to be updated and deliberative processes should be streamlined. Without such actions, claims for the General Assembly to enjoy greater respect and authority will come to nothing.
>
> The Security Council, by contrast, is a more effective body. But it is also unrepresentative and its legitimacy is in decline. The membership of the Security Council should be revised to make it more representative of geopolitical reality without diminishing its ability to exercise effectively the functions assigned to it by the Charter. Australia has consistently supported expansion of permanent membership to include Japan, India, Brazil, an African country, and possibly Indonesia. Australia, however, would not support extension of the veto. Overall we could support an expansion of the Security Council along the lines of the High-Level Panel's Model A. It is critical for us to take action this year.
>
> …
>
> Despite almost on-going reform attempts, ECOSOC simply has not delivered. While we remain open to the precise nature of ECOSOC reform, one thing is necessary: clearer delineation of duties between ECOSOC and the General Assembly. While we support greater dialogue between ECOSOC and the institutions mandated with dealing with finance and trade, any reform of ECOSOC must keep clearly in mind that that body's primary role is co-ordination within the UN system, and that the GA has primary responsibility for policy development, as set out in Assembly resolution 50/227.
>
> …
>
> The summit should call for an acceleration of reform in the Secretariat. Despite some worthwhile reforms during the tenure of the Secretary-General, parts of the Secretariat remain less effective than they ought to be and many are not adapted to meet current challenges. The budgetary structure is excessively rigid, there has not been sufficient action to increase administrative efficiency or improve working

methods, and the culture of human resources management is not a culture of performance. Moreover, the UN has not kept pace with best practice in public sector management.

The five proposals made by the Secretary-General all go in the right direction. We would emphasise, in particular, the need for thorough-going management reform aimed at lifting standards of accountability. Connected to this, are the need for the Secretary-General to have greater authority to manage resources to meet the objectives set by member states, the urgency of improving the performance of managers and staff, and the need to augment the capacity of OIOS.

More specifically, we support the idea of a review of mandates by the Assembly, but we will need the Secretary-General to commence the exercise by giving us an assessment of outdated mandates and activities that are ineffective. And we support the idea of a one-time buy-out of staff, provided that it can be appropriately targeted and accompanied by wider management reforms.

Australia believes there should be improved co-ordination between the UN and the humanitarian and development agencies. This should be a responsibility of Secretariat and the funds and programmes. At the same time we recognize that member states need to be consistent in their own approaches to decision-making and advice in the relevant governing bodies. We also support the recommendations of the Secretary-General pertaining to humanitarian space and internally displaced persons.

The summit outcome should emphasise the importance of regional organisations in achieving security and development and support a stronger relationship between them and the UN. We agree that the summit should encourage member states to contribute to the development of regional peacekeeping capacities.

Finally, Australia fully agrees that the Charter should be amended to eliminate references to ‘enemy states’ and to delete the Military Staff Committee and the Trusteeship Council. A resolution providing for such amendments to the Charter should be adopted alongside the summit outcome document in September.

United Nations – Reform – Commission on Human Rights – 1503 Procedure

On 1 April 2005, Australia’s Ambassador and Permanent Representative to the United Nations in Geneva, and the Chair of the Commission on Human Rights, H E Mr Mike Smith, delivered a statement to the 61st session of the Commission concerning the 1503 complaints procedure. An extract from the statement follows:

We would like to take this opportunity to make a number of general comments on the 1503 procedure, which was established to bring to the attention of the Commission persistent patterns of gross violations of human rights.

In our view, the 1503 procedure as it is currently operating is clearly not serving this purpose.

We have in the past expressed our concern at the screening procedures adopted by the Working Group on Communications and the Secretariat. These are not rigorous enough in screening out manifestly ill-founded communications.

We also believe that decisions on which countries are referred to the Working Group on Situations and then the Commission on Human Rights are, in too many

cases, based on political considerations and regional trade-offs rather than genuine human rights concerns and a desire to address gross violations.

These factors lead us to question the effectiveness and value of the 1503 procedure in tackling human rights abuses and to ask whether the considerable resources allocated to this process are indeed a justifiable use of the very limited UN funds allocated to human rights.

With over 17,000 communications processed through the 1503 procedure this year, the outcomes under this Item today do not represent a particularly high yield.

United Nations – Reform – Human Rights Council

On 24 October 2005, New Zealand's Ambassador and Permanent Representative to the 60th session of the General Assembly in New York, H E Ms Rosemary Banks, delivered a statement to the General Assembly on behalf of Canada, Australia and New Zealand on the establishment of the Human Rights Council. Extracts regarding the status, size, composition, membership, mandate and functions of the Council follow:

[…] Canada, Australia and New Zealand believe that the Secretary General made a good case for the Council to be a principal organ of the United Nations. He said, in his report "In Larger Freedom", that security, development, and human rights were interrelated and none could be achieved without the other. For that reason, the principal organs of the Organisation needed to reflect those pillars and, in addition to the General Assembly, should be comprised of the Economic and Social Council, the Security Council, and a new Human Rights Council.

Our delegations agreed with the Secretary General, and making the Human Rights Council a principal organ of the United Nations has to remain our objective. While it would still be our strong preference to create the Council as a principal organ, we would be prepared, for practical reasons, to see it established as a subsidiary body as an interim measure. But this would only be on the condition that its size, mandate and standing nature would enable it to be effective and credible. That is a concession we have been prepared to make, on the clear understanding that there would be a robust review of the Council's status at the end of five years.

[W]hen considering the size of the Council, we must strike a balance between creating a Council that is big enough to be widely representative and one that is small enough to ensure that it can operate efficiently and effectively. We should resist the urge to take the easy way out and simply create a Council that is the same size as the Commission.

The Commission grew over the years to take into account the growth of the UN membership, but it grew in an ad-hoc fashion and without real thought being given to the efficiency of its work. It is abundantly clear to anyone who has attended sessions of the Commission in Geneva that it is now simply too big to function effectively. The Commission often does not have the atmosphere of a serious body with an important mandate. The Council needs to be smaller.

Last week we proposed that the role of carrying out any further norm development be carried out by the General Assembly, which would address the problem of having a limited membership body develop universal norms. Should this proposal be accepted, the way should be clear for delegations to accept a smaller Council.

…

We acknowledge that the Council needs to be representative of the broader UN membership. It can be so without being as large as 53 members …

…

[I]f the Council is to be credible, its members must be seen to be there to defend human rights and work towards their better implementation.

This does not mean there has to be a complex set of membership criteria. We would not favour that, and suspect that every one of us would prefer different criteria. Membership should be open to all states that wish to support the work of the Council. Requiring members to commit themselves to abiding by the highest standards of human rights, as proposed by the Secretary General, is a bottom line requirement. This could be done in the form of a statement, issued prior to elections, outlining what the candidate state intends to do domestically and internationally to advance human rights.

We also believe that the members should be required to secure a two-thirds majority in elections to the Human Rights Council. Member States need to secure a two-thirds majority to become members of the Security Council and the Economic and Social Council. Human rights should not be treated less seriously, irrespective of the status of the Human Rights Council.

In addition, members should not be elected automatically if a regional group puts forward an agreed slate. As in elections for the Security Council, individual members should still be required to receive a two-thirds majority of the votes from the rest of the United Nations membership. Without this specific vote of confidence of their peers, individual states should not expect to sit on a Council that will discuss implementation of human rights standards in other states.

[S]everal speakers this morning have suggested that there should be term limits for the Council to avoid the development of de facto permanent members. Term limits would ensure greater rotation of membership, and is a proposal worth considering further.

[T]he Council as a whole needs to reconsider how it organises debate on thematic issues without falling back into the patterns of the Commission. The Commission spends too much of its time negotiating resolutions on thematic issues that are repetitive, poorly focused, and too long. Consequently, the debate on many thematic issues has become stale, and we as diplomats are mistaking activity for achievement.

The Council needs to redesign the thematic debate from scratch. That should go hand in hand with discussions on how to put the standing nature of the Council into practice. How often the Council meets, and for how long, will depend on what sort of debate we want it to have.

The debate should be refocused around new and emerging issues, and on implementation of agreed standards. It should also be more closely linked to the work and recommendations of the special procedures, many of whom prepare excellent reports that are currently largely ignored by delegates rehashing old debates in their resolutions. The High Commissioner should also be able to draw issues to the attention of the Council.

[W]e said in our statement last week that there needed to be a clear division of labour between the Council and the Third Committee to avoid the current duplication between these bodies. Assigning norm development to the General Assembly, and not the Council, would be a good place to start.

> In last week's discussion, and previously, many delegations expressed concern that a small Council would not be representative enough to develop norms that would apply to all. This is a valid point. We need to balance it, however, with the need for a Council that is small enough to be effective. The logical answer is for the General Assembly, with its universal membership, to undertake the norm development work, leaving the Council to focus on implementation.
>
> …
>
> As we search for new and constructive approaches to assist states in the implementation of human rights, a periodic review, by peers, of the human rights situation in states merits further consideration.
>
> A well-designed periodic review could enable a useful discussion of the challenges we all face in the implementation of human rights. It could also assist us in identifying needs and opportunities to support interested states with technical assistance and capacity development. It should not replace or duplicate existing mechanisms, but complement them.
>
> …
>
> Mr Chairman, the establishment of the Council provides an opportunity to review existing mandates. Canada, Australia and New Zealand would prefer, however, that the Council undertakes that task.
>
> The system of Special Procedures of the Commission similarly must be carried over to the Council. For the most part, the Special Procedures have been instrumental in highlighting issues that need to be discussed, and providing expert and independent contributions to the debate. There was no serious opposition during the outcome document negotiations to continuing the system of Special Procedures. Last week's seminar in Geneva on the strengthening of the Special Procedures reaffirmed that there is a vital role for them in the new Council. We would want to see them retained in the compilation text that the President will prepare.
>
> …
>
> The Commission on Human Rights currently addresses [urgent or grave situations of human rights violations] … It is essential that the Council should also have the ability to continue do so, as outlined in the Outcome Document.

United Nations – Reform – Implementation of Human Rights Instruments

On 24 October 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew Southcott, delivered a statement to the General Assembly concerning the human rights treaty body committee system. Extracts from that statement follow:

> Canada, New Zealand and Australia applaud the High Commissioner's efforts in working cooperatively with States to improve the functioning and effectiveness of the treaty committee system. We share concerns at the degree of overlap in the work of the committees, and support an overriding principle of reducing duplication where possible. We have closely examined the ideas for further reform of the system which the High Commissioner has put forward in her 'Plan of Action' and we commend the bold and visionary approach she has taken. In particular, the High Commissioner's proposal for a unified standing treaty body warrants careful and serious consideration. As with any proposed significant institutional restructure,

establishment of a single treaty body would involve extensive organisational changes and there are many issues to consider, including the need for sufficient regular budget resources. But in the interests of taking treaty body reform to its logical conclusion, we consider that this idea must be thoroughly and carefully examined. Meanwhile, we encourage the High Commissioner to continue to explore means of achieving greater efficiency in the operation of the UN human rights system and we stand ready to assist her in this regard.

…

We would like to acknowledge the good progress that has been made by the treaty bodies in a range of areas. In this context, we welcome the now regular dialogues with States on working methods. We are pleased that those committees with a backlog of reports awaiting consideration are examining proactive measures to address this, including the possibility of meeting simultaneously in Chambers, which will be put into practice by the Committee on the Rights of the Child in January 2006. We would also encourage the continuation of the practice of committees sharing lists of issues with States prior to consideration of their reports. We welcome the innovative and proactive approach taken by members of some committees to broader discussions about reform of the treaty body system at the annual Inter-Committee Meeting held in June this year.

United Nations – Reform – Treaty Body Reform – Human Rights

In March 2005, the Department of Foreign Affairs and Trade released an overview of Australia's initiatives to reform the United Nations' human rights treaty body system. Extracts from that release follow:

Five years after the Australian Government's 2000 review of the United Nations treaty body system and our consequent 2001 treaty body reform initiative, the Government has taken stock of reforms to the UN human rights treaty body system and of Australia's contribution to that process.

We found that Australia's initiatives have helped change and shape international deliberations on the workings of the UN human rights treaty bodies in ways which have improved their effectiveness, commensurate with our own interests as a strong supporter of an effective human rights treaty body system. Many of the ideas we put forward are now part of mainstream discussions on UN human rights reform. The importance of treaty body reform is now widely accepted by UN member States, by the High Commissioner for Human Rights and her office and, increasingly, by members of the treaty bodies themselves. Treaty body reform has received attention at the highest political levels: at the 2005 UN Summit world leaders resolved to improve the effectiveness of the human rights treaty bodies.

