VI. Law of the Sea

United Nations Convention on Law of the Sea and Agreement relating to the Implementation of Part XI of the Convention — Dates of Ratification and Signature of Parties

On 20 November 1995, in the House of Representatives, the Minister representing the Minister for Foreign Affairs, Mr Bilney, answered a question upon notice from Mr Hollis (Throsby, ALP). The following is the text of the question and answer, which updates the information given in answer to question No. 1809, which follows below (House of Representatives, *Debates*, vol 205, p 3275):

> Mr Hollis asked the Minister representing the Minister for Foreign Affairs, upon notice, on 27 September 1995:
>
> Will the Minister bring up-to-date the information provided on the (a) UN Convention on the Law of the Sea and (b) Agreement relating to the Implementation of Part XI of the Convention in the answer to question No. 1809 (*Debates*, 31 January 1995, page 148).
>
> Mr Bilney—The Minister for Foreign Affairs has provided the following answer to the honourable member's question:
>
> I attach a list of states which have: (a) as at 14 September 1995 signed and/or ratified the UN Convention on the Law of the Sea; and (b) as at 27 September 1995 signed and/or ratified the Agreement relating to the Implementation of Part XI of the Convention, which updates the lists attached to my answer to question No. 1809 (*Debates*, 31 January 1995, page 148).
>
> Updated on 14 September 1995
>
> UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (LOSC)
>
> (Montego Bay, Jamaica, 10 December 1982)
>
> Entry into force: 16 November 1994.
>
> Text: Australian Treaty Series 1994 No. 31.

Participant	*Date of Signature*	*Date of Ratification* *Accession (a)* *Formal Confirmation (c)* *Succession (s)*
Afghanistan	18 March 1983	
Algeria	10 December 1982	
Angola	10 December 1982	5 December 1990
Antigua and Barbuda	7 February 1983	2 February 1989
Argentina	5 October 1984	
Australia	10 December 1982	5 October 1994
Austria	10 December 1982	14 July 1995

Participant	Date of Signature	Date of Ratification
Bahamas	10 December 1982	29 July 1983
Bahrain	10 December 1982	30 May 1985
Bangladesh	10 December 1982	
Barbados	10 December 1982	12 October 1993
Belarus	10 December 1982	
Belgium	5 December 1984	
Belize	10 December 1982	13 August 1983
Benin	30 August 1983	
Bhutan	10 December 1982	
Bolivia	27 November 1984	28 April 1995
Bosnia/Herzegovina		12 January 1994 (s)
Botswana	5 December 1984	2 May 1990
Brazil	10 December 1982	22 December 1988
Brunei Darussalam	5 December 1984	
Bulgaria	10 December 1982	
Burkina Faso	10 December 1982	
Burundi	10 December 1982	
Cambodia	1 July 1983	
Cameroon	10 December 1982	19 November 1985
Canada	10 December 1982	
Cape Verde	10 December 1982	10 August 1987
Central African Republic	4 December 1984	
Chad	10 December 1982	
Chile	10 December 1982	
China	10 December 1982	
Colombia	10 December 1982	
Comoros	6 December 1984	21 June 1994
Congo	10 December 1982	
Cook Islands	10 December 1982	15 February 1995
Costa Rica	10 December 1982	21 September 1992
Cote d'Ivoire	10 December 1982	26 March 1984
Croatia		5 April 1995 (s)
Cuba	10 December 1982	15 August 1984
Cyprus	10 December 1982	12 December 1988
Czech Republic*	22 February 1993 (s)	
Denmark	10 December 1982	
Djibouti	10 December 1982	8 October 1991
Dominica	28 March 1983	24 October 1991
Dominican Republic	10 December 1982	
Egypt	10 December 1982	26 August 1983
El Salvador	5 December 1984	
Equatorial Guinea	30 January 1984	
Ethiopia	10 December 1982	
European EC		7 December 1984

Participant	*Date of Signature*	*Date of Ratification*
Fiji	10 December 1982	10 December 1982
Finland	10 December 1982	
France	10 December 1982	
Gabon	10 December 1982	
Gambia	10 December 1982	22 May 1984
Germany		14 October 1994 (a)
Ghana	10 December 1982	7 June 1983
Greece	10 December 1982	21 July 1995
Grenada	10 December 1982	25 April 1991
Guatemala	8 July 1983	
Guinea	4 October 1984	6 September 1985
Guinea-Bissau	10 December 1982	24 August 1986
Guyana	10 December 1982	16 November 1993
Haiti	10 December 1982	
Honduras	10 December 1982	5 October 1993
Hungary	10 December 1982	
Iceland	10 December 1982	21 June 1985
India	10 December 1982	29 June 1995
Indonesia	10 December 1982	3 February 1986
Iran	10 December 1982	
Iraq	10 December 1982	30 July 1985
Ireland	10 December 1982	
Italy	7 December 1984	13 January 1995
Jamaica	10 December 1982	21 March 1983
Japan	7 February 1983	
Kenya	10 December 1982	2 March 1989
Korea, Dem. People's Rep.		10 December 1982
Korea, Republic of	14 March 1983	
Kuwait	10 December 1982	2 May 1986
Laos	10 December 1982	
Lebanon	7 December 1984	5 January 1995
Lesotho	10 December 1982	
Liberia	10 December 1982	
Libya	3 December 1984	
Liechtenstein	30 November 1984	
Luxembourg	5 December 1984	
Macedonia, Former Yugoslav Rep. of		19 August 1994 (s)
Madagascar	25 February 1983	
Malawi	7 December 1984	
Malaysia	10 December 1982	
Maldives	10 December 1982	
Mali	19 October 1983	16 July 1985

Participant	Date of Signature	Date of Ratification
Malta	10 December 1982	20 May 1993
Marshall Islands		9 August 1991 (a)
Mauritania	10 December 1982	
Mauritius	10 December 1982	4 November 1994
Mexico	10 December 1982	18 March 1983
Micronesia		29 April 1991 (a)
Monaco	10 December 1982	
Mongolia	10 December 1982	
Morocco	10 December 1982	
Mozambique	10 December 1982	
Myanmar	10 December 1982	
Namibia	10 December 1982	18 April 1983
Nauru	10 December 1982	
Nepal	10 December 1982	
Netherlands	10 December 1982	
New Zealand	10 December 1982	
Nicaragua	9 December 1984	
Niger	10 December 1982	
Nigeria	10 December 1982	14 August 1986
Niue	5 December 1984	
Norway	10 December 1982	
Oman	1 July 1983	17 August 1989
Pakistan	10 December 1982	
Panama	10 December 1982	
Papua New Guinea	10 December 1982	
Paraguay	10 December 1982	26 September 1986
Philippines	10 December 1982	8 May 1984
Poland	10 December 1982	
Portugal	10 December 1982	
Qatar	27 November 1984	
Romania	10 December 1982	
Russia	10 December 1982	
Rwanda	10 December 1982	
St Kitts and Nevis	7 December 1984	7 January 1993
St Lucia	10 December 1982	27 March 1985
St Vincent and the Grenadines	10 December 1982	1 October 1993
Samoa	28 September 1984	14 August 1995
Sao Tome and Principe	13 July 1983	3 November 1987
Saudi Arabia	7 December 1984	
Senegal	10 December 1982	25 October 1984
Seychelles	10 December 1982	16 September 1991
Sierra Leone	10 December 1982	12 December 1994
Singapore	10 December 1982	17 November 1994