…

The Government launched a high-level diplomatic initiative in April 2001 with the objective of improving the committee system and the cause of international human rights through practical, achievable measures …

…

The Minister for Foreign Affairs and the Attorney-General have taken every opportunity to raise in high-level meetings with key stakeholders the importance of a more effective treaty committee system. Ministers continue to endorse and give profile to treaty body reform in multilateral and bilateral forums.

…

Australia hosted three workshops (2001, 2002, and 2003) in Geneva. The workshops brought together a cross-regional grouping of 30 countries, the treaty bodies and the OHCHR to foster debate on treaty body reform and identify common ground. The workshops focused on practical initiatives including streamlining the reporting process to committees, best reporting practices, improving interaction between the committees, states and NGOs, and coordination across the treaty body system.

Australia's workshops generated momentum in Geneva for reform at an early and critical stage. They provided a forum for states to exchange views and consolidate initiatives which fed directly into a wider UN reform process. Their focus on practical initiatives influenced treaty body and OHCHR thinking on reform. Specific examples include the workshop proposals on harmonisation of working methods which were later endorsed by a broader group of countries at a meeting in Malbun hosted jointly by the OHCHR and Liechtenstein in 2003.

…

Australia, a founding member of CHR, successfully sought election for the periods 2003-2005 and 2006-2008. Australia's highly-regarded Presidency of the Commission in 2004 (the first time Australia had held this position) set new standards for efficiency, time-management and professionalism in a UN human rights body. As such, our Presidency has placed us well to continue to pursue further operational efficiencies and practical outcomes including in the treaty bodies.

…

Australia has promoted the election of competent Australian and other specialists to the UN treaty bodies. In 2001, Professor Ivan Shearer was elected to the Human Rights Committee (the treaty body established under the International Covenant on Civil and Political Rights). Professor Shearer has since been re-elected for a second term. We have also argued strongly that those appointed by CHR to the Special Procedures – Special Rapporteurs, Independent Experts and Working Groups mandated to look into particular country or thematic human rights situations – need to be well-qualified for the work, balanced in their approach, and representative of all geographical regions. In 2004 an unusually large number of these appointments came up (17 out of 43), and had to be filled by the Australian Chair. As a result of his careful decisions, the quality and level of professionalism of the Special Procedures has arguably improved, including through the appointment of Professor Philip Alston of Australia as Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

…

We continue to stress the importance of the committees being adequately resourced if they are to efficiently consider states' reports and clear their backlogs.

…

Australia has pressed for more funding for the treaty bodies from the UN regular budget. We welcomed leaders' resolve at the recent UN Summit to strengthen the OHCHR, including by noting the High Commissioner's 'Plan of Action' which would double the Office's overall budget resources over the next five years.

…

Since we launched our initiative, the treaty bodies have improved coordination through the establishment of an annual Inter-Committee Meeting (ICM). Australia has been a keen proponent of the ICM process which has provided a considerable fillip to reform. Although the situation is not perfect, committees are now starting to recognise the benefits of coordinating their activities, instead of operating in isolated silos. The ICM's initiatives include: working to standardise terminology for reporting; developing harmonised reporting guidelines for states; and encouraging committees to issue lists of issues prior to hearings to assist states in their preparations.

Recently, the High Commissioner has raised the possibility of establishing a unified, standing treaty body to replace the seven separate committees. This proposal is attractive from a reform perspective as it would eliminate coordination problems between committees and could reduce costs associated with servicing individual treaty committees. Creating such a body would require broad-based support and may face legal obstacles as individual committees are established by separate treaties. Australia welcomes the High Commissioner's plan to hold an intergovernmental meeting on this and other reform issues in 2006.

…

There is increased recognition by states of the need for committees to take a balanced approach to NGO submissions. At the third of our workshops (2003), for example, participants suggested that the ICM should consider the development of harmonised guidelines on their engagement with NGOs and national institutions. This sensible proposal has not yet been taken up by the treaty committees and the ICM has postponed discussion on NGO guidelines until 2006. But it has gathered support and we will continue to pursue it.

…

Committees, on the whole, take their role seriously and do good work. But some of the committees have, at times, shown themselves to be unduly susceptible to information provided by NGOs and have overstepped their mandates. Committees have sometimes been too prescriptive in dictating how states should implement their international obligations, instead of providing practical guidance.

Because committee members are independent experts not government representatives, states are constrained in their ability to ensure members work within their mandates. Direct engagement with committee members at our workshops and through the ICM process has helped increase individual awareness of roles and responsibilities. There is also greater recognition of states' collective responsibility to ensure that competent experts are nominated and elected to committees.

…

Reporting obligations place a huge burden on states. This is exacerbated by each committee having different working methods and reporting guidelines. We have been at the forefront of efforts to address this problem.

Australia has vigorously promoted the creation and adoption of so-called 'harmonised reporting guidelines' which standardise reporting requirements for all committees.

…

… we have successfully promoted the 'expanded core document' which includes in one document general background material on states and information on the

implementation of congruent provisions. Through the preparation of an expanded core document, states are then able to submit more focused, shorter treaty-specific reports. Australia's expanded core document is under preparation.

…

We have taken a robust and a strategic approach to interaction with committees. We have appeared before two committees since 2000, at our CERD Committee hearing in March 2005 and at our hearing before the Committee on the Rights of the Child in September 2005.

The dialogue between Australia and the committee before our 2005 CERD hearing was significantly better than in 2000 and provided the basis for more focused discussions.

…

Australia's dialogue with the Committee on the Rights of the Child was constructive and focussed on issues within the committee's mandate, reflecting the more streamlined monitoring and reporting processes adopted by the committee

In light of the positive reform process now underway – a process given extra ballast by a reformist and dynamic High Commissioner for Human Rights – the Government has decided to reverse its presumption against visits by human rights committees and special procedures. This means that, unless there were a compelling reason not to do so, the Government will agree to all visit requests by human rights committees and special procedures.

United Nations – World Summit

On 21 September 2005, the Minister for Foreign Affairs, Mr Alexander Downer, delivered a speech to the United Nations General Assembly on the outcomes of the 2005 World Summit. Extracts from the speech follow:

Australia welcomes the Summit's progress in some important areas, particularly the agreement to establish a Peacebuilding Commission to assist fragile states a field of endeavour where Australia has long been active in its own region, as I have outlined in previous addresses to the General Assembly and the fact States have agreed for the first time that the international community – through the UN – has the responsibility to act to protect populations from gross and systematic violations of human rights.

We also welcome the call for early conclusion of a comprehensive terrorism convention and early entry into force of the nuclear terrorism convention.

…

But alongside these welcome outcomes, many questions and, in some cases, vast disappointments, remain.

On arms control and non-proliferation we have absolutely nothing to show – an extraordinarily poor outcome given a contemporary global security environment in which proliferation threats are so clearly evident.

The outdated ideology that too many delegations brought to negotiations was a damningly deep reflection on the intergovernmental process at the United Nations.

We did not grasp the opportunity provided by the largest-ever gathering of world leaders to produce a political declaration defining acts of terrorism.

How can some nations continue to assert that the deliberate maiming and targeting of civilians is sometimes justified? How is it – after atrocities in Sharm el-Sheikh, Istanbul, Jakarta, Riyadh and on a daily basis in Iraq – that some continue to employ double standards, deceiving themselves that such terrorists could ever be considered to be 'freedom fighters'?

This is not an argument about the merits of a particular cause. It is about the moral imperative to outlaw behaviour that offends civilisation.

The Summit heralded an historic shift in our thinking on humanitarian intervention showing a willingness to embrace a new mindset, one which addresses our responsibility to watch out for each other in times of need our collective "responsibility to protect".

Too often the world has stood by watching humanitarian disasters unfold before international machinery has creaked into action.

In Somalia, Bosnia, Rwanda, and Kosovo action taken was too little, too late.

Today, the situation in Darfur epitomises these shortcomings.

As the Summit outcome makes clear, all States have a responsibility to protect their own population from egregious crimes such as genocide and crimes against humanity.

And where a population is suffering serious harm, and the relevant State is unwilling or unable to stop this, the principle of non-intervention should yield to the collective responsibility to protect.

The Security Council must now rely on this new consensus to respond more effectively to humanitarian crises.

We have a responsibility to react faster to situations of compelling human need and must do more to help countries rebuild, recover and reconcile after conflicts or disasters.

The Summit was a lost opportunity on disarmament and non-proliferation. Multilateral non-proliferation regimes are being tested now by a small minority of governments that flout the norms and standards observed by the rest of the international community.

And who in doing so imperil the security of us all.

Australia is a committed and long-term supporter of the UN and the vital role that it can play in promoting international peace and security.

We have a proud record of contributing to UN activities, funding and debates, extending back to its formation in 1945. But we are not an uncritical supporter.

The need to reform the UN has been a consistent theme since I first addressed the General Assembly, at the fifty-first session in 1996.

The reality is that there continue to be states failing or in precipitous decline for no reasons other than poor leadership and poor governance with disastrous results for human lives.

What does it say when the international community proves unwilling to act when misrule has caused life expectancy to plunge in what was one of Africa's most promising countries from around 63 years in the early 1990s to just under 34 years in 2004?

Would today's UN be able to prevent another Rwanda?

> …
>
> Australia does not believe the UN is the answer to all the problems of the world. But it does have a role to play. And, when we call on the UN, it must be able to fulfil that role effectively and expeditiously.

IX. International Environmental Law

Climate Change – Asia-Pacific Partnership for Clean Development and Climate

On 11 August 2005, the Minister for Foreign Affairs, Mr Alexander Downer, and the Minister for the Environment and Heritage, Senator Ian Campbell, made a joint statement about the Asia-Pacific Partnership on Clean Development and Climate. Extracts from that statement follow:

> I am pleased to advise that on 28 July the Government – along with counterparts from the United States, Japan, China, India and South Korea – announced the formation of the Asia-Pacific Partnership on Clean Development and Climate. The Partnership brings together – for the first time – key developing and developed countries in the region to address the challenges of climate change, energy security and air pollution in a way that is designed to promote economic development and reduce poverty.
>
> The Partnership represents a significant achievement for Australian diplomacy. Australia played an instrumental role in attracting regional countries to the concept, and in drafting the Partnership Vision Statement.
>
> The Partnership also represents a new way of approaching global environmental challenges. It is reflective of a mindset that appreciates that such issues cannot be looked at in isolation. It recognises that economic development and energy security are legitimate national goals, and that actions to address climate change should complement rather than frustrate the pursuit of these goals. It is an approach that values results and eschews ideology.
>
> This is a regional grouping of great significance. The six founding partner countries taken together constitute 45% of the world's population. They account for 49% of world gross domestic product. They represent 48% of the world's energy consumption, and are responsible for 48% of global greenhouse gas emissions. Working together, this group can have a significant impact on global approaches towards climate change.
>
> By every measure, this group is a larger and more significant collection of countries than those countries that have binding emissions targets under the Kyoto Protocol – the so-called Annex I countries. These Annex I countries together account for only 13% of the world's population, 36% of the world's energy consumption, and 32% of global greenhouse gas emissions.
>
> But importantly … the Partnership is intended to complement – not replace – the Kyoto Protocol. All of the Partnership countries are signatories to the United Nations Framework Convention on Climate Change. Four of the Partnership

countries – Japan, India, China and Korea – have also ratified the Kyoto Protocol. Japan has binding emissions targets under Kyoto.

Other Kyoto countries have welcomed our initiative. The UK Environment Minister Elliot Morley describes the Partnership as a "welcome step forward". The UK Chief Government Scientist Sir David King says "it is very much in line with what we have been trying to do". Canadian Foreign Minister Pierre Pettigrew says "this is progress". The head of the Swiss Environment Agency describes it as "a complement to Kyoto and perhaps a good preparation for the time after Kyoto". And the German Environment Minister states the Partnership will "support international cooperation on climate change".

…

Although we are on track to meet our target – something that very few Kyoto Annex I countries can claim – we have never been afraid to state plainly that Kyoto does not – and will not – work. Even if emissions targets are met – and this looks unlikely on current projections – Kyoto will see global emissions in 2010 up by 40% from 1990, when without Kyoto they would have increased by 41%. Developing countries – those expected to account for over half of all greenhouse gas emissions by 2020 – have no Kyoto targets, and are – quite understandably – not willing to sacrifice economic growth to negotiate them. Kyoto is not driving the technology responses needed to properly address climate change. In fact, its existence encourages the relocation of emissions from one country to another with no overall greenhouse benefit.

The importance of developing country participation can be illustrated quite starkly. Australia accounts for only 1.4% of global greenhouse gas emissions. Even if Australia took the alarming step of closing every power station tonight, China's industrial growth is so rapid that the greenhouse gas savings made by this gesture would be replicated by China in just one year.

A long-term, effective response to climate change needs to be one that includes all major emitters. It needs to recognise and acknowledge the fundamental importance of economic development for global security and stability. It needs to properly address the world's energy needs. It needs to recognise that a realistic climate change policy cannot be anti-growth. And it needs to have technological development, cooperation and deployment as its centrepiece.

… the Asia-Pacific Partnership on Clean Development and Climate does all this. It is a technology-focussed, pro-growth approach to climate change. It is about substance rather than symbols; results rather than rhetoric.

…

The formation of the Partnership represents a new model for addressing climate change. The Ministerial Meeting will be a start. There will be no claims of a quick fix, no setting of arbitrary goals or timelines; no one with a serious understanding of climate change could honestly pretend there is any such thing. But we do anticipate that the Australian Meeting will begin a long-term, practical collaboration that will promote low-carbon technologies, reduce the greenhouse gas intensity of our economies, and put us on low-emissions growth trajectories.

Climate Change – Kyoto Protocol

On 1 November 2005, the Minister for the Environment and Heritage, Senator Ian Campbell, delivered a speech addressing climate change, and the viability of the

Kyoto Protocol as a solution to global warming. An extract from the speech follows:

> Fact: under Kyoto, global greenhouse gas emissions are predicted to grow by around 40 per cent between 1990 and 2012.
>
> Fact: Australia is one of just a handful of nations that is on track to meet its Kyoto emissions target.
>
> Fact: a tonne of greenhouse gas emissions produced by a desalination plant in Sydney would have the same impact on global warming as a tonne of greenhouse gas emissions produced by a power plant outside Beijing.
>
> These three points alone make it clear that Kyoto is not the answer.
>
> Labor's and the Greens' policies would effectively shut down all of Australia's energy production. But if Australia was to close down completely – turning off every school, hospital, car, truck – a rapidly expanding China would replicate those greenhouse gas savings in just 11 months.
>
> Climate change presents the globe with an unprecedented challenge. Saving the climate will require immense cooperation and action – but not just by governments. It is vital to also involve industry and the research community.
>
> The world will need trillions of dollars in investment in new technologies and, in particular, to clean up fossil fuels.
>
> Tony Blair has called for the US, the EU, Russia, Japan, China and India to work together; and argues that the answer lies in the development and deployment of new low-emissions energy technology.
>
> That is why the Asia-Pacific Partnership on Clean Development and Climate is so important. The partnership aims to bring about practical solutions to the problem of climate change through the development of new technologies.
>
> The membership of the Partnership – Australia, the US, China, India, Japan and Korea – is significant because these six signatory nations represent almost 50 per cent of the world's greenhouse gas emissions.
>
> Australia's role in technology development is pivotal to this aim.
>
> The Howard Government's comprehensive $1.8 billion strategy to address climate change includes initiatives such as the $500 million Low Emissions Technology Development Fund – designed to encourage the development of new technologies. This is exactly the approach that Tony Blair is calling for.
>
> Australia has been at the forefront of action on climate change both domestically and internationally. There is no question that we have a seat at the table at the major international discussions on climate change – despite the fact we contribute just 1.4 per cent of the world's greenhouse gas emissions.
>
> I will address the G8 Dialogue on Climate Change on 1 November, at the invitation of Prime Minister Blair. Later this year, I will lead Australia's delegation to Montreal to participate in the United Nations Framework for the Convention on Climate Change conference.
>
> The world's energy demands are going to dramatically increase this century. This is a good thing – it will bring benefits to millions of people in the world who do not have the same access to the living standards – health care, education and infrastructure – that we in the developed world enjoy. But the challenge must be to

create this extra energy while radically reducing the amount of greenhouse gas emissions we produce.

How we can best meet this challenge will be the focus of the G8 dialogue, as well as the focus of the Montreal discussions next month.

Climate Change – United Nations – Climate Change Conference, Montreal

On 11 December 2005, the Minister for the Environment and Heritage, Senator Ian Campbell, issued a media release on the Montreal Climate Action Plan. An extract from the release follows:

Today's agreement of 189 countries at the United Nations Climate Change Conference in Montreal heralded a new chapter in action on global climate change, Australia's Minister for the Environment and Heritage, Senator Ian Campbell, said today.

After marathon all night negotiations, there was unanimous agreement among all nations on a positive new pathway forward to create an effective international response in the post-Kyoto period.

Senator Campbell said Australia had played a key role in the negotiations and had worked closely with the Canada President of the Conference and many other nations to get agreement to start a dialogue on post-Kyoto approaches for long-term cooperative action on climate change.

"The post-Kyoto dialogue is an objective the Howard Government has been promoting since 2004 and has been reflected in decisions from the conference this week," Senator Campbell said.

The Montreal Climate Action Plan will deliver:

- A new dialogue on the post-Kyoto framework;
- A commitment from the President to explore pathways for developing countries to enter into voluntary commitments post-Kyoto;
- Improvements to the way Kyoto Protocol is implemented;
- Agreement to commence negotiations on post-2012 Protocol commitments; and
- Agreement on the Convention's first five-year work program to help countries adapt to the impacts of climate change.

"Australia has always said that an environmentally effective response to climate change requires action from all major greenhouse gas emitting countries. The Montreal Climate Action Plan is an historic step in achieving this goal," Senator Campbell said.

"The importance of advancing research, development and deployment of breakthrough technologies that will enable continuing economic growth with substantially lower greenhouse gas emissions was repeatedly emphasised during the Montreal meeting.

"The Asia-Pacific Partnership for Clean Development and Climate (AP6) brings together Australia, the United States, China, India, Japan and the Republic of Korea, to achieve just this."

Oil Pollution Damage – Compensation Fund

A National Interest Analysis concerning the Protocol to the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage was released in 2005. Extracts from the National Interest Analysis follow:

> Australia is Party to two Conventions which establish the international liability and compensation regime for pollution damage resulting from spills of "persistent oil" from an oil tanker; the International Convention on Civil Liability for Oil Pollution Damage, 1992 (Civil Liability Convention); and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (Fund Convention).
>
> Under this regime, the burden of compensating victims for oil spills is shared in the first instance between shipowners and their insurers. If the monies recoverable are insufficient, the outstanding compensation is provided by the cargo owners. After an accident, compensation to victims is initially paid pursuant to the Civil Liability Fund.
>
> …
>
> If the compensation limit of the Civil Liability Convention is reached, further compensation payments are made by the International Oil Pollution Compensation (IOPC) Fund established by the Fund Convention.
>
> Following a number of high profile, high impact tanker incidents in European waters, the maximum compensation afforded by the two Conventions proved insufficient to provide full compensation for all claimants and resulted in the adoption of the Supplementary Fund Protocol by the IMO to create a further source of funds for compensation in case of oil pollution damage.
>
> Implementation of the Supplementary Fund in Australia will ensure that, in the event of a major oil spill from a tanker within Australian waters, any victim will be fully compensated, thereby negating the need for victims to take legal action. Contingency planning by some marine agencies have addressed possible "worst-case" scenarios and it is envisaged that it will be possible from the outset, in practically all cases, to pay full compensation for claims in States Party to the Protocol.
>
> …
>
> Accession to the Supplementary Fund Protocol would provide Australia with access to this increased amount, and would ensure that compensation to Australian victims following an oil spill from a tanker incident is maximised and provide access to adequate financial resources for clean-up and restoration costs for Australia's marine environment.
>
> …
>
> One important effect of the Supplementary Fund Protocol is that, in almost all cases, it will be possible from the outset to pay the full amount of compensation assessed for claims in State Parties. There will, therefore, be no need to make payments pro-rata following an incident. Nor will there be any need for victims of an incident to take legal action to receive the full amount of compensation.

Whaling – Commercial Whaling

On 21 June 2005, the Minister for the Environment and Heritage, Senator Ian Campbell, issued a media release concerning the International Whaling Commission's decision to continue the moratorium on commercial whaling. An extract from the release follows:

> Australian and pro-conservation nations have won an historic vote at the 57th meeting of the International Whaling Commission (IWC) in Ulsan, South Korea, the Minister for the Environment and Heritage, Senator Ian Campbell said today.
>
> "This morning, the world stood at the edge of an abyss. If pro-whaling nations had succeeded, we would have moved back toward the dark ages of commercial whaling.
>
> "Instead, the world moved forward into an era where conservation and the environment are the winners."
>
> IWC nations voted on Japan's proposed "Revised Management Scheme", which, if successful, would have meant the end of two decades of a moratorium on commercial whaling.
>
> The vote for commercial whaling was supported by 23 pro-whaling nations and opposed by 29 pro-conservation nations, including Australia. Five nations abstained from voting.
>
> "Pro-whaling nations are on the wrong side of history," said Senator Campbell.
>
> "This is a critical step in our ongoing fight to see commercial whaling relegated to the history books – a fight we will not give up," Senator Campbell said.

Whaling – Scientific Whaling

On 22 June 2006, the Minister for the Environment and Heritage, Senator Ian Campbell, issued a media release concerning the International Whaling Commission's resolution condemning Japan's plan to expand its scientific whaling program. An extract from the release follows:

> Australia's resolution to condemn Japan's plan to expand its so-called "scientific" whaling take has passed at the International Whaling Commission (IWC) meeting in Ulsan, South Korea this afternoon.
>
> Japan took a proposal to the IWC to more than double its take of minke whales to 935 and to start taking humpback and fin whales.
>
> The final vote saw 30 nations vote with Australia and 27 nations vote against.
>
> "Australia and pro-conservation nations have today won a massive victory for whale conservation," Senator Campbell said.
>
> "It is imperative now that Japan and the pro-whaling nations comply completely with the decision by this world whaling body.
>
> "To do anything different would significantly damage Japan's international standing and seriously undermine the whole credibility of the IWC," Senator Campbell said.

On 13 November 2005, the Minister for the Environment and Heritage, Senator Ian Campbell, issued a media release concerning Australia's cooperative efforts to end 'scientific whaling'. An extract from the release follows:

Australia, together with Spain and 12 Latin American and Southern Hemisphere countries, has signed a declaration condemning so-called scientific whaling at an International Whaling Commission meeting in Buenos Aires this week.

The Minister for the Environment and Heritage, Senator Ian Campbell, said he was buoyed by the support of these countries for Australia's tough stance against whaling.

"The six point declaration signed in Buenos Aires supports continuing the current moratorium on whaling, an end to special permit whaling for 'so-called' scientific purposes and for the limiting of scientific research to non-lethal means," Senator Campbell said.

"Australia was represented at that meeting by our International Whaling Commissioner, Howard Bamsey, in our continuing and unrelenting campaign of using diplomatic channels to build international support for our pro-conservation stance.

"Our determination to stop the unnecessary killing of these magnificent creatures when it has been proved there is no need to do so for science or any other reason is obviously gaining support around the world.

"I am particularly heartened by the Buenos Aires protest declaration which is evidence that other countries are prepared to also make a stand on this issue."

In summary the Declaration makes clear there is strong support for:

- Retention of the current moratorium on commercial whaling;
- Investigation of means of compliance with the *International Convention for the Regulation of Whaling*;
- Promotion of whale sanctuaries in the South Atlantic and South Pacific;
- The termination of special permit whaling for so-called "scientific" purposes and limiting scientific research to non-lethal means;
- Promotion of wider participation of developing countries in the IWC, especially scientists;
- The elimination of prolonged and cruel practices involved in the killing of whales that cause unnecessary suffering;
- Support for the Conservation Committee's promotion in international bodies of active cooperation of Latin American and other Southern Hemisphere countries on cetacean conservation; and
- Reassertion of the rights of coastal communities to benefit from the non-lethal use of cetaceans.