Participant	*Date of Signature*	*Date of Ratification*
Slovakia*	28 May 1993 (s)	
Slovenia		16 June 1995 (s)
Solomon Islands	10 December 1982	
Somalia	10 December 1982	24 July 1989
South Africa	5 December 1984	
Spain	4 December 1984	
Sri Lanka	10 December 1982	19 July 1994
Sudan	10 December 1982	23 January 1985
Suriname	10 December 1982	
Swaziland	18 January 1984	
Sweden	10 December 1982	
Switzerland	17 October 1984	
Tanzania	10 December 1982	30 September 1985
Thailand	10 December 1982	
Togo	10 December 1982	16 April 1985
Tonga		2 August 1995 (a)
Trinidad and Tobago	10 December 1982	25 April 1986
Tunisia	10 December 1982	24 April 1985
Tuvalu	10 December 1982	
Uganda	10 December 1982	9 November 1990
Ukraine	10 December 1982	
United Arab Emirates	10 December 1982	
Uruguay	10 December 1982	10 December 1992
Vanuatu	10 December 1982	
Vietnam	10 December 1982	25 July 1994
Yemen	10 December 1982	21 July 1987
Yugoslavia	10 December 1982	5 May 1986
Zaire	22 August 1983	17 February 1989
Zambia	10 December 1982	7 March 1983
Zimbabwe	10 December 1982	24 February 1993

*Signed for Czechoslovakia 10 December 1982

(Note that as of 13 August 1996, the following additional states had ratified the Convention: Algeria, Argentina, Bulgaria, China, the Czech Republic, Finland, France, Georgia (a), Haiti, Ireland, Japan, Jordan (a), Mauritania, Monaco, Mongolia, Myanmar, Nauru, the Netherlands, New Zealand, Norway, Panama, Republic of Korea, Saudi Arabia, Slovenia and Sweden.)

AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982

(New York, 29 July 1994)

Provisional entry into force for Australia and generally: 16 November 1994.

Text: Australian Treaty Series 1994 No. 32.

Participant	*Date of Signature*	*Provisional Application*	*Non-Provisional Application*	*Ratification Definitive signature (ds) Accession (a) Formal Confirmation (c) Participation (p)*
Afghanistan		16 Nov 1994		
Albania		16 Nov 1994		
Algeria	29 July 1994	16 Nov 1994		
Andorra		16 Nov 1994		
Argentina	29 July 1994	16 Nov 1994		
Armenia		16 Nov 1994		
Australia	29 July 1994	16 Nov 1994		5 Oct 1994
Austria	29 July 1994	16 Nov 1994		14 July 1995
Bahamas	29 July 1994	16 Nov 1994		
Bahrain		16 Nov 1994		
Bangladesh		16 Nov 1994		
Barbados	15 Nov 1994	16 Nov 1994		
Belarus		16 Nov 1994		
Belgium	29 July 1994	16 Nov 1994		
Belize		16 Nov 1994		21 Oct 1994(ds)
Benin		16 Nov 1994		
Bhutan		16 Nov 1994		
Bolivia		16 Nov 1994		28 April 1995
Botswana		16 Nov 1994		
Brazil	29 July 1994		29 July 1994	
Brunei Darussalam		16 Nov 1994		
Bulgaria			15 Nov 1994	
Burkina Faso	30 Nov 1994	30 Nov 1994		
Burundi		16 Nov 1994		
Cambodia		16 Nov 1994		
Cameroon	24 May 1995	24 May 1995		
Canada	29 July 1994	16 Nov 1994		
Cape Verde	29 July 1994	16 Nov 1994		
Chile		16 Nov 1994		
China	29 July 1994	16 Nov 1994		
Congo		16 Nov 1994		
Cook Islands		15 Feb 1995		15 Feb 1995(a)
Cote d'Ivoire	25 Nov 1994	16 Nov 1994		

Participant	*Date of Signature*	*Provisional Application*	*Non-Provisional Application*	*Ratification*
Croatia		5 April 1995		5 April 1995(p)
Cuba		16 Nov 1994		
Cyprus	1 Nov 1994	27 July 1995		27 July 1995
Czech Republic	16 Nov 1994	16 Nov 1994		
Denmark	29 July 1994		29 July 1994	
Egypt	22 March 1995	16 Nov 1994		
Eritrea		16 Nov 1994		
Estonia		16 Nov 1994		
Ethiopia		16 Nov 1994		
European Community	29 July 1994	16 Nov 1994		
Fiji	29 July 1994	16 Nov 1994		28 July 1995
Finland	29 July 1994	16 Nov 1994		
France	29 July 1994	16 Nov 1994		
Gabon	4 April 1995	16 Nov 1994		
Germany	29 July 1994	16 Nov 1994		14 Oct 1994
Ghana		16 Nov 1994		
Greece	29 July 1994	16 Nov 1994		21 July 1995
Grenada	14 Nov 1994	16 Nov 1994		
Guinea	26 Aug 1994	16 Nov 1994		
Guyana		16 Nov 1994		
Honduras		16 Nov 1994		
Hungary		16 Nov 1994		
Iceland	29 July 1994	16 Nov 1994		
India	29 July 1994	16 Nov 1994		29 June 1995
Indonesia	29 July 1994	16 Nov 1994		
Iran			1 Nov 1994	
Iraq		16 Nov 1994		
Ireland	29 July 1994		29 July 1994	
Italy	29 July 1994	16 Nov 1994		13 Jan 1995
Jamaica	29 July 1994	16 Nov 1994		
Japan	29 July 1994	16 Nov 1994		
Jordan			14 Nov 1994	
Kenya		16 Nov 1994		29 July 1994(ds)
Korea, Republic of	7 Nov 1994	16 Nov 1994		
Kuwait		16 Nov 1994		
Laos	27 Oct 1994	16 Nov 1994		
Lebanon		5 Jan 1995		5 Jan 1995(p)
Libya		16 Nov 1994		
Liechtenstein		16 Nov 1994		
Luxembourg	29 July 1994	16 Nov 1994		
Macedonia - FYRO		16 Nov 1994		19 Aug 1994(p)

Participant	*Date of Signature*	*Provisional Application*	*Non-Provisional Application*	*Ratification*
Madagascar		16 Nov 1994		
Malaysia	2 Aug 1994	16 Nov 1994		
Maldives	10 Oct 1994	16 Nov 1994		
Malta	29 July 1994	16 Nov 1994		
Marshall Islands		16 Nov 1994		
Mauritania	2 Aug 1994	16 Nov 1994		
Mauritius		16 Nov 1994		4 Nov 1994(p)
Mexico			2 Nov 1994	
Micronesia	10 Aug 1994	16 Nov 1994		6 Sep 1995
Moldova		16 Nov 1994		
Monaco	30 Nov 1994	16 Nov 1994		
Mongolia	17 Aug 1994	16 Nov 1994		
Morocco	19 Oct 1994		19 Oct 1994	
Mozambique		16 Nov 1994		
Myanmar		16 Nov 1994		
Namibia	29 July 1994	16 Nov 1994		
Nepal		16 Nov 1994		
Netherlands	29 July 1994	16 Nov 1994		
New Zealand	29 July 1994	16 Nov 1994		
Nigeria	25 Oct 1994	16 Nov 1994		
Norway		16 Nov 1994		
Oman		16 Nov 1994		
Pakistan	10 Aug 1994	16 Nov 1994		
Papua New Guinea		16 Nov 1994		
Paraguay	29 July 1994	16 Nov 1994		10 July 1995
Philippines	15 Nov 1994	16 Nov 1994		
Poland	29 July 1994	23 Feb 1995		
Portugal	29 July 1994		29 July 1994	
Qatar		16 Nov 1994		
Romania			4 Oct 1994	
Russia		11 Jan 1995		
Samoa, Western	7 July 1995	16 Nov 1994		14 Aug 1995(p)
Saudi Arabia			9 Nov 1994	
Senegal	9 Aug 1994	16 Nov 1994		25 July 1995
Seychelles	29 July 1994	16 Nov 1994		15 Dec 1994
Sierra Leone		16 Nov 1994		12 Dec 1994(p)
Singapore		16 Nov 1994		17 Nov 1994(p)
Slovakia	14 Nov 1994	16 Nov 1994		
Slovenia	19 Jan 1995	16 June 1995		16 June 1995
Solomon Islands		8 Feb 1995		