X. Disputes

Israel – Palestinian Territories

On 30 November 2005, the Parliamentary Advisor to the Australian Delegation to the 60th Session of the United Nations General Assembly in New York, Dr Andrew

Southcott, delivered a statement to the General Assembly on the question of Palestine. Extracts from that statement follow:

> Australia believes that the sceptics who say that democracy is a Western concept that will never take root in the Middle East are wrong. Democracy is a liberating concept that has equal relevance and application to all of the peoples of the world. Not limited by geography, culture or faith, the merits and appeal of democracy are truly universal. We have seen that when looking at the situation of the Iraqi people and the way that after decades of living under a brutal regime they have eagerly embraced the opportunity to determine their Government and shape their own future. We have also seen it this year in Lebanon, where democratic elections have taken place free from outside interference, symbolizing new-found freedom and national unity.
>
> …
>
> The establishment of a Palestinian State living in peace, security and prosperity alongside Israel remains the paramount goal of the Middle East peace process, and we were buoyed by progress made towards that objective in 2005.
>
> Australia commended Egypt's hosting of the February summit in Sharm el-Sheih, which promoted agreement between President Abbas and Prime Minister Sharon to formally end more than four years of bloodshed. While significant in its own right, that agreement also helped pave the way for Israel's historic withdrawal from Gaza.
>
> Australia recognized and applauded the courage and commitment shown by Prime Minister Sharon in successfully achieving Israel's disengagement from Gaza. Disengagement should bring renewed hope and an invigorated momentum to the road map to Middle East peace, and we urge both parties not to pass up this opportunity to give further impetus to the peace process.

On 8 December 2005, an Australian Representative to the Special Political and Decolonization Committee of the General Assembly, Mr Rick Nimmo, delivered a statement recognizing the continued applicability of the Fourth Geneva Convention to the Israel-Palestine dispute. An extract from the statement follows:

> [The Australian] Government continued to attach the highest importance to adherence to international humanitarian law and to compliance by all States parties with their obligations under the Geneva Conventions and with relevant customary international law. Yet, despite its traditional support for resolutions on the applicability of the Fourth Geneva Convention, his delegation had been unable to vote in favour of draft resolution A/C.4/60/L.14 [Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories] because it contained unhelpful and inappropriate language regarding the advisory opinion of the International Court of Justice. It would be recalled that in 2003 Australia had voted against the resolution requesting the International Court of Justice to render an advisory opinion on the legal consequences of Israel's security barrier and in 2004 it had voted against resolution ES-10/15 because it believed that the Court's consideration would distract the parties from the need to resume negotiations and would not advance a resolution of the Israeli-Palestinian dispute.

Papua New Guinea – Bougainville

On 6 July 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth, delivered a statement to the United Nations Security Council on the situation in Bougainville. Extracts from the statement follow:

> Australia wants to commend the role the UN has played in the Bougainville peace process and to applaud all parties including the Papua New Guinea government, Bougainvilleans themselves and the UN for bringing an international peace building operation to a successful end. It is not a usual occurrence in the Council and we should take note of success when we see it.
>
> The Bougainville conflict was one of the South Pacific's longest running and bloodiest conflicts.
>
> …
>
> The establishment of the Autonomous Bougainville Government last month, following successful elections, was a momentous event in the process of establishing and consolidating peace on Bougainville.
>
> UNOMB, the United Nations Observer Mission in Bougainville was of course small but it made a strong, indeed vital, contribution to the peace process and it would be wrong not to acknowledge the members of UNOMB involved in operations on the ground.
>
> Australia particularly appreciated the Security Council's past agreements to extend the time of UNOMB's presence on Bougainville. Ending that presence too soon would have risked a recurrence of the problems there and, in that respect, I particularly congratulate the Council for taking a cautious, prudent and conservative approach to the end of the peace building operation. The Security Council has done very well but let me just say that I think this is a reminder of the potential utility of a peace building Commission in the organization.

XI. Law of Armed Conflict and Security Matters

Armed Conflict – Post-Conflict Rehabilitation

On 26 May 2005. Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth participated in the United Nations Security Council's open debate on post-conflict peacebuilding. Extracts from his remarks follow:

> As recognised in the current debate on reforming this organisation, post-conflict peacebuilding remains a crucial challenge facing the international community and one deserving of Security Council attention. Although peacekeeping is often the prime focus of the Councils deliberations, it represents only the start of a longer-term progress towards peace, stability and prosperity in conflict-affected states.
>
> …
>
> Regional peacebuilding is a vital complement to the UN's work. In our own region, initiatives such as the Regional Assistance Mission to Solomon Islands

(RAMSI) provide valuable examples of how peacebuilding works in practice. Initiated in July 2003 as a common Pacific Islands Forum (PIF) response to a direct request for assistance from Solomon Islands, RAMSI has enjoyed remarkable success and benefited from direct contributions of personnel from some eleven regional nations to date. Solomon Islands' call for assistance posed a key peacebuilding test which the nations of our region, under the framework of the PIF's Biketawa Declaration, met with collective resolve. The RAMSI experience has also highlighted the value of taking an integrated and sequenced approach to peacebuilding, coordinated between all security and development actors, and in close collaboration with the affected country.

…

Not least given our experiences in our own region, Australia welcomes the current proposal for a Peacebuilding Commission and believes that close coordination between the Commission, if established, and the Security Council would be vital to ensure the UN is well placed to assist post-conflicts societies. The creation of a Peacebuilding Commission also offers the opportunity to coordinate and foster a far more effective international response capability and would enhance the integrated mission planning process. In addition to post-conflict peacebuilding, prevention of conflict remains an important objective and we should continue to do our utmost to strengthen the UN's conflict prevention and mediation capacities, including through the Security Council and the good offices role of the Secretary-General.

Chemical Weapons

On 12 October 2005, an Australian Representative to the 60th Session of the United Nations General Assembly, Mr Craig Maclachlan, delivered a statement concerning the elimination of chemical and biological weapons under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. An extract from that statement follows:

Australia has long supported multilateral efforts to eliminate chemical and biological weapons and their production. Australia strongly supports the implementation and universalization of the Chemical Weapons Convention and the Biological and Toxin Weapons Convention, which we regard as fundamental to the international norms against those weapons.

Regrettably, the lesson of experience is that there are States that will either resist subscribing to those treaties or, having done so, will subvert their aims. For that reason, Australia also strongly supports practical initiatives and measures that reinforce the global norms against weapons of mass destruction, including chemical and biological weapons.

One important practical initiative, the Australia Group, marks its twentieth anniversary this year. Australia convened the first meeting of 15 nations in Brussels in response to Iraq's use of chemical weapons in its war with Iran. The 15 participants sought to prevent Saddam Hussein's Iraq from acquiring materials to build chemical weapons through otherwise legitimate commercial trade. Their response – harmonized national export controls – led to the Australia Group's birth.

At the Australia Group plenary held in Sydney earlier this year, participants focused on key issues, including terrorism. They agreed to significant measures to strengthen the Group. Of note were refinements to export control lists, including the addition of specific aerosol sprayers suitable for dispersal of biological agents. That

was a direct response to terrorist interest in such agents and devices. The Group also agreed to continue engaging non-participants, particularly in the Asia-Pacific region, the western Balkans and key transshipment countries, to promote more robust export control standards, as required under Security Council resolution 1540 (2004).

Australia Group participants remained firmly committed to the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. Their efforts to prevent the diversion of key chemicals, biological agents and dual-use equipment to the production and proliferation of chemical and biological weapons reinforce those vital treaties, which are yet to achieve universal and fully effective implementation. Encouragingly, there is a growing acceptance among non-participants of Australian Group measures as an international benchmark for effective export control.

Conventional Weapons – Convention on the Marking of Plastic Explosives for the Purpose of Detection

On 11 October 2005, the Attorney-General, Mr Philip Ruddock, issued a media release announcing that Australia would sign the United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection. An extract from the release follows:

> Australia has further strengthened its reputation as a leader in counter-terrorism initiatives in the region after taking an important step towards signing a United Nations treaty on the control of plastic explosives.
>
> Attorney-General Philip Ruddock tabled a National Interest Analysis (NIA) on the United Nations *Convention on the Marking of Plastic Explosives for the Purpose of Detection* in Parliament today.
>
> "The Convention aims to deter the misuse of plastic explosives by requiring that a detection agent such as an odorant is incorporated into their manufacture," Mr Ruddock said.
>
> "This makes the explosives easier to detect and more difficult for would-be terrorists to smuggle on board an aircraft or into other targets."

An extract from the National Interest Analysis regarding Australia's accession to the United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection follows:

> The Convention aims to deter the misuse by terrorists of plastic explosives by requiring that a detection agent or odourant be incorporated into the manufacture of plastic explosive and imposing on States Parties an obligation to control the possession and transfer of existing stocks of unmarked plastic explosives. As occurred in the Lockerbie air disaster, plastic explosives can be easily smuggled onto aircraft. Whilst they require a detonator to activate an explosion, their detectability is limited unless they are marked with a tracing element. The marking of plastic explosives would make them more easily identifiable and detectable, thereby inhibiting their improper use.
>
> The United Nations Security Council Resolution 1373 of 28 September 2001 calls upon all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism. Australia is already a Party to 11 of the 13 UN conventions and protocols on terrorism. Australia's accession to the Convention would provide a strong message to the international community of Australia's continued commitment to its international obligations in overcoming

terrorism. It would also further strengthen Australia's international reputation as an authority and leader in counter-terrorism initiatives, particularly in the Asia-Pacific region.

Conventional Weapons – Small Arms

On 17 February 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth, delivered a statement to the United Nations Security Council on the illegal trade in small arms. Extracts from the statement follow:

> […] Australia urges the Council to continue actively considering the security and humanitarian dimensions of the illicit small arms trade and their impact on stability in conflict and post-conflict situations. In particular, when imposing UN arms embargoes and establishing UN peacekeeping operations, the Council must be attuned to the impact of illicit small arms transfers.
>
> …
>
> The Council cannot work on its own in addressing the small arms threat. It is incumbent on member states themselves to strictly enforce UN arms embargoes and to implement strong national export controls, including systems of end-user certification, to prevent the uncontrolled spread of small arms.
>
> Australia has been active in promoting effective measures against the illicit small arms trade in our region, including by co-hosting in August 2004, with the Governments of Fiji and Japan and the UN Regional Centre for Peace and Disarmament in Asia and the Pacific, the Third Pacific Islands Small Arms Workshop. The workshop's practical focus on the implementation of model weapons control legislation endorsed by Pacific Island Forum Leaders in 2003 is helping to institute a common regional approach to weapon control. The workshop also promoted regional adherence to the UN Program of Action.
>
> At UNGA 59, Australia led the adoption by consensus in the First Committee of a new resolution on preventing the illicit transfer and unauthorised access to and use of Man-Portable Air Defence Systems (MANPADS), creating the first international standard on MANPADS. Australia urges member states to implement the resolution by taking practical measures to control the production, stockpiling, transfer and brokering of MANPADS, and to enact or improve legislation to ban the transfer of MANPADS to non-state actors.
>
> …
>
> Australia welcomes recent progress at the second session of the open-ended working group on the marking and tracing of small arms and light weapons and looks forward to the conclusion of an international instrument at the final session in July. A marking and tracing instrument will be a further concrete step in international efforts to better understand and control illicit transfers. Australia encourages member states to take a pragmatic approach to the final round of negotiations, to construct an instrument that is credible and implementable [sic].

Peacekeeping

On 11 November 2005, an Australian Representative to the Special Political and Decolonization Committee of the General Assembly, Colonel Tim Simkin,

delivered a statement concerning the United Nations' role in peacekeeping. An extract from the statement follows:

> Member States should capitalize on the initiatives welcomed at the recent World Summit, and continue to address sexual exploitation and abuse problems, as well as some technical issues.
>
> With regard to the World Summit initiatives, the Peacebuilding Commission was designed to fill a gap. As the Secretary-General had pointed out, roughly half of all the countries that emerged from war lapsed back into violence within five years. The Commission could coordinate international efforts to promote the rule of law, build capacities and ensure a seamless transition from peacekeeping operations to the nation-building phase. Member States had been urged to agree to adopt the modalities for the operation of the Peacebuilding Commission by 31 December 2005. He strongly supported the Secretary-General's recommendation that any State should be able to request the Commission's assistance. Recognition of the responsibility of the international community to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity was another major outcome of the Summit, and the peacekeeping community, represented by the Fourth Committee, should begin the studies, doctrine development and training necessary to give effect to that concept on the ground and endorse early action.

Peacekeeping – Timor Leste

On 16 May 2005, the Charge d'Affaires of the Australian Mission to the United Nations in New York, Mr Peter Tesch, delivered a statement to the United Nations Security Council following the Secretary-General's end of mandate report on the United Nations Mission of Support in East Timor. Extracts from the statement follow:

> There is no doubt that the UN, in partnership with the donor community, has played a key role in restoring security and stability in Timor Leste. The UN's engagement in Timor Leste will be a case-study of how the UN can work and how it can make a difference. The UN should be proud of its efforts in Timor Leste and we readily and gratefully acknowledge all those who have contributed to the success. However, a great deal of the credit must also go to the people of Timor Leste and their leaders for their determination and hard work to consolidate the gains they have made over the last five years. The help and goodwill of the Indonesian people and their government has also contributed greatly to this end.
>
> …
>
> Australia has been at the forefront of international efforts to support Timor Leste's transition to an independent and secure state. We coordinated and led the original multi-country INTERFET mission to restore law and order in September 1999. We have supported and contributed to all subsequent missions, from UNTAET to UNMISET. We remain one of the largest bilateral donors in Timor Leste, having provided $400 million in assistance since 1999.
>
> But clearly much more remains to be done to assist Timor Leste to achieve self-sufficiency. Australia therefore welcomes Security Council resolution 1599 authorising a special political mission – UNOTIL – as a successor mission to UNMISET. UNOTIL will play an important role in continuing the transfer of necessary skills to Timor Leste's institutions. At the same time, the international community must remain engaged in Timor Leste. In particular, further support must

> be provided to develop Timor Leste's police and security forces and the law and justice systems. Only through improvements in these critical areas can Timor Leste achieve its long-term development goals.

Protection of Civilians During Armed Conflict

On 21 June 2005, Canada's Ambassador and Permanent Representative to the United Nations in New York, H E Mr Allan Rock, delivered a statement to the United Nations Security Council on behalf of Canada, Australia and New Zealand during the open debate on Protection of Civilians in Armed Conflict. Extracts from that statement follow:

> The appalling and endemic use of sexual abuse and violence as a weapon of war demands our urgent attention. It is clear from what we have seen in the horror of Bosnia, Rwanda and Sierra Leone and what is evident today in the Democratic Republic of the Congo and Sudan, that a more robust and better coordinated international response is required.
>
> …
>
> The international community can do more to marshal and coordinate support for local-level judicial reform, capacity building and the overall strengthening of the rule of law as a critical investment. In this respect, we strongly support the proposed Peacebuilding Commission, we note the good work of the Challenges Peace Operations Project on these issues and we look forward to the finalisation of its Phase II report later this year. Where serious crimes amounting to war crimes, crimes against humanity or genocide cannot or will not be addressed locally, the International Criminal Court becomes the appropriate forum to turn to.
>
> In addition, UN agencies and other humanitarian, development and human rights agencies must strengthen their efforts to promote prevention of sexual exploitation and increase accountability, including within their own work. We also believe it would be useful for OCHA and DPKO to consider how UN Peace Support Operations with protection of civilians mandates might be better designed to ensure greater physical security for women and children at risk of sexual or gender-based violence. We must look to troop contributing countries to follow through on the work initiated by Prince Zeid and the Special Committee on Peacekeeping, to ensure that peacekeepers do not contribute to gender-based violence and that individual peacekeepers are held accountable if they commit such acts.
>
> …
>
> In addition to condemning attacks against those who perpetrate violence against aid staff, this Council can take concrete action by encouraging the General Assembly to rapidly reach a conclusion on the expansion of the scope of the 1994 Convention for the Protection of United Nations and Associated Personnel, and remove the exceptional risk requirement, so that it can cover all UN and other Associated staff whose work, by its very nature, renders them vulnerable to attack. Every day that we spend deliberating on the scope of a new legal instrument puts them at further risk.

Regional Security – ANZUS

On May 5 2005, the Minister for Foreign Affairs, Mr Alexander Downer, delivered the ANZAC Lecture at a function jointly organised by the Center for Australian and New Zealand Studies and the Center for Strategic and International Studies at

Georgetown University in the United States of America. Extracts from the speech follow:

> As originally conceived, the ANZUS Treaty focused on the West Pacific.
>
> Today's Asia-Pacific region is, of course, very different from the region that confronted the visionaries on both sides who initiated the ANZUS Treaty in 1951.
>
> Far from re-emerging as a threat as Australians feared then, Japan now makes a major contribution to regional stability and prosperity through its economic, political and diplomatic influence – which is why Australia strongly supports Japan's claim to a seat on the United Nations Security Council.
>
> And increasingly, through its alliance with the United States and a growing strategic partnership with Australia, Japan is making a more direct security contribution.
>
> …
>
> From time to time you will hear, in the Australian debate, the suggestion that our alliance costs us in our region – that we should start to distance ourselves – or to 'avoid having to choose' – between the United States and Asia.
>
> In my view that is a distorted view. It posits a false choice. The alliance is not a zero-sum game.
>
> On the contrary, it adds value to Australia's engagement with our region.
>
> It contributes directly to our own security. But it also adds to our strategic weight and capability in the region, and our ability to protect and advance our interests.

Weapons of Mass Destruction – Counter-proliferation

On 10 October 2005, the Minister for Foreign Affairs, Mr Alexander Downer, launched the Australian government's paper entitled 'Weapons of Mass Destruction: Australia's role in fighting proliferation'. Extracts from the speech concerning efforts to counter the proliferation of weapons of mass destruction follow:

> Through this new paper – *Weapons of Mass Destruction: Australia's Role in Fighting Proliferation* – the Australian Government's purpose is to inform the Australian public first and foremost about the extent and nature of the contemporary threat from weapons of mass destruction, and to describe what the Government is doing to address that threat.
>
> …
>
> An important message to take from the paper is that the world has changed since the end of the Cold War. Proliferation threats have diversified, and greater flexibility and innovation is required to address them. A handful of rogue states, with no regard for rules and standards, are putting our non-proliferation regime under enormous pressure. Adding urgency to this threat is the real risk that terrorists could acquire weapons of mass destruction.
>
> …
>
> Australia's response to these challenges – as we have set out in the paper – is already highly active and multidimensional … building on work over many years … and innovative and ground-breaking in addressing newer challenges. One such step has been the Government's decision to participate in the United States' Missile Defence Program … a program that sends a clear message to would-be proliferators

> not to pursue development of missiles in the face of effective counter-measures. Other activities in which we are involved – like the Proliferation Security Initiative – have taken a very definitive form in a short period.
>
> …
>
> We have been at the forefront of efforts to improve treaty verification and to strengthen the International Atomic Energy Agency safeguards system, which oversees NPT parties' commitment to use nuclear materials and facilities for exclusively peaceful purposes.
>
> …
>
> We have been a leader in pressing for adoption of the IAEA's Additional Protocol, which extends the inspection, information and access rights as the universal standards as safeguards arrangements.
>
> …
>
> We have also taken the lead in arguing for the UN Security Council to play a firmer and more active role on WMD issues. We welcomed the adoption of UN Security Council Resolution 1540 requiring states to criminalise WMD proliferation to non-state actors and committing them to effective export controls and other non-proliferation measures, and which we are assisting other countries to implement.
>
> …
>
> But we would also like to see the Council play its mandated role – a strong mandate that it gains not only through the UN Charter but also in the major non-proliferation treaties and in the IAEA Statute.
>
> Put simply, the Council can and must be more active and effective in calling to account countries which cheat on their non-proliferation obligations, or which otherwise flout the norms of the international community.
>
> …
>
> We were one of the first countries to contribute to the IAEA's Nuclear Security Fund, set up to upgrade worldwide protection against nuclear and radiological terrorism, and are a strong advocate of the Convention on the Physical Protection of Nuclear Material.
>
> In our own part of the world, the Government has launched, as part of its counter-terrorism activities, the Regional Security of Radioactive Sources project to assist countries in South-East Asia and the Pacific to improve the control and security of radioactive sources.

On 7 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Fifth General Conference of the Council for Security Cooperation in the Asia-Pacific. Extracts of the speech concerning efforts to counter the proliferation of weapons of mass destruction follow:

> Over the past two years, [Australia has] stepped up [its] efforts to engage Asia-Pacific governments on practical implementation of export controls and other counter-proliferation measures, including the Proliferation Security Initiative. It is vital that we learn from one another to ensure that our capacity for catching proliferators is uniformly effective.
>
> …

First and foremost, we cannot lose sight of the fact that proliferation is an actual threat, not just a potential one. Right now, proliferators and terrorists are actively exploiting gaps in global and national non-proliferation measures. To stop them from acquiring what they need to make biological, chemical, or nuclear weapons, immediate practical action is needed. The Proliferation Security Initiative is the leading example of the type of new thinking that has facilitated such action.

…

Practical efforts to cut supply to proliferators do not mean that we should lose sight of our underlying objective to dissuade irresponsible states from pursuing biological, chemical or nuclear weapons in the first place.

To this end, the multilateral arms control and non-proliferation treaties have served us well over the years, helping to cap the number of nuclear-weapon states and outlawing chemical and biological weapons.

But they have not always kept pace with new and emerging threats, especially challenges posed by those willing to cheat on their obligations. More needs to be done to strengthen compliance and verification.

…

Universalisation of the International Atomic Energy Agency's Additional Protocol on strengthened safeguards presents a tangible way forward for demonstrating collective resolve on nuclear non-proliferation.

I welcome the recent signings of the Additional Protocol by Singapore, Thailand and Malaysia.

Australia has sought to advance this issue by urging major uranium suppliers to follow its example in making adherence to the Additional Protocol a condition of supply to non-nuclear-weapon states.

Strengthened political will in dealing with the threat from weapons of mass destruction is essential if we are to preserve the benefits all states get from the multilateral treaties.

The UN Security Council must be prepared to hold to account countries that cheat on their non-proliferation obligations, making use of its powers under the UN Charter – and the major non-proliferation treaties and IAEA Statute – to support action to re-establish compliance.

Ambiguity over Iran's nuclear program has renewed attention on the potential for countries of proliferation concern to misuse the NPT's provisions on access to peaceful nuclear energy to acquire the technical basis for rapid development of nuclear weapons.

To close this potential loophole, a new framework is urgently needed to limit the spread of sensitive nuclear technology while respecting NPT parties' rights to peaceful nuclear energy.

Balancing peaceful use of nuclear technology with proliferation risks will be a complex but necessary reality of life in the twenty-first century.

Further afield, we need to continue to pursue entry into force of the Comprehensive Nuclear-Test-Ban Treaty.

Dissuading countries from testing poses a very real obstacle to the development of a nuclear weapon capability.

I had the honour in September to preside over the CTBT Entry into Force Conference in New York, at which Australia assumed its role as coordinator for efforts in this area. Our focus and determination in seeing this Treaty enter into force continue today. The 44 countries specifically listed in the Treaty must sign and ratify the treaty to trigger entry into force.

33 of those countries, including Australia, have done so. But 11 countries, including some in the Asia-Pacific, have not. We have over the years heard many reasons as to why this is so. As I said in New York, the time for excuses is past. It is time for these countries to act. Negotiation of a verifiable treaty to ban the production of fissile material for nuclear weapons use – a Fissile Material Cut-off Treaty – also remains a priority. An FMCT with an effective verification mechanism would reduce risks of leakage of fissile material to proliferators or terrorists. It would also advance disarmament objectives by imposing a cap on the amount of fissile material produced for nuclear weapons use.

Weapons of Mass Destruction – Counter-proliferation – Proliferation Security Initiative

On 7 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Fifth General Conference of the Council for Security Cooperation in the Asia-Pacific. Extracts of the speech regarding the Proliferation Security Initiative (PSI) follow:

PSI is aimed at enhancing operational capacity within, and between, participating countries to help them contribute to effective and timely actions to stop illicit trafficking in these weapons.

Having no founding treaty, no headquarters and no secretariat, PSI's strength is its flexibility and responsiveness.

To date, participating countries have made substantial progress in integrating operational capability, individually and collectively, through 18 exercises – held in Asia, Europe and North America – and a series of expert-level meetings.

…

PSI is not an alternative to multilateral non-proliferation treaties. Rather, it provides a vehicle for participating countries to consider the entire range of existing legal provisions for taking action against specific WMD-related transfers. PSI is expressly premised on such action being within domestic and international law – nothing more and nothing less.

Growing support for the initiative, which now stands at some 70 countries, is creating a highly effective deterrent.

The UN Secretary General has commended the important role PSI is playing in filling a "gap in our defences".

On 31 May 2005, the Foreign Minister, Mr Alexander Downer, issued a media release on the Proliferation Security Initiative. An extract from the release follows:

Today marks the second anniversary of the Proliferation Security Initiative (PSI).