Participant	*Date of Signature*	*Provisional Application*	*Non-Provisional Application*	*Ratification*
South Africa	3 Oct 1994	16 Nov 1994		
Spain	29 July 1994			
Sri Lanka	29 July 1994	16 Nov 1994		
Sudan	29 July 1994	16 Nov 1994		
Suriname		16 Nov 1994		
Swaziland	12 Oct 1994	16 Nov 1994		
Sweden	29 July 1994		29 July 1994	
Switzerland	26 Oct 1994	16 Nov 1994		
Tanzania	7 Oct 1994	16 Nov 1994		
Togo	3 Aug 1994	16 Nov 1994		
Tonga		2 Aug 1995		2 Aug 1995(p)
Trinidad and Tobago	10 Oct 1994	16 Nov 1994		
Tunisia	15 May 1995	16 Nov 1994		
Uganda	9 Aug 1994	16 Nov 1994		
Ukraine	28 Feb 1995	16 Nov 1994		
United Arab Emirates		16 Nov 1994		
United Kingdom	29 July 1994	16 Nov 1994		
United States of America	29 July 1994	16 Nov 1994		
Uruguay	29 July 1994		29 July 1994	
Vanuatu	29 July 1994	16 Nov 1994		
Vietnam		16 Nov 1994		
Yugoslavia	12 May 1995			
Zambia	13 Oct 1994	16 Nov 1994		
Zimbabwe	28 Oct 1994	16 Nov 1994		

* See Article 7(1)(b).

(Note that as of 13 August 1996, the following additional states had ratified or become bound by the Agreement: Algeria (p), Argentina, Bahamas, Barbados, Bulgaria (a), China (p), Cote D'Ivoire, the Czech Republic, Finland, France, Georgia (p), Grenada, Guinea, Haiti (p), Ireland, Jamaica, Japan, Jordan (p), Malta, Mauritania (p), Monaco (p), Mongolia (p), Myanmar (a), Namibia, Nauru (p), the Netherlands, New Zealand, Nigeria, Norway (a), Panama (p), Republic of Korea, Saudi Arabia (p), Slovakia, Sri Lanka, Sweden, Togo, Trinidad and Tobago, Uganda, Yugoslavia, Zambia and Zimbabwe. The Agreement entered into force definitively on 28 July 1996.)

United Nations Law of the Sea Convention and Agreement Supplementing Part XI of the Convention — Voting Patterns

On 31 January 1995, in the House of Representatives, the Minister representing the Minister for Foreign Affairs, Mr Bilney, answered a question upon notice

from Mr Hollis (Throsby, ALP). The following is an extract from the text of the question and answer (House of Representatives, *Debates*, vol 199, p 148):

> Mr Hollis asked the Minister representing the Minister for Foreign Affairs, upon notice, on 5 December 1994: ...
>
> (3) In the UN General Assembly on 28 July 1994 which states (a) voted for the Agreement supplementing Part XI of the Convention, (b) voted against the Agreement and (c) abstained in the vote...
>
> (5) What steps has the USA taken to ratify the Convention and the Agreement.
>
> Mr Bilney—The Minister for Foreign Affairs has provided the following answer to the honourable member's question:
>
> (3) I attach a list of states which voted for the Agreement relating to the Implementation of Part XI of the Convention and of those which abstained in the vote. No states voted against the Agreement...
>
> (5) By way of background, I will update the information provided in my answer to question No. 1044 (*Debates*, 4 May 1994, p 281). The General Assembly adopted the Agreement relating to the Implementation of Part XI of the Law of the Sea Convention at a special resumed session on 28 July 1994 with overwhelming support. The Agreement was open for signature on 29 July 1994. Australia signed on that day together with forty other States, including the United States, all European Union members, Japan, Brazil, China, India, Indonesia and Nigeria.
>
> The Agreement is the culmination of four years' negotiations and resolves the differences between industrialised and developing countries on Part XI's deep seabed mining provisions. Australia played a central role in the negotiations as a member of the five-member core drafting group, which included the United States delegation. The adoption of the Agreement paves the way for universal participation in the Convention, a goal which has eluded the international community because of the rejection of Part XI by major industrialised countries over the last decade. At the same time, it has secured a widely supported system to deal with all the ways in which humanity interacts with the world's oceans.
>
> The Government decided that Australia should ratify the Convention and the Agreement prior to the Convention's entry into force on 16 Nov 1994, thus enabling Australia to be an original party to the Convention. Australia deposited its instrument of ratification on 5 Oct 1994. Now that the major impediments to participation in the Convention by industrialised countries have been removed, a number of these countries will be ratifying the Convention in the near future. Germany ratified the Convention on 14 Oct 1994, and several other European countries including France, Italy, the Netherlands have indicated their intention to do so shortly. Other major industrialised countries, such as Japan, the United States and the United Kingdom, have expressed their strong support for the Convention and their intention to ratify as soon as it has been considered by their respective internal constitutional processes.
>
> At the first meeting of the International Seabed Authority, the body created by the Convention to oversee deep seabed mining, which was held in Jamaica on 16–18 Nov 1994, the United States delegation expressed strong support for the Convention. At the first meeting of States Parties to the Convention, held in New York on 21–22 Nov 1994 at which all major States not yet party to the

Convention participated as observers, the United States delegation expressed once again support for the Convention. This meeting agreed that the date for election of judges to the International Tribunal for the Law of the Sea should be postponed to 1996, to allow states not yet party to the Convention, such as the United States, time to complete their internal constitutional processes to enable them to become States Parties (and thereby nominate judges for appointment to the Tribunal).

The Clinton Administration has indicated that ratification of the Convention is a priority for the US Government.

LIST OF STATES WHICH VOTED IN FAVOUR OF THE AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UN CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982, AND THOSE WHICH ABSTAINED FROM THE VOTE

States in favour:

Afghanistan
Albania
Algeria
Andorra
Argentina
Armenia
Australia
Austria
Bahamas
Bahrain
Bangladesh
Belarus
Belgium
Belize
Benin
Bhutan
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burundi
Cambodia
Cameroon
Canada
Cape Verde
Chile
China
Congo
Cote d'Ivoire
Cuba
Cyprus
Czech Republic
Denmark
Egypt
Eritrea
Estonia
Ethiopia
Fiji
Finland
France
Gabon
Germany
Ghana
Greece
Grenada
Guyana
Honduras
Hungary
Iceland
India
Indonesia
Iran
Iraq
Ireland
Italy
Jamaica
Japan
Jordan
Kenya
Korea
Kuwait
Lao People's Democratic Republic
Libyan Arab Rep of Jamahiriya
Liechtenstein
Luxembourg
Madagascar
Malaysia
Maldives
Malta
Marshall Islands
Mauritius
Mexico
Micronesia (Fed. States of)
Moldova
Monaco
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Nepal
Netherlands
New Zealand
Nigeria
Norway
Oman
Pakistan
Papua New Guinea
Paraguay
Philippines
Poland
Portugal
Qatar
Romania

States in favour:

Samoa
Saudi Arabia
Senegal
Seychelles
Singapore
Slovakia
Slovenia
South Africa
Spain
Sri Lanka
Sudan
Suriname
Sweden
Togo
Trinidad and Tobago
Tunisia
Uganda
Ukraine
United Arab Emirates
United Kingdom
United Republic of Tanzania
United States of America
Uruguay
Vanuatu
Viet Nam
Zimbabwe

Abstainers:

Colombia
Peru
Thailand
Panama
Nicaragua
Russian Federation
Venezuela

United Nations Convention on the Law of the Sea — Exclusive Economic Zone — Oceans Policy

The following extracts are from a statement made by the Prime Minister, Mr Keating on 8 December 1995:

> The Government has agreed to a proposal for the development of a coordinated national policy on the management of Australia's marine resource... Extensive consultation will take place in 1996 to ensure that the views and interests of all parts of the community are considered.
>
> An integrated oceans policy for Australia will assist in dealing with problems in the marine environment, taking the opportunities offered by our marine areas, and meeting our obligations under the United Nations Convention on the Law of the Sea for our Exclusive Economic Zone (EEZ).
>
> The opportunities provided by Australia's marine environment are likely to increase considerably as technology advances. We need to position ourselves to take these opportunities in the EEZ as they arise, as well as ensuring that current uses of marine resources are efficient and sustainable. The overall goal of the policy should be to provide the vision that will promote the efficient, sustainable use of Australia's marine resources in the EEZ while conserving the biological base of those resources. It will also need to consider the needs of indigenous people in marine resource use and management...