Of all the threats to international security, the proliferation of weapons of mass destruction poses one of the greatest. Recent interest by the likes of al-Qaida in acquiring and using such weapons adds a new, horrific dimension to the spectre of mass murder by rogue countries or terrorists.

> The gravity of this threat calls for fresh thinking and decisive action, for new practical measures to stop this noxious trade.
>
> Australia is proud to be a key driver of the PSI, a practical and informal arrangement among countries to cooperate with each other, as necessary, in intercepting and disrupting illicit WMD trade, their delivery systems and related materials. We have hosted two PSI meetings, led the PSI's first and highly successful interdiction exercise in October 2003, 'Operation Pacific Protector', and plan to lead a second exercise in 2006.
>
> In just two years since it was announced by President Bush, the PSI has rapidly built up its operational strength and has garnered the support of more than 60 countries. In September 2003, participants agreed on a Statement of Interdiction Principles which sets out the core objectives and methods of the initiative and commits participants to conduct interdictions within international and domestic law. Since then, fourteen exercises have been held in Europe, Asia and North America, each time led by a different country. Fourteen more exercises are scheduled through to the end of 2006.
>
> The PSI has scored significant successes in stopping proliferators in their tracks. In October 2003, for example, a group of nations worked together to stop the *BBC China* and found an illegal cargo of centrifuge parts for uranium enrichment destined for Libya. Soon after, the Libyan Government agreed to end its weapons of mass destruction programs. Libya's historic decision to forsake WMD shows that firm action against WMD proliferation achieves results.
>
> Australia will continue to work with others through the PSI to send a clear message that WMD proliferation must stop.

Weapons of Mass Destruction – Non-Proliferation – Middle East

On 24 October 2005, an Australian Representative to the 60th Session of the United Nations General Assembly, Mr Craig Maclachlan, delivered a statement to the General Assembly concerning efforts to counter proliferation of weapons of mass destruction in the Middle East. An extract from that statement follows:

> Australia supports the establishment of an effectively verifiable Middle East zone free of nuclear weapons and other weapons of mass destruction and their means of delivery. We strongly support the universality of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), and we have been consistent in our support for the General Assembly resolution on the establishment of a nuclear-weapon-free zone in the Middle East freely arrived at among the States of the region.
>
> Regrettably, however, we continue to have substantive difficulties with the draft resolution entitled "The risk of non-proliferation in the Middle East" …
>
> In September, the International Atomic Energy Agency (IAEA) Board of Governors, reflecting continuing international concern about Iran's nuclear intentions, found Iran in non-compliance with its NPT Safeguard Agreement. The Board urged Iran to reestablish full and sustained suspension of all enrichment-related activity, including conversion and reprocessing activity, and to implement the transparency measures requested by the IAEA Director General.
>
> It is regrettable that the proposed draft resolution … makes no reference to the international community's serious concerns about this matter. Australia is committed to preventing the spread of nuclear weapons and to the goal of a nuclear-weapon-

> free world. We will continue to promote those objectives within the NPT and in all other relevant international forums.

Weapons of Mass Destruction – Non-Proliferation – Comprehensive Nuclear Test-Ban Treaty

On 21 September 2005, the Minister for Foreign Affairs, Mr Alexander Downer, made a statement at the Conference on Facilitating Entry into Force of the Comprehensive Nuclear-Test Ban Treaty (CTBT). Extracts from that statement follow:

> Australia, as a strong supporter of the CTBT, is determined to take the process forward … much as we did when, in an effort to overcome a deadlock nine years ago, we took the Treaty directly on to the floor of the General Assembly, where it was adopted by an overwhelming majority.
>
> …
>
> Australia's strong and consistent support for the CTBT is based on the practical view that a complete and effective ban on nuclear testing will constrain the development of nuclear weapons … and thus will make a significant and unique contribution to nuclear disarmament and non proliferation.
>
> …
>
> Let me be clear – we welcome the continuing voluntary moratorium on weapons testing, but this cannot be a substitute for entry into force of the permanent and legally binding Treaty.
>
> …
>
> I strongly urge those who stand outside the Treaty to reconsider. They should be in no doubt that the CTBT will enhance their own, and international, security. Entry into force of this Treaty will be a decisive contribution to world peace and stability for generations to come.

On 24 September 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release on Australia's efforts to promote the entry into force of the Comprehensive Nuclear-Test-Ban Treaty. An extract from the release follows:

> Last week in New York, I presided over a Conference to promote the entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which would rid the world of nuclear weapons testing forever. I was joined by the Secretary-General of the UN, Kofi Annan, who opened the Conference.
>
> Near universal support exists for the CTBT. 176 countries have signed the Treaty and 125 have ratified it. The Treaty lists 44 countries whose ratification is required to trigger entry into force of the Treaty. 33 of those countries, including Australia, have done so. 11 have not.
>
> As President of the Conference, I heard a very clear message from 117 participating countries, calling on states which have not already done so to sign and ratify the Treaty as soon as possible. This was the highest number of participants of the four Conferences held in support of the CTBT to date.
>
> It was clear that countries, including Australia, regard the CTBT as a vital contribution to disarmament and non-proliferation, because it constrains the development and qualitative improvement of nuclear weapons. There is no doubt that the Treaty would greatly enhance international security.

> The Conference unanimously agreed to adopt a strong declaration in support of the CTBT and a set of practical measures to encourage ratification.
>
> Australia's support for the CTBT is unwavering. We will continue to work for its entry into force and a future free of nuclear weapons testing.

Weapons of Mass Destruction – Non-Proliferation – NPT Review Conference

On 31 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release concerning the Non-Proliferation Treaty Review Conference. An extract from the release follows:

> The failure of the NPT Review Conference to agree on further steps to prevent the spread of nuclear weapons is deeply disappointing.
>
> As I said in my address at the conference opening in New York on 2 May, the international community now faces new nuclear dangers even as the Cold War recedes into history. The dangerous and destabilising nuclear activities of North Korea and Iran reveal the weaknesses of the current non-proliferation regime, while terrorist organisations are known to be seeking weapons of mass destruction.
>
> NPT members have missed a key opportunity at this five-yearly conference to adopt stronger measures to address these threats to international security.
>
> The Australian delegation worked hard to pursue its objectives, collaborating with a wide range of countries to build consensus on strategies to stem nuclear weapons proliferation and promote nuclear disarmament. Many shared our strong support for entry into force of the Comprehensive Nuclear Test Ban Treaty (CTBT) , negotiation of a new treaty to ban the production of fissile material for nuclear weapons, measures to limit the spread of sensitive nuclear technology, and stronger disincentives against withdrawal from the NPT.
>
> Our delegation was also instrumental in breaking the procedural deadlock that delayed the substantive work of the conference for two weeks. Unfortunately, the remaining two weeks were insufficient to reach agreement across the full range of NPT issues. More worryingly, a few countries appeared determined to thwart any consensus at the conference.
>
> Nonetheless, the failure of this year's Review Conference to agree on a substantive outcome does not affect the continuing value of the NPT to international peace and security. With 189 states parties, the NPT remains the most widely supported multilateral arms control treaty. The treaty's objectives are pursued along many paths, including through the International Atomic Energy Agency, the Proliferation Security Initiative, and the CTBT's International Monitoring System.
>
> The overwhelming majority of states, including Australia, remain unwavering in their support for the NPT's prohibition against the spread of nuclear weapons and the framework it provides for their eventual disappearance.

On 2 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Seventh Nuclear Non-Proliferation Treaty Review Conference. Extracts from his address follow:

> The NPT has served us well but faces unprecedented challenges in a world greatly different from that at the Treaty's inception. We should be quite clear about the nature of our world and the threats that emanate from it. While the Cold War nuclear arms race has gone, today we have individuals peddling wares to make the most

> destructive weapons ever devised. A handful of states defy the non-proliferation disciplines almost all other countries accept. And we also face the threat of terrorist use of nuclear or radiological weapons. It is impossible to conceive of a world free of the threat of nuclear weapons without complete and permanent assurances of non-proliferation. But our task, of course, is not just to address non-proliferation challenges. Work to strengthen the Treaty is needed across the full range of NPT issues. The opportunities presented by this Conference to do that must be grasped. What would it say about the international system were it unable to rise to this challenge?
>
> …
>
> At that time [of the Treaty's entry into force], few countries had the capacity to build nuclear weapons. Today some estimates suggest 35 to 40 countries could do so. Further proliferation can only undermine confidence in the NPT, to say nothing of the profound impact it would have on the security of us all.
>
> The time for action is now.
>
> …
>
> We need to send an unambiguous message to proliferators: pursuing – let alone acquiring – weapons of mass destruction violates basic standards of responsible international behaviour and will not be tolerated.

Weapons of Mass Destruction – Non-Proliferation – North Korea

On 2 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Seventh Nuclear Non-Proliferation Treaty Review Conference. An extract from his speech concerning North Korea's nuclear capacity follows:

> North Korea's rejection of the treaty and its statement that it has nuclear weapons is a grave challenge to our collective security and the security of Australia's region. Australia strongly supports the Six-Party talks as a means of resolving the North Korean nuclear issue.
>
> However, as we approach the one year anniversary of the last round of Six-Party Talks (June 2004) it is clear that the international community's patience will not last indefinitely.

On 19 September 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release welcoming the announcement that day of agreement in the Six-Party Talks on a statement of principles. An extract from the release follows:

> I welcome today's announcement that North Korea has agreed to a joint statement of principles during the fourth round of six-party talks in Beijing.
>
> This is an important first step by North Korea toward its stated commitment to a denuclearised Korean peninsula.
>
> The statement of principles provides a solid foundation for progress in subsequent talks.
>
> I urge North Korea to use the next round of talks to address substantively international concerns by comprehensively and irreversibly dismantling its nuclear weapons programs in accordance with its obligations under the Non-Proliferation Treaty, subject to verification.

Weapons of Mass Destruction – Asia-Pacific Nuclear Safeguards and Security Conference Outcomes

On 2 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Seventh Nuclear Non-Proliferation Treaty Review Conference. An extract from his speech concerning the Asia-Pacific Nuclear Safeguards and Security Conference follows:

> Existing non-proliferation measures are insufficient to stop determined proliferators.
>
> For this reason, in November 2004 I hosted the Asia-Pacific Nuclear Safeguards and Security Conference, which focused on the threat of nuclear proliferation and the emerging risk of nuclear terrorism.
>
> That conference agreed on the need for a sustained and comprehensive effort to enhance the nuclear safeguards and security framework. Delegations will have received the outcomes statement from the conference (NPT/Conf.2005/2).
>
> IAEA safeguards must be strengthened. The combination of a comprehensive safeguards agreement and an Additional Protocol is the standard that would best guarantee the NPT's long-term effectiveness.
>
> The Additional Protocol should be a condition of nuclear supply to non-nuclear weapon states. Australia intends to make the Additional Protocol a condition for the supply of Australian uranium to such states and will be consulting others, both suppliers and customers, on timing for bringing this policy into force.
>
> This Conference must recognise, as we did in 2000, that the right to peaceful nuclear energy is not unqualified. The use of peaceful nuclear energy must be in conformity with Articles I, II and III of the Treaty.
>
> We must tackle the proliferation risk posed by the spread of sensitive nuclear technology.
>
> Should there be any doubt about this need, we should simply ask ourselves: is the unbridled spread of technology of potential use in nuclear weapons programs consistent with the NPT's objectives?
>
> The answer is no.
>
> So what is to be done? We believe a framework could be developed to limit the spread of sensitive technology while respecting rights to peaceful nuclear energy.
>
> Such an approach could include: enhanced controls on the supply of sensitive nuclear technology; strengthened verification and detection in states with such technologies; and political measures to ensure reliable access to fuel for civil reactors by states that forgo enrichment and reprocessing.
>
> This Conference must also decide how to deal with NPT parties acquiring sensitive nuclear technology only to withdraw from the Treaty.
>
> Australia's views on the need for firm disincentives and appropriate responses have been circulated to delegations.
>
> As part of a more active UN Security Council role on WMD proliferation, we consider any notice of NPT withdrawal warrants immediate, automatic consideration by the Security Council.

Nuclear Disarmament

On 2 May 2005, the Minister for Foreign Affairs, Mr Alexander Downer, addressed the Seventh Nuclear Non-Proliferation Treaty Review Conference. An extract from his speech concerning nuclear disarmament follows:

> Australia believes that progress on nuclear disarmament is a core NPT obligation, vital to the Treaty's political strength and vitality. We acknowledge progress in reducing nuclear arsenals, but expect further steps by the nuclear weapon states. But we do not accept that movement on nuclear disarmament should be a precondition for improvements to the non-proliferation regime.
>
> Such an approach puts at risk the security benefit all NPT parties derive from assurances that nuclear programs in non-nuclear weapon states are peaceful.
>
> Australia shares the view of the Secretary General in his report *In larger freedom*: 'Progress in both disarmament and non-proliferation is essential and neither should be held hostage to the other.' Entry into force of the Comprehensive Nuclear-Test-Ban Treaty would serve the interests of all NPT parties.
>
> As coordinator of the next Article XIV conference, Australia will be striving for such an outcome. In the meantime, existing moratoria on nuclear testing must remain. Australia is contributing strongly to the CTBT International Monitoring System (IMS), including as host to the third highest number of IMS stations. Strong support for development of the IMS must be sustained.
>
> It beggars belief that another Review Conference has begun with Fissile Material Cut-off Treaty (FMCT) negotiations yet to start. This Conference should make clear FMCT negotiations are of the highest priority.
>
> Australia's position is that to be credible and effective, the FMCT should include measures to verify that parties are complying with their obligations.
>
> Pending FMCT negotiation, we urge China to join the other nuclear weapon states in announcing a moratorium on production of fissile material for nuclear weapons.
>
> We urge India, Pakistan and Israel to also apply such a moratorium – in addition to measures that support global non-proliferation norms – and ultimately to accede to the NPT as non-nuclear weapon states.

Weapons of Mass Destruction – Proliferation – Iran

On 1 November 2005, the Federal Member for Wills, Mr Kelvin Thompson, asked the Minister for Foreign Affairs, Mr Alexander Downer, on notice, what action Australia had taken to prevent Iran from acquiring uranium, and whether it believed that Iran had forfeited its right to a full nuclear program by deceiving International Atomic Energy Agency inspectors about the extent of its activities. The Minister for Foreign Affairs' reply is extracted below:

> As Australia has not concluded a bilateral safeguards agreement with Iran, Australia does not supply uranium to Iran, nor do we consent to retransfer of Australian Obligated Nuclear Material to Iran from any of Australia's bilateral agreement partners. Australia supports efforts – including as a member of the Board of Governors of the International Atomic Energy Agency (IAEA) – to ensure that all of Iran's nuclear activities, materials and facilities are safeguarded by the IAEA.
>
> Australia supports the right of all Parties to the Nuclear Non-Proliferation Treaty (NPT) to benefit from the peaceful uses of nuclear energy, as set out in Article IV of

> the NPT. However, this right is not unqualified, and is subject to other provisions of the NPT, especially Article III which requires non-nuclear-weapon States Parties to place all nuclear material under IAEA safeguards, and Article II which prohibits such states from seeking to acquire nuclear weapons. Iran cannot comply with the Treaty selectively, invoking rights under some provisions while violating others.

United Nations – Relief and Works Agency for Palestine

On 9 August 2005, the Federal Member for Melbourne Ports, Mr Michael Danby, asked the Minister for Foreign Affairs, Mr Alexander Downer, on notice, about the listing of Hamas' Izz al-Din al-Qassam Brigades and Palestinian Islamic Jihad (PIJ) as terrorist organisations and the mechanisms in place to ensure that Australian funding is not used to support the arming and training of terrorist groups. The Minister for Foreign Affairs' response is extracted below:

> Hamas' Izz al-Din al-Qassam Brigades and Palestinian Islamic Jihad (PIJ) were recently specified under the Criminal Code Regulations 2005 as terrorist organisations for the purposes of section 102.1 of the Criminal Code Act 1995 (the Criminal Code). These Regulations took effect from 5 June 2005. These organisations were re-listed as terrorist organisations under the Criminal Code as the Attorney-General continued to be satisfied that HAMAS' and PIJ are organisations directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the act has occurred or will occur).
>
> Australia has formal agreements in place with multilaterals (including the United Nations Relief Works Agency) that require those institutions to ensure funds are expended in a manner consistent with UN Security Council Resolution 1373 (2001) and related Australian laws.

United States of America – Agreement on Cooperation in Science and Technology for Homeland/Domestic Security Matters

An Agreement between Australia and the United States of America on Cooperation in Science and Technology for Homeland/Domestic Security Matters was done at Washington, 21 December 2005. Extracts from the National Interest Analysis follow:

> The purpose of … this Agreement … is to establish a framework to encourage, develop and facilitate bilateral cooperative activity in science and technology that contributes to the homeland/domestic security capabilities of both Parties. The Agreement affirms a common interest in enhancing the longstanding collaborative efforts of the Parties in generating scientific and technological solutions to counter threats, reduce vulnerabilities, and respond to and recover from incidents and emergencies in those areas having the potential for causing significant security, economic and/or social impacts.
>
> The Agreement provides for shared responsibility of cooperative activities and equitable sharing of the costs and benefits associated with collaboration. As such, this Agreement will be of significant benefit to the security of Australia and will provide economic benefits to our science and technology industry. Ratification of the Agreement will further serve to maintain, on the political level, the strong relationship that Australia shares with the United States on science and technology and counter-terrorism matters.

…

The Agreement establishes a framework to encourage, develop and facilitate bilateral cooperative activities in science and technology with the United States that contribute to the domestic security of both Parties. Such activities include coordinated research projects and joint research projects, joint task forces to examine emergent domestic security challenges, joint studies and scientific or technical demonstrations, organisation of field exercises, scientific seminars, conferences, symposia and workshops, training of scientists and technical experts, exchanges or sharing of scientific information equipment and personnel, use of laboratories and equipment and joint management of commercialisation (see Article 7).

…

This Agreement complements the Agreement relating to Scientific and Technical Cooperation with the Government of the United States of America, Canberra, 28 February 2006, [2006] ATNIF 4 by providing specific focus on planning and executing cooperative science and technology activities on domestic security. In particular, the Agreement facilitates joint strategic direction of science and technology activities specifically to build the domestic security capabilities of both nations. It also permits the transfer of classified information.

XII. Criminal Law

Extradition and Mutual Assistance – Malaysia

On 15 November 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing the signing of mutual assistance and extradition treaties between Australia and Malaysia. Extracts from the release follow:

> "The strong relationship with Malaysia is a high priority for Australia in the fight against transnational crime in our region. I believe our two countries share a common goal in tackling crimes such as terrorism, drug trafficking, fraud, money laundering and people trafficking" Senator Ellison said.
>
> "It is my view that the signature today of mutual assistance and extradition treaties between our two countries is a substantial step towards achieving this shared goal."
>
> …
>
> Senator Ellison said the mutual assistance treaty with Malaysia would enhance the ability of both countries to help each other to investigate and prosecute criminal offences by taking action such as carrying out search and seizure, serving documents and arranging for witnesses in the other country to give evidence.
>
> …
>
> Both treaties include safeguards to protect the rights of suspects, including the capacity to refuse to extradite and/or provide mutual assistance for offences which carry the death penalty.

Mutual Assistance – Greece

On 16 January 2005, the Attorney-General and Acting Minister for Justice and Customs, Mr Philip Ruddock, issued a media release announcing the signing of a

Treaty on Mutual Assistance in Criminal Matters between Australia and Greece. An extract from the release follows:

> [T]he [mutual assistance] treaty with Greece [will] enhance the ability of both Australia and Greece to help each other to investigate and prosecute criminal offences by taking action such as carrying out 'search and seizure', serving documents and arranging for witnesses in the other country to give evidence. While Australia already enjoys a mutual assistance relationship with Greece, the treaty cements this relationship and will help to ensure more effective cooperation between the two parties. Both treaties include internationally accepted safeguards to protect the rights of suspects such as the right to refuse to extradite and providing assistance for the prosecution of political offences or offences which carry the death penalty.

Mutual Assistance – Latvia

On 16 January 2005, the Attorney-General and Acting Minister for Justice and Customs, Mr Philip Ruddock, issued a media release announcing the signing of a Treaty on Mutual Assistance in Criminal Matters between Australia and Latvia. An extract from the release follows:

> Establishing strong, cooperative extradition and mutual assistance relationships with other countries is essential to effectively combat terrorism and transnational crime, including people smuggling, trafficking in persons, money laundering and corruption. Extradition treaties are important in ensuring criminals are not able to cross international boundaries to evade prosecution by facilitating the investigation and prosecution of offences where evidence is located overseas … until now, Australia had only been able to deal with extradition requests from Latvia on a non-treaty basis. The new treaty will bring greater certainty to the extradition relationship between Australia and Latvia.

International Criminal Court

On 8 November 2005, the Second Secretary to the Australian Mission to the United Nations in New York, Mr Ben Playle, delivered a statement to the Sixth Committee of the General Assembly concerning the report by the President of the International Criminal Court to the General Assembly. An extract from the statement follows:

> Australia welcomes the first report by the President of the International Criminal Court to the Plenary of the General Assembly. As a strong and committed supporter of the Court, Australia welcomes the progress that the Court has made in the past year and, indeed, since its inception.
>
> Australia is pleased to join other States in congratulating Mexico on becoming the 100th Party to the Rome Statute, and in welcoming the Dominican Republic and Kenya as new States Parties to the Statute in the past year.
>
> President Kirsch has provided a compelling report on the Court's progress in investigations and preparations for trial concerning the situations currently before it. The list is a growing one. Investigations have begun in relation to the Democratic Republic of the Congo, Uganda and the Sudan. The Court is also monitoring eight other situations, including in Côte d'Ivoire and the Central African Republic.
>
> The Court is to be commended for its investigative work, which we recognise presents unique challenges. Australia welcomes the issuance of five indictments for

individuals suspected of involvement in serious crimes in Northern Uganda, and looks forward to action on those indictments in the near future.

It is appropriate to take this opportunity to recognise the Security Council's decision, through adoption of Resolution 1593 on 31 March 2005, to refer the situation in Darfur to the International Criminal Court for investigation. This is a significant decision which acknowledges the Court as an important tool in addressing impunity for the most serious international crimes, and recognises the role that the Court can potentially play as part of broader strategies to address issues of peace and security.

The referral of the situation in Darfur also demonstrates close cooperation between the United Nations and the Court. Australia welcomes this cooperation, and expresses the hope and expectation that it will continue.

Prisoners – Transfer of Prisoners – Hong Kong

On 26 November 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing the signing of a bilateral agreement for the transfer of prisoners between Hong Kong and Australia: Extracts from the release follow:

> Australia and Hong Kong have signed a bilateral treaty for the international transfer of prisoners between both countries, the Minister for Justice and Customs, Senator Chris Ellison, said today.
>
> The International Transfer of Prisoners treaty with Hong Kong underlines Australia's solid commitment to regional law enforcement cooperation and will allow prisoners to serve out their sentences in their home country, Senator Ellison said.
>
> "Australia's International Transfer of Prisoners scheme currently covers 58 jurisdictions, now including Hong Kong," he said.
>
> …
>
> "The aim of the ITP Scheme is to allow prisoners to serve out their sentences in their home country, without language and cultural barriers, to increase their prospects of rehabilitation," Senator Ellison said.
>
> "Transferring prisoners to their home country also reduces the financial and emotional burden on their families and reduces the demand on assistance provided by Australia's consular posts to citizens imprisoned overseas."
>
> Under the agreement, any Hong Kong nationals sentenced to imprisonment in Australia will also be able to apply for transfer to Hong Kong.
>
> The treaty will allow Australia to impose parole conditions on transferred prisoners upon their release. Transfers under the ITP Scheme are voluntary and require the consent of the transferring jurisdiction, receiving jurisdiction and prisoner to the terms of the transfer.

Terrorism – Counter-Terrorism – Pakistan

On 15 June 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the signing of a Memorandum of Understanding (MOU) between Australia and Pakistan on counter-terrorism. An extract from the release follows:

> The MOU is a key outcome of the visit to Australia by Pakistan's President Musharraf. The Memorandum provides a framework for cooperation between Australian and Pakistani authorities in areas such as law enforcement, intelligence, security and border controls. Pakistan is an important ally for Australia in the war on terror and has played a pivotal role in international efforts to dismantle global terrorist networks such as Al Qaida. Strong international cooperation is crucial in defeating this scourge.
>
> The Memorandum will enhance the security of both countries through exchanges of information and intelligence, joint training activities and capability-building initiatives. Our enhanced counter-terrorism relationship with Pakistan will also help protect Australians and Australia's interests at home and abroad – one of the Australian Government's highest priorities. Australia has now signed 11 such agreements with countries in our region including Indonesia, Malaysia, Thailand, the Philippines, Fiji, Cambodia, East Timor, India, Papua New Guinea and Brunei.