For further information on the establishment of Australia's Exclusive Economic Zone adjacent to the Australian Antarctic Territory, see p 382 of this volume.

Convention for the Safety of Life at Sea — Marine Search and Rescue Operations — Responsibility for Costs

On 27 Feb 1995, in the Senate, the Minister for Defence, Senator Ray, answered a question upon notice from Senator Newman (Liberal Party, Tasmania) which had been prompted by a successful search and rescue operation that had been conducted off the Australian coast in December 1994. The following is an

extract from the text of the question and answer (Senate, *Debates*, vol 169, p 1020):

> Senator Newman asked the Minister for Defence, upon notice, on 4 January 1995:
>
> I refer to the search and rescue operation conducted for French yachtswoman Isabelle Autissier: ...
>
> (8) Given that BOC is a large French conglomerate worth billions of dollars, which has invested between $10 million and $20 million in the Round the World race and that the BOC committee authorised Ms Autissier to sail from Capetown into the dangerous Southern Indian Ocean with a jury rig and canvas covering the hole of her previous dismasting, will the Federal Government be seeking assistance from BOC to meet the rescue costs; if not, why not.
>
> (9) In the light of the cost to the Australian taxpayer of this rescue will the Federal Government introduce legislation to provide for the recovery of search and rescue costs where recklessness may be deemed to be a factor; if not, why not...
>
> (11) Is it not true that the international Convention on Safety of Life at Sea in fact does not refer to the reimbursement of costs and therefore does not prevent a signatory to the convention from seeking reimbursement costs where possible...
>
> Senator Robert Ray—The answer to the honourable senator's question is as follows: ...
>
> The Minister for Transport has provided the answers to questions [8, 10 and] (11)...
>
> (8) The Government will not be seeking assistance from BOC to meet the rescue costs. Australia is a contracting party to the International Convention for the Safety of Life at Sea (SOLAS) under which contracting parties are obliged to provide search and rescue response (SAR) services for seafarers in distress.
>
> While there are no specific provisions in SOLAS relating to responsibility for meeting costs of rescues, Australia, like all other contracting parties, does not recover the costs of search and rescue incidents. Because of the importance the Government places on safety of life at sea, Australia provides the service without the cost being recovered on the basis that the same service is reciprocated by other countries for Australian seafarers.
>
> (9) No. For the reasons outlined in the response to part (8), legislation will not be introduced to recover search and rescue costs. In addition, the consequences from a deeming of recklessness could involve a denial of natural justice and/or lengthy and expensive litigation...
>
> (11) Yes. It is true but international practice is as noted in the response to part (8)...

Marine Search and Rescue Operations — Australian Responsibilities

On 30 August 1995, in the Senate, the Minister for Defence, Senator Ray, was asked a question upon notice by Senator Newman (Liberal Party, Tasmania). An extract from the text of the question and answer follows (Senate, *Debates*, vol 173, p 721):

Senator Newman asked the Minister for Defence, upon notice, on 4 August 1995:

(1) What is the total area for which Australia has maritime search and rescue responsibilities, described in both geographical terms and as a measurement of area.

(2) How do Australia's maritime search and rescue responsibilities compare with those of other nations in terms of area covered...

(4) What bilateral and multilateral arrangements are in place between Australia and other countries concerning maritime search and rescue operations covering issues such as cost recovery, insurance requirements, search and rescue notification and co-ordination, and liability for Australian personnel involved in search and rescue operations.

Senator Robert Ray—The answer to the honourable senator's question is as follows:

(1) Australia has accepted the responsibility for search and rescue for an area of 47,000,000 square kilometres. The search and rescue region extends from longitude 74 degrees east to 163 degrees east and from Antarctica (to 90 degrees south) to the boundaries with Sri Lanka, Indonesia, PNG, the Solomon Islands and Fiji.

(2) Australia's search and rescue region covers approximately 9 percent of the earth's surface, but this is primarily a consequence of Australia's isolated geographic location. While the area of responsibility is large, it is partially compensated for by the low density of traffic that transits the region. Normally search and rescue regions are allocated by dividing the ocean areas equally between the bordering nations...

(4) Australia is a signatory to a number of international conventions that result in the provision of search and rescue services. These include the International Convention for the Safety of Life at Sea 1974, the International Convention on Maritime Search and Rescue 1979 and the Convention on International Civil Aviation. Under the auspices of these conventions, participating countries accept responsibility for search and rescue operations in their designated areas. In view of the importance the Government places on the safety of human life and its obligations as a signatory to international treaties and conventions, Australia does not pursue cost recovery for humanitarian operations. This is consistent with international practice. Other signatories to the search and rescue conventions not only accept this responsibility but often assist each other in the conduct of search and rescue operations. Australia has in the past regularly received assistance from France, Indonesia, New Zealand and the United States.

Convention for the Safety of Life at Sea — International Shipping — Mandatory Ship Reporting in the Great Barrier Reef and Torres Strait

In May 1995, Australia submitted, jointly with Papua New Guinea, a document entitled "Vessel Traffic Services (VTS) and Ship Reporting: Ship Reporting System for the Torres Strait Region and the Inner Route of the Great Barrier Reef" to the Forty–First Session of the International Maritime Organisation's (IMO) Sub-Committee on Safety of Navigation. Extracts from the document follow:

1. PURPOSE

1.1 The Torres Strait and Great Barrier Reef (GBR) are areas which have specific restraints on navigation relating to the depth of water, width of channel and weather conditions. They are areas where safety of navigation and protection of the unique environment would be enhanced by an improved knowledge of shipping movements. The Australian and Papua New Guinea Governments see great benefit in implementing all practical measures to protect these areas so vital to Australia's and Papua New Guinea's national interest and that of the international community.

1.2 The Australian Government and the Government of Papua New Guinea, having a common interest in the area, therefore propose adoption of a mandatory ship reporting system covering the Torres Strait region, including Endeavour Strait, and the inner route of the GBR in accordance with SOLAS 74 Regulation V/8–1 as set out below. In developing this proposal the following guidelines and criteria developed by the organisation have been followed:

.1 Resolution A.648 (16) General Principles for Ship Reporting and Ship Reporting requirements, including Guidelines for Reporting Incidents involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, adopted on 19 Oct 1989; and

.2 IMO Resolution MSC.43 (64) *Guidelines for Ship Reporting Systems*, adopted on 9 December 1994.

2. BACKGROUND

2.1 In May 1994, the 63rd session of the Maritime Safety Committee (MSC 63) adopted by resolution MSC.31/63 an amendment to the International Convention for the Safety of Life at Sea (SOLAS), 1974, in the form of a new Regulation V/8–1 covering ship reporting systems. This regulation, which is expected to enter into force on 1 January 1996 under the tacit amendment procedure, allows for ship reporting systems adopted by the Organisation to be made mandatory. Paragraph (b) of the new SOLAS Regulation V/8–1 provides that Contracting Governments shall refer proposals for the adoption of ship reporting systems to the IMO, which is recognised as the only international body for developing guidelines, criteria and regulations on an international level for ship reporting systems.

2.2 The Torres Strait region and inner route of the GBR are used by a variety of ships and boats, ranging from traditional fishing boats, modern trawlers and pleasure craft to large international tankers, cruise ships and bulk carriers. All but the smallest vessels are confined to a few, well-defined routes which are potentially hazardous to navigation, being frequently very narrow, confined by many charted dangers, depth-limited and strongly influenced by tides and tidal streams often running up to seven knots. Luis Baez de Torres, from whom the Torres Strait takes its name, wrote during one stage of his historic transit of the Strait in September/Oct 1606, *"We could not go forward owing to the many shoals and great currents that are over all of it"*.

2.3 In Nov 1991 the Organisation adopted resolution A.710(17) which recommends pilotage through the Torres Strait for all vessels over 70 metres and all loaded oil tankers, gas carriers and chemical tankers. However, research has shown some 30–40 per cent of such vessels using the Strait continue to ignore the IMO's recommendation and proceed unpiloted. While this action is not

illegal under national or international law, it does ignore an important recommendation of the Organization which was made in recognition of a real threat to the Torres Strait marine environment

3. PROPOSAL FOR ADOPTION OF MANDATORY SHIP REPORTING SYSTEM

3.1 Objectives

.1 The areas concerned are internationally recognised as being of outstanding environmental and social importance. The objective of the proposed ship reporting system is to enhance significantly navigational safety thereby minimising the risk of a maritime accident and consequential pollution and major damage to the marine environment. The proposed reporting system would provide a capability for a shore monitoring station to interact with shipping, enabling the provision of improved information on the presence, movements and patterns of shipping in the area and the ability to respond more quickly to an incident or pollution should this occur.

.2 In the last 10 years there have been 6 groundings of large ships reported in the Torres Strait region together with 6 collisions and 6 groundings in the GBR area, fortunately without any major oil pollution. The fact that there have been 18 incidents, each carrying a risk of major pollution, demonstrates that there is a need and scope to improve navigational safety measures in these areas.

.3 Information on the unique and sensitive environment and the navigational safety and social aspects of the area is provided at paper NAV 41/INF...

3.10 Summary of Measures Used to Date

.1 While IMO resolution A.710(17) recommends pilotage for all vessels over 70 metres and all loaded oil tankers, gas carriers and chemical tankers using the Torres Strait, research has shown that 30–40 per cent of such vessels using the Strait continue to ignore the recommendation and proceed unpiloted. Often a piloted ship will unexpectedly meet an unpiloted ship in a navigationally hazardous area. If either ship is sailing at deep draft (maximum recommended draft is 12.2 metres) a dangerous situation is created.

.2 The Australian Ship Reporting System (AUSREP), established under SOLAS, is mandatory for Australia flag vessels and certain foreign vessels operating between Australian ports but is voluntary for most other vessels.

Reports required under the AUSREP system are to meet a SAR function and are totally separate to the requirements of the proposed REEFREP system which are related to safety of navigation and protection of the marine environment.

Being voluntary for 95 per cent of shipping using Australian waters AUSREP is only partially effective, particularly in regard to vessels using the Torres Strait. Further, it is not a responsive or interactive system...

3.13 Failure to comply with the requirements of the reporting system

.1 Some compliance measures are considered desirable but, at this stage, neither Australia nor Papua New Guinea has finalised a national position.

.2 It is anticipated that further, more positive advice will be available during NAV 41. None of the procedures proposed for this mandatory ship reporting system, nor any actions being contemplated to require compliance with the system, would be inconsistent with international law, including the relevant provisions of the UNCLOS, nor would anything in the requirements of the

system constitute an impediment to the right of transit passage through the Torres Strait.

3.14 Effective Date

.1 It is anticipated that the proposal would be submitted to MSC 66 in early June 1996 for adoption, with implementation six months after the adoption date, ie. early December 1996.

.2 It is therefore proposed that the effective date for the Torres Strait region and inner route of the Great Barrier Reef mandatory Ship Reporting System should be 1 January 1997.

.3 The reporting system would be trialed for a period of about six months prior to its mandatory implementation during which time vessels transiting the proposed operational area would be invited to participate on a voluntary basis.

4. ACTION REQUESTED OF THE SUB-COMMITTEE

4.1 The Sub-Committee is requested to consider the proposal for the introduction of a mandatory Ship Reporting System for the Torres Strait region and the inner route of the Great Barrier Reef and recommend to the MSC its adoption under the terms of SOLAS V/8–1 for implementation six months after the date of approval by the MSC, or from 1 January 1997, whichever is the later.

A further document entitled "Ship Reporting System for the Torres Strait Region and the Inner Route of the Great Barrier Reef: Information on Navigational Safety, Environmental Sensitivity and Social Issues" was also presented to the Committee. Extracts from the document follow:

1. INTRODUCTION

1.1 Document NAV 41/5/2 presents a submission by the Australian government and the Government of Papua New Guinea, proposing IMO adoption of a mandatory ship reporting system covering the Torres Strait region and the inner route of the Great Barrier Reef (GBR).This information paper provides further background information on the navigational safety and environmental sensitivity issues related to these areas, particularly the Torres Strait region.

1.2 As the Great Barrier Reef Marine Park has been designated by the IMO as the world's first Particularly Sensitive Area and has been entered on the World Heritage List, solid evidence of international recognition of the uniqueness and environmental sensitivity of this area already exists. Papers prepared at the time of Australia's Particularly Sensitive Area submission in 1990, MEPC 30/19/4 and MEPC 30/INF.12 provide detailed information on the unique biological diversity of the whole GBR region and its significance as an internationally important area requiring maximum protection.

1.3 The Torres Strait Region (Endeavour Strait, Prince of Wales Channel, Vigilane Channel and Great North East Channel) encompasses the Torres Strait Protected Zone and adjoins the northern boundary of the Great Barrier Reef Marine Park. Torres Strait has its own particular features and environmental sensitivities and its waters are essential for the livelihood of the Torres Strait Islander communities and the coastal communities of Papua New Guinea.

1.4 The Torres Strait, including the Great North East Channel, is used primarily by large vessels trading between southern Asia and New Zealand,

Southern American, Papua New Guinea and South Pacific ports although the majority of Australian tanker traffic bound for the east coast refineries also uses it to link with the outer route of the Great Barrier Reef. Vessels entering or leaving the inner route of the Great Barrier Reef also use the Prince of Wales Channel at the western end of the Torres Strait...

2.7 Compulsory and Voluntary Pilotage Regimes

2.7.1 It was the Australian Government's concern for the protection and conservation of the Great Barrier Reef and the Torres Strait region that caused it in 1990 to seek the support of the international maritime community through the IMO in introducing navigational safety protective measures for ships transiting the inner route of the Great Barrier Reef and Hydrographers Passage. Compulsory pilotage covering the northern sector of the inner route and Hydrographers Passage was introduced under Australia's domestic legislation from 1 Oct 1991.

2.7.2 As described earlier, ships entering or leaving the inner route of the Great Barrier Reef at its northern end must transit the Prince of Wales Channel, which is the only passage in the western part of the Torres Strait navigable by large ships. In developing the compulsory pilotage legislation the Australian Government was conscious of the significance of the Torres Strait and the Great North East Channel as a route used extensively for international navigation and for that reason it did not seek to extend compulsory pilotage to those areas at that stage.

2.7.3 The Torres Strait, including Prince of Wales Channel and the Great North East Channel, is not included in the compulsory pilotage legislation. However, the risk of a shipping accident causing pollution of the local marine environment remains significant and pilotage by licensed pilots is a recognised method of reducing that risk. Australia therefore requested IMO to recommend pilotage through this area: this was achieved with the adoption of IMO Resolution A.710(17) in Nov 1991.

2.7.4 IMO Resolution A.710(17) *"recommends that all ships of 70m in length and over and all loaded oil tankers, chemical tankers or liquefied gas carriers, irrespective of size, use the pilotage services licensed under Australian Commonwealth, State or Territory law when navigating the Torres Strait and the Great North East Channel between Booby Island (latitude 10°36'S, longitude 141°54'E) and Bramble Cay (latitude 9°09'S, longitude 143°53'E")."*

2.7.5 Data on ship movements in the Great North East Channel section of the Torres Strait is unreliable at present due to the low level of surveillance. However it is estimated that up to 30–40 per cent of vessels passing through the Great North East Channel each year continue to ignore the IMO recommendation and proceed unpiloted.

3. ENVIRONMENTAL PROTECTION AND SOCIAL ISSUES

3.1 The Great Barrier Reef Marine Park

3.1.1 The Great Barrier Reef Marine Park is well documented and recognised as one of the world's most important natural environments. In 1975 the Australian Government passed legislation to create the Great Barrier Marine Park Authority, with extraordinary powers, to plan and manage what was and still is the world's largest Marine Protected Area. This importance was further

recognised internationally in 1981 when the Great Barrier Reef region was inscribed on the World Heritage List.

3.1.2 The Marine Park is also one of Australia's most important economic regions, supporting a domestic and international tourism industry and a commercial fishing industry that together contribute A$1,000 million to the national economy each year and employ thousands of people. The Australian Government and the Queensland State Government have invested significant resources in managing the Reef. Spills of oil or other hazardous substances, whether the result of accident or ship operation, pose a severe threat to the natural qualities of the Great Barrier Reef

3.1.3 In 1990 Australia submitted a proposal to MEPC 30 seeking to:

.1 identify the Great Barrier Reef Marine Park as a Particularly Sensitive Area; and

.2 establish a compulsory pilotage scheme for merchant ships navigating the inner route in parts of the Great Barrier Reef

3.1.4 These proposals were contained in documents MEPC 30/19/4 and MEPC 30/INF.12 which provide detailed information on the unique biological diversity of the whole Great Barrier Reef region and its significance as an internationally important area requiring maximum protection.

3.1.5 MEPC 30 decided to recognise the Great Barrier Reef region as the world's first, and still only, Particularly Sensitive Area by Resolution MEPC 44(30). The resolution also supported the use of pilotage in the area.

3.1.6 The Australian Government remains committed to implementing all practical measures to protect this area so vital to the national interest and that of the international community. To this end a Ship Reporting System covering the Torres Strait region and the inner route of the Great Barrier Reef is proposed...

3.5 The Torres Strait Treaty and the Protected Zone

3.5.1 The Torres Strait area north of 10°50'S has been declared a Protected Zone under the *Torres Strait Treaty* which was signed by Australia and Papua New Guinea in 1978 and ratified in 1985. The treaty establishes maritime boundaries, protects the importance of the traditional way of life and livelihood of both Islanders and Papuans who live in, and adjacent to, the Torres Strait. It also serves to protect the marine environment and determines the conservation, management and catch sharing arrangements for the all important fisheries resources of the region.

3.5.2 The Australian and Papua New Guinea Governments and the State Government of Queensland are committed to the protection of Torres Strait endorsed under Treaty arrangements. Torres Strait also falls within the area of the Convention for the Protection of the Natural Resources and the Environment of the South Pacific Region of which Australia is a signatory.

On 26 September 1995, the Minister for Transport, Mr Brereton, issued the following news release:

Australia has set a new world standard in international shipping with the acceptance of its proposal for mandatory ship reporting in the Great Barrier Reef and Torres Strait by an International Maritime Organisation (IMO) sub-committee last week.

Mandatory reporting is a key part of the Federal Government's strategy to protect the Great Barrier Reef and Torres Strait, Federal Transport Minister, Laurie Brereton said today.

"This proposal is a 'world first' in any international waters and one which will significantly improve the navigational safety of shipping and reduce the risk of a maritime accident," Mr Brereton said.

Mr Brereton said that in the past 10 years there had been 18 collisions or groundings in the Great Barrier Reef and Torres Strait, fortunately without any major oil pollution.

"All ships over 50 metres in length and those carrying hazardous cargo will be required to supply regular details of their locations, speed, course, and cargo.

"Ships approaching an intricate part of their route, or overtaking in heavy traffic, will be supplied with information by the closest monitoring centre," he said.

Mr Brereton said the mandatory reporting system was developed in full consultation with pilot organisations and the maritime industry, and is supported by the Papua New Guinea Government.

It will be controlled from a monitoring centre at Hay Point, near Mackay, and will be operated by VHF radio, complemented by radar coverage at focal points near Cairns and in the Whitsunday Islands.

The mandatory reporting system is the first to be submitted to the IMO following the adoption of new provisions in the International Convention for the Safety of Life at Sea (SOLAS) in May this year.

The IMO's Safety of Navigation sub-committee unanimously supported the proposal put forward in London last week by a delegation comprising senior officers of the Australian Maritime Safety Authority (AMSA), the Queensland Department of Transport, the Great Barrier Reef Marine Park Authority, and the Royal Australian Navy Hydrographer.

The introduction of mandatory reporting was one of the recommendations of the *Great Barrier Reef and Torres Strait Shipping Study* adopted by the Federal Government earlier this month.

The two-year study was the first comprehensive evaluation of the safety, environmental, and economic issues associated with shipping in the region.

It built on measures announced by Mr Brereton in March aimed at reducing shipping movements in the inner coastal route by the surveying and charting of the alternative outer route, and improving navigational safety in the Torres Strait.

Subject to formal adoption by the IMO's Maritime Safety Committee in mid–1996, the mandatory reporting system will begin operating on January 1, 1997.

Navigation — Omega Navigation Facility — Agreement between Australia and the United States of America — Confirmation of Continuation

On 9 May 1995, in the Senate, the Minister for Foreign Affairs, Senator Evans, answered a question upon notice from Senator Margetts (Greens, WA). The following is an extract from the text of the question and answer (Senate, *Debates*, vol 171, p 76):

Senator Margetts asked the Minister for Foreign Affairs, upon notice, on 8 Feb 1995:

With reference to the Omega Station in Gippsland and comments by Mr Paul Molloy of the Department of Foreign Affairs and Trade that Omega was to close on 28 Feb 1994, and statements made by the Minister for Foreign Affairs, Gareth Evans on 7 September 1993 which gave the United States 180 days notice to close Omega:

(1)(a) Is the Omega transmitter to be shut down, given the above comments and the latest radio spectrum frequency report which outlines the band Omega transmits on is still active and not under review; if so, when; if not, why not; and (b) please explain the comments of the Minister and Mr Molloy.

(2)(a) What is the intended future use of the Omega transmitter; and (b) what is Australia's future role in the Omega system.

Senator Gareth Evans—The answer to the honourable senator's question is as follows:

(1)(a) An interim decision to give notice of the closure of the Omega station on 28 Feb 1994, announced in the statement issued jointly by the Minister for Transport and Communications and myself on 7 September 1993, was subsequently withdrawn after consultation with affected parties revealed considerable demand for the station's services.

The following sets out the background to these decisions.

The Australian Omega station in Gippsland is run by the Australian Maritime Safety Authority. Upon its establishment in 1982 the costs of the station's operation were met by the commercial shipping industry. This was in accordance with the anticipated use by commercial shipping in the Australian region of the Omega system for navigation. By 1993, however, it was clear that the Omega system served no useful purpose for marine navigation in the Australian region. The industry was thus no longer willing to continue funding the station's operation.

In the absence of alternative funding arrangements an interim decision was made by the Government that the station would close. In accordance with the original bilateral agreement between Australia and the United States under which the station operated within the world-wide Omega system, the Australian Government gave the US Government 180 days notice of the intended closure. This was reflected in the joint statement made on 7 September 1993 by Senator Collins, as Minister for Transport and Communications, and myself. That statement did, however, also make clear that the Department of Transport and Communications and the Department of Foreign Affairs and Trade would, prior to the Government's final decision on the station's future, seek submissions from affected users to assist the Government in making that decision.

In the course of this consultative process, there arose a number of appeals for the station's continued operation, including from other countries and from the World Meteorological Organisation. It became clear that the Omega system was still used for sea and air navigation in a number of other countries, as well as for the gathering of essential meteorological information by the Australian Bureau of Meteorology, and by other meteorological bodies throughout the Asia-Pacific region, particularly in the South Pacific, and in southern Africa. As a result, the Government decided to itself provide funding for the continued operation of the

> station, until 30 September 1997; that funding being provided through the Australian Bureau of Meteorology. A media release on this matter was issued by the Australian Maritime Safety Authority on 1 June 1994.
>
> (b) This final decision was therefore a reflection of the Government's stated intention, referred to in the joint statement of Senator Collins and myself on 7 September 1993, to take into account the views of affected users. Mr Molloy's statement regarding the station's closure was made prior to the Government's final decision, and reflected the initial interim decision for the station to close upon the expiry of the 180 day period of notice given to the United States Government.
>
> (2)(a) As set out in the reply to (1)(a) above, the signals from the Australian Omega station's transmitter are used for navigation in a number of countries (although such usage will continue to decline in favour of more accurate systems, particularly satellite navigation), and for the gathering of essential meteorological information (through the tracking of weather balloons) by the Australian Bureau of Meteorology, and by other meteorological bodies throughout the Asia-Pacific region and in southern Africa.
>
> (b) The continued operation of the Australian Omega station until 30 September 1997 and its role within the world-wide Omega system is to be confirmed in an exchange of notes, which will constitute an agreement between Australia and the US. The draft notes, which are currently before Executive Council specify that, "The Omega signals from the Facility shall be used only for navigation, for search and rescue operations, for time dissemination, for climate monitoring and other meteorological purposes and for other purposes as mutually determined by the Parties, but shall not be used for communications other than those necessary to ensure the integrated operations of the Facility as part of the world-wide Omega System." The draft notes further specify that, "In order to provide for certainty, especially for users and for employees of the Facility, both Parties shall endeavour to reach a mutual understanding at the earliest possible date as to whether, and under what conditions, the Facility will be operated beyond 30 September 1997."

An Exchange of Notes between Australia and the United States which constituted an agreement on the continued operation of the Omega navigation facility entered into force on 30 March 1995.

International Maritime Organisation — Australian Adoption of Resolutions — Ship Survey and Certification — Salvage Operations — Transport Legislation Amendment Bill

On 28 Feb 1995, in the House of Representatives, the Parliamentary Secretary to the Minister for Transport, Mr O'Keefe, delivered the second reading speech for the Transport Legislation Amendment Bill 1994. The Bill amended a number of Acts, and further extracts of the Bill are to be found below, and also at p 415 of this volume. Extracts from the speech follow (House of Representatives, *Debates*, vol 199, p 1168):

> This bill amends 10 bills administered within the transport portfolio. Most of the amendments are of a technical nature and represent a fine-tuning and clarification of provisions of various acts within the portfolio...

Part IV of the Navigation Act is being amended to enable Australia to adopt a resolution of the International Maritime Organisation that will permit the early implementation of a system of ship survey and certification that is harmonised between the International Convention for the Safety of Life at Sea 1974, the International Convention on Load Lines 1966 and the International Convention for the Prevention of Pollution from Ships 1973. The harmonised system will standardise the duration of certificates issued under the three conventions. The costs of these requirements to shipowners will be reduced as it will be possible to program several surveys at the same time and there is greater flexibility in the times at which surveys can be arranged.

Thirdly, the act is amended to incorporate the terms and principles adopted by the International Maritime Organisation in its International Convention on Salvage 1989. The convention provides greater incentives for effective and timely salvage operations and to assist with the protection of the environment...

Convention on Civil Liability for Oil Pollution Damage — Accession to 1992 Protocol — Real Value of Liability Limits — Transport Legislation Amendment Bill

On 28 Feb 1995, in the House of Representatives, the Parliamentary Secretary to the Minister for Transport, Mr O'Keefe, delivered the second reading speech for the Transport Legislation Amendment Bill 1994. The Bill amended a number of Acts, and further extracts of the Bill are to be found above and at p 415 of this volume. Following are further extracts from the speech (House of Representatives, *Debates*, vol 199, p 1168):

The amendments to the Protection of the Sea Legislation Amendment Act 1986 will enable Australia to accede to the 1992 protocol amending the International Convention on Civil Liability for Oil Pollution Damage 1969.

Australia has been a party to the parent treaty, the International Convention on Civil Liability for Oil Pollution Damage 1969 (Civil Liability Convention), since 1984. The primary objective of the Civil Liability Convention is to create a system of compulsory oil pollution liability insurance for the owners of oil tankers.

The 1992 protocol was developed to overcome the effects of inflation on the real values of the limits of liability. For vessels of less than 5,000 gross tons the protocol envisages liability of three million special drawing rights, as defined by the International Monetary Fund. This is equivalent to approximately $A5.8 million.

For larger vessels, liability is calculated on the basis of the vessels tonnage, with an overall maximum for the ship's liability of 59.7 million special drawing rights of the International Monetary Fund, or $A114.5 million. These levels ensure that the damage that such a ship can cause will be more effectively compensated.

Compensation available under Civil Liability Convention is supplemented by a separate convention, known as the fund convention, which will shortly enter into force for Australia. Other amendments effected by the 1992 Civil Liability Convention Protocol include extension of the geographic scope of the convention to cover incidents occurring in the 200 nautical mile exclusive economic zone. This will afford additional protection to sensitive areas such as

the Great Barrier Reef and safeguard existing and potential fisheries in the Australian fishing zone.

The scope of the legislation will also be extended as tankers in ballast and combination carriers are now included in the coverage of the Civil Liability Convention. It is interesting that the IMO has also accepted the Barrier Reef as the world's first sensitive region for these purposes. That is an aside but it is of interest.

The 1992 protocol replaces an earlier 1984 protocol, which Australia acceded to in June 1988. The 1984 protocol was expressed to enter into force when ratified by 10 countries, including six which have at least one million gross tons of tanker tonnage. While 13 countries, including Australia, have ratified the protocol to date, only two have the required minimum tanker tonnage.

In recent years the International Maritime Organisation, which administers the convention, has recognised that the 1984 protocol is unlikely to gain the required ratification by countries with the minimum tonnage unless it is ratified by the United States, the world's leading oil importer. This is now unlikely to occur, as the liability provisions of the United States' Oil Pollution Act 1990 are inconsistent with those of the CLC Protocol and therefore preclude US ratification. As a result, the 1992 protocol was adopted as a replacement protocol, with the only substantive alteration to the earlier protocol being a less restrictive entry into force provision.

Agreement on Straddling and Highly Migratory Fish Stocks — Australian Signature

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was held from 24 July to 4 August 1995. At the conference, agreement was reached on the text of a binding Agreement to establish a regime for the conservation and management of straddling and highly migratory fish stocks. The following is the text of the Closing Statement made by Ms Mary Harwood, Alternate Representative, Australia, on behalf of member countries of the South Pacific Forum Fisheries Agency, on 4 August 1995:

Mr Chairman,

Australia has the honour to make this statement in its capacity as the present chair of the South Pacific Forum and on behalf of the sixteen members countries of the South Pacific Forum Fisheries Agency (FFA); namely Australia, the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Mr Chairman,

It is with real pleasure that we join all delegations in congratulating you for bringing this Conference to a successful conclusion. When we embarked upon this process in 1993, many doubted the ability of this Conference to achieve strong outcomes which would meet the objective of ensuring conservation and management and long-term sustainability of straddling fish stocks and highly migratory fish stocks. Some feared that the Conference would not address the complex legal, technical and policy issues involved.

The fact that we have met here today to adopt a legally binding agreement for the implementation of the provisions of the 1982 United Nations Convention

of the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks is testimony to your leadership and the skill with which you have presided over our deliberations: a task you have done with patience, good humour, insight and even-handedness.

You have distilled from often highly divergent views an Agreement which has broad support and which has the detail, strength and balance needed to achieve the objectives set out for us by UNCED in 1992. It represents an equitable balance between the interests of coastal States and the interests of distant water fishing States.

We are firmly convinced that the new Agreement represents a major achievement for world fisheries. It builds on the foundation established by the 1982 United Nations Convention on the Law of the Sea to create a comprehensive regime for the conservation and management of straddling fish stocks and highly migratory fish stocks. In the view of FFA member countries the Agreement must be read as a whole with the Law of the Sea Convention, each complementing the other.

The Agreement is, of course, of profound significance to the countries of the South Pacific region. As we have said on many occasions throughout this Conference, the magnitude of our collective tuna resources is such that it represents some 60% of the world's production. Fisheries resources are thus vital to the well-being of FFA member countries and provide the main avenue for sustainable development in our region. The FFA member countries have a tremendous responsibility to conserve and manage this resource for the benefit of future generations. Our active participation in this Conference, and our contribution to achieving a strong outcome, is testimony to our commitment to fulfilling that responsibility.

The new Agreement contains elements of fundamental importance to our region. These include provisions which give meaning and substance to the application of the precautionary approach and clear and precise provisions relating to the collection and exchange of data. Access to comprehensive and accurate data on a timely basis is fundamental to sound fisheries conservation and management. We therefore view Annex 1 of the Agreement, which sets out detailed requirements for the collection and exchange of such data, as one of the major achievements from this Conference.

One of our key goals at the outset of this Conference was to achieve a greater commitment to flag State control. We believe that this goal has been attained and is complemented by the scheme that we have developed for cooperative enforcement action which incorporates the necessary safeguards.

The Agreement sets global standards for sustainable management and describes mechanisms for cooperation which have the necessary flexibility to accommodate the geographic characteristics of each region. We have been particularly pleased to see the commitment of the Conference to acknowledging the needs and interests of small developing States.

We must not forget, however, that the cornerstone of the new Agreement is enhanced cooperation between coastal States and States fishing on the high seas. The Agreement could not have been achieved without such cooperation and we would like to acknowledge at this point the cooperative spirit with which all delegations have approached our work over the past three years, particularly in the concluding stages of the Conference. In achieving the strong and balanced

> regime that this Agreement represents we have all had to make difficult decisions. We have appreciated the commitment, cooperation and good will of the many delegations participating in this process.
>
> FFA member countries have not deviated from their commitment to a successful outcome and we have on several occasions noted the burden that this has represented for the smaller States among us, particularly the small island developing States. We wish to acknowledge the assistance provided to some of the FFA member countries through the UN voluntary fund and thank the States which have made contributions to the fund which has enabled a number of FFA member countries with a vital interest in the Conference to maintain an involvement which would not otherwise have been possible.
>
> The new Agreement provides the basis for global action to improve the standards of marine resource management. The real test lies ahead of all of us. Having achieved consensus, we now have to give practical effect to the framework for cooperative action which the Agreement represents. It is incumbent on all States that the Agreement be brought into force at the earliest opportunity possible.

On 15 August 1995, after the conclusion of the Conference, the Minister for Resources, Mr Beddall, issued the following media release:

> Australia is pleased with the successful conclusion of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.
>
> The Minister for Resources, David Beddall, today announced that after three years of hard negotiations, coastal States and fishing nations have agreed on the text of a binding Agreement which builds on the Law of the Sea Convention to establish a strong and comprehensive regime for conservation and management of straddling fish stocks and highly migratory fish stocks.
>
> "The new Agreement is a major achievement for the international community. It gives powerful solutions to the problems of stock depletion and unregulated fishing on the high seas around the world," Mr Beddall said.
>
> "Australia played an active role in the Conference. Many provisions we initiated with fellow member countries of the South Pacific Forum Fisheries Agency (FFA), are included in the new Agreement.
>
> "Our interests as a coastal State with substantial fisheries for highly migratory species have been protected, and I am very pleased to see that the Agreement strengthens the authority and mandate of regimes such as the Convention for the Conservation of Southern Bluefin Tuna.
>
> "Much-needed standards have been set for stronger control of high seas fishing operations and for collection and sharing of data from international fisheries. A major new development is the right for States which are members of regional fisheries regimes to undertake boarding and inspection of other countries' vessels operating on the high seas. This will improve compliance and reduce conflict in international fisheries, while providing adequate safeguards for Australian vessels fishing on the high seas.
>
> "This is the first fisheries treaty to require practical application of the precautionary approach by fisheries managers, and to include provisions relating to the use of selective fishing gear and minimising the impacts of fishing on non-target species".

> "The Agreement will enter into force on the 30th ratification and gives countries the option of provisional application sooner if they wish. It is to be hoped that the Agreement enters into force as soon as possible, and takes effect in time to ensure the sustainability of fishery resources around the world," Mr Beddall said.

On 5 December 1995, the Minister for Resources, Mr Beddall, issued the following media release after Australia signed the Agreement on Straddling and Highly Migratory Fish Stocks, which had been finalised at the Conference:

> Australia's signature of the United Nations Agreement on Straddling and Highly Migratory Fish Stocks, is a significant step towards preventing the collapse of major world fish stocks, the Federal Minister for Resources, David Beddall, announced today.
>
> "This Agreement represents a major landmark for international fisheries management, and sets the scene for substantial improvements in the management of some of the world's most valuable fisheries, including tuna," Mr Beddall said.
>
> "It signals a global commitment to the sustainable management of the world's fish resources.
>
> "It also sets a framework where coastal states and fishing nations can cooperate more effectively at a regional level to conserve and manage straddling fish stocks and highly migratory fish stocks," he said.
>
> The Agreement was finalised at a United Nations conference attended by all the major coastal and fishing states and comes after three years of intense negotiations.
>
> It builds on the Law Of the Sea Convention to establish a powerful regime to manage the world's straddling and highly migratory fish stocks.
>
> "Many of the Agreement's provisions will help strengthen regional regimes of importance to Australia such as the Convention for the Conservation of Southern Bluefin Tuna," Mr Beddall said.
>
> "The Australian delegation played a major role in ensuring the Agreement contained effective measures to address the serious problems occurring in international fisheries.
>
> "These included strong, general management principles, the application of the 'precautionary approach', as well as minimum standards for data collection and sharing, compulsory and binding dispute settlement and a detailed prescription for flag state responsibility...

Convention for the Regulation of Whaling — Southern Ocean Whale Sanctuary — Scientific Whaling

On 20 Feb 1996, the Minister for Environment, Sport and Territories, Senator Faulkner, and the Acting Minister for Foreign Affairs, Senator Ray, issued a joint media statement. The text of the statement follows:

> The Minister for Environment, Sport and Territories, Senator Faulkner and the Acting Minister for Foreign Affairs, Senator Ray, said that Australian officials had, during talks