Terrorism – Counter-Terrorism – Memoranda of Understanding – Afghanistan

On 20 December 2005, the Minister for Foreign Affairs, Mr Alexander Downer, issued a media release announcing the signing of a Memorandum of Understanding (MOU) between Australia and Afghanistan on counter-terrorism. An extract from the release follows:

> Today in Kabul Afghanistan's Foreign Minister, Abdullah Abdullah, and I signed a Memorandum of Understanding (MOU) to boost our countries' cooperation in the fight against terrorism.
>
> This CT MOU provides a framework for cooperation between Australian and Afghan authorities in areas such as law enforcement, finance, defence, intelligence, security and border controls.
>
> Afghanistan is an important ally for Australia in the war on terror and has played a pivotal role in international efforts to dismantle global terrorist networks, such as Al Qaida. Strong international cooperation is crucial in combating the global terrorist threat.
>
> This CT MOU will enhance the security of both Australia and Afghanistan through exchanges of information and intelligence, joint training activities and capability building initiatives.

Terrorism – Counter-Terrorism – Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

On 15 October 2005, the Attorney-General, Mr Philip Ruddock, issued a media release announcing the adoption to two Protocols amending the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. An extract from the release follows:

> Attorney-General Mr. Philip Ruddock today has welcomed the adoption in London overnight of two protocols to enhance maritime security and global counter-terrorism efforts.
>
> "The protocols, adopted at a meeting of the International Maritime Organisation, will significantly strengthen international efforts to counter terrorist threats to maritime security and offshore oil and gas facilities," Mr Ruddock said.

> "They will bolster and complement existing strong measures taken by the Government, including those relating to offshore maritime security and Australia's commitment to the Proliferation Security Initiative."
>
> The protocols, which are the result of three years of intensive negotiations, will amend the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.
>
> They will create offences concerning the use of a vessel for terrorist purposes or transporting weapons of mass destruction and a regime for boarding vessels suspected of committing offences.
>
> The protocols will also create offences concerning the use of oil and gas facilities for terrorist purposes, including the discharge of hazardous substances.
>
> "The new protocols will also enhance rights under international law to take action against the proliferation of weapons of mass destruction by sea," Mr Ruddock said.
>
> "I am pleased to note Australia has played a leading role in negotiating the protocols and we will give early consideration to signing these new instruments."

Terrorism – Counter-Terrorism – United Nations – 1267 Committee

On 25 April 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth, delivered a statement to the Security Council's Counter-Terrorism Committee on the Committees established by Council Resolutions 1267 and 1540. Extracts from the statement follow:

> The tasks facing these committees reflect the serious challenge the international community faces in addressing the threat to our peace and security from both terrorism and the proliferation of weapons of mass destruction, and also the very real danger of a terrorist attack involving chemical, biological, nuclear or radiological (CBRN) devices. The General Assembly's adoption earlier this month of the International Convention for the Suppression of Nuclear Terrorism is a welcome and concrete response to one aspect of this threat. It is a further example of the important role that multilateral instruments and regimes play in underpinning global counter-terrorism and counter-proliferation efforts.
>
> …
>
> Cooperation and capacity building at the regional and bilateral levels are crucial to international counter-terrorism efforts. Australia is active in its own region, including in taking forward the outcomes of the February 2004 Bali Regional Ministerial Meeting on Counter Terrorism. Co-chaired by Australia and Indonesia, the meeting established law enforcement and legal issues working groups to promote practical counter-terrorism cooperation between Asia Pacific governments. The latter group is doing important work to promote and assist implementation of UN counter-terrorism instruments and more effective international legal cooperation. The Jakarta Centre for Law Enforcement, another Australia-Indonesia initiative, was opened in July 2004 and is already proving to be a valuable resource developing regional capacities to fight terrorism and trans-national crime.

On 20 July 2005, Australia's Ambassador and Permanent Representative to the United Nations in New York, H E Mr John Dauth LVO, delivered a statement to the Security Council's Counter-Terrorism Committee on the Committee established by the Council's Resolution 1267. Extracts from the statement follow:

[I]t is appropriate that forums such as this pay regard to how UN bodies and mechanisms are working to meet the challenge of terrorism. Australia welcomes the efforts to date, in particular by the 1267 Committee, to engage more closely with Member States, including through undertaking regional travel. We also appreciate the opportunity earlier this month for Australia's Ambassador for Counter-Terrorism to brief the 1267 Committee on our counter-terrorism cooperation and capacity building efforts in the Asia Pacific region, to date only the fourth Member State to take up this opportunity. We recall the emphasis placed on capacity building by the Secretary General in his comprehensive strategy to fight terrorism, and encourage all three committees to intensify their engagement with Member States and regional bodies.

The time has come, however, for us to acknowledge that more can and must be done. I recall how, in the terrible days immediately after September 11, we were seized with a grim determination that saw the UN become the focal point of the international response. That momentum now risks being lost. We note, for example, that the Counter Terrorism Executive Directorate was due to become fully operational by January 2005. It is vital that this important body be able to finalise its staffing arrangements and give full effect to its mandate at the earliest possible date. Similarly we would stress the need to give effect to calls for better coordination within the UN system on counter terrorism matters generally.

Transnational Organised Crime – Exchange of Financial Intelligence to Combat Money Laundering, Terrorism and other Serious Crimes – The Philippines

On 12 July 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing the signing of a Memorandum of Understanding (MOU) with The Philippines to help address money laundering and terrorist financing. Extracts from the release follow:

A new MOU to exchange financial intelligence between Australia and The Philippines will boost efforts in the international fight against money laundering and financing of terrorism, the Minister for Justice and Customs, Senator Chris Ellison said today.

[…] Senator Ellison said The Philippines had taken steps in recent years to implement appropriate anti-money laundering and counter-financing of terrorism legislation. This had resulted in its removal from the Financial Action Task Force Non-Co-operative Countries and Territories list earlier this year.

"The Philippines has established an effective Financial Intelligence Unit meeting strict operational standards and last week they gained membership to the international Egmont Group of Financial Intelligence Units," Senator Ellison said.

"The signing of this Memorandum of Understanding will now enable the formal exchange of vital financial intelligence between Australia and The Philippines, strengthening the war on money laundering and terrorism financing in this region."

…

This new partnership follows the signing of Memoranda of Understanding with Brazil, Bermuda and Panama by AUSTRAC's Director at the recent Egmont Group of Financial Intelligence Units 10th Anniversary meeting in Washington DC.

The latest signing brings to 42 the total number of countries with which Australia can exchange financial intelligence.

Senator Ellison said countries in the regions of South East Asia, the Pacific Islands, South America, Europe and North America are now covered by Memoranda of Understanding with AUSTRAC, making it harder to move illegal funds around the world undetected.

"Memoranda of Understanding enable AUSTRAC's work in pursuing exchange of vital financial intelligence in strategically important regions around the world," said Senator Ellison.

Transnational Organised Crime – Financial Action Task Force on Money Laundering

On 17 October 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing the issuance of the Financial Action Task Force on Money Laundering (FATF)'s evaluation of Australia's anti-money laundering (AML) and counter-terrorist financing (CTF) measures. An extract from the release follows:

Australia was one of the first countries to be assessed against tougher new standards set by the FATF.

"The report found Australia has a comprehensive system for reporting suspicious transactions and that our mechanisms for international cooperation and information sharing are working well," Senator Ellison said.

"The FATF has also found that Australia has comprehensive measures in place to meet its international obligations to criminalise terrorist financing and freeze terrorist assets".

"While no country is fully FAFT compliant, the evaluation adds support to the Government's proposed AML/CTF reforms aimed at meeting the challenges posed by increasingly sophisticated money laundering and terrorist financing techniques."

The evaluation found Australia's AML and CTF laws addressed requirements under 31 of the FATF's 40 recommended international anti-money laundering standards issued by FATF.

In relation to FATF's 9 Special Recommendations (SR's) on counter-terrorist financing, the evaluation found Australia is largely compliant with SR I (implementing UN counter-terrorist financing conventions), SR II (criminalising terrorist financing), SR III (freezing and confiscating terrorist assets), SR IV (reporting suspicions of terrorist financing) and SR V (international cooperation). Australia was also found to be partially compliant with SR VI (regulating alternative remittance dealers), SR VIII (regulation of charitable and non-profit organisations) and SR IX (cash couriers).

On 11 October 2005, Senator Ellison announced that the Government had agreed to reforms to strengthen Australia's AML and CTF laws.

The proposed AML/CTF reforms include strengthening Australia's current ground-breaking system for reporting all international funds transfers to AUSTRAC. Under the proposed reforms, financial institutions will be required to verify the identity of customers seeking to transfer funds, and maintain customer information with the funds transfer in line with FATF Special Recommendation VII.

United Nations – Convention Against Corruption

On 9 December 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing that Australia had ratified the United Nations Convention against Corruption. An extract from the release follows:

> "Corruption is a major international threat because it can undermine democracy and the rule of law, distort markets, hamper international trade and facilitate organised crime and terrorism," Senator Ellison said.
>
> The UN Convention is the first binding global instrument on corruption. The Convention creates obligations to prevent and criminalize corruption, and also requires countries to cooperate with each other in the investigation and prosecution of corruption offences and in recovering the proceeds of corruption.
>
> Australia's ratification of the Convention in New York this week coincides with the UN International Anti-Corruption Day on 9 December.
>
> "Australia complies with all of the Convention's mandatory requirements, we have strong domestic laws against corruption, and work closely with other countries to fight corruption in the region," Senator Ellison said.
>
> There are already over 35 parties to the Convention but Australia is one of the first countries in the Asia-Pacific region to ratify the Convention.
>
> The Convention will enter into force for Australia on 6 January 2006, 30 days after ratification.

United Nations – People Trafficking Protocol

On 15 September 2005, the Minister for Justice and Customs, Senator Chris Ellison, issued a media release announcing that Australia had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime. Extracts from the release follow:

> Trafficking in persons is one of the ugliest crimes – a trade which profits from the degradation and exploitation of women and children," Senator Ellison said.
>
> "The ratification of the People Trafficking Protocol demonstrates Australia's ongoing commitment to fighting people trafficking and all other forms of transnational crime," Senator Ellison said.
>
> "The Australian Government is doing its utmost to fight these threats to our regional security through concerted domestic, bilateral, regional and international efforts."
>
> …
>
> The Australian Government's $20 million package to combat people trafficking, announced on 13 October 2003, demonstrates Australia's strong commitment to implementing its obligations under the People Trafficking Protocol. New federal offences which target the trafficking of persons within, into and out of Australia and carry penalties of up to 25 years imprisonment entered into force on 3 August 2005.

United Nations – Convention on the Safety of United Nations and Associated Personnel

On 20 October 2005, the Second Secretary at Australia's Mission to the United Nations in New York, Mr Ben Playle, delivered a statement to the General Assembly on the scope of legal protection available under the Convention on the Safety of United Nations and Associated Personnel. Extracts from the statement follow:

> In both the Ad Hoc Committee in April this year, and the recent meeting of the Working Group, States have put forward a number of proposals designed to resolve the outstanding elements of the draft Optional Protocol. Allow me to mention two of them.
>
> First, Australia particularly welcomes States' willingness to work towards extending the automatic application of the Convention to UN operations delivering humanitarian, political or development assistance 'in peacebuilding'. As we have said previously, this represents a good, compromise solution. As we have also said previously, Australia supports the broadest possible application of the Optional Protocol. Accordingly, we encourage States, in practice, to adopt a broad interpretation of the phrase 'in peacebuilding' which includes all phases and elements of peacebuilding operations.
>
> …
>
> Second, Australia is reluctantly willing to accept a narrow provision enabling States to opt-out from applying the Protocol to a UN operation providing emergency humanitarian assistance in response to a natural disaster. But we note history shows that natural disasters often lead to a breakdown in law and order. UN and associated personnel deployed in such circumstances are exposed to exactly the sort of risks against which the Convention aims to provide protection. Accordingly, we would encourage States, in practice, not to exclude the Protocol's application to operations responding to a natural disaster whenever such risks exist.
>
> […] The draft text upon which recent negotiations have focused is significantly less than Australia has consistently sought. It affords less protection to UN and associated personnel than we believe they deserve. But, after five years of negotiations, we recognise the text we are working on represents what is achievable in this forum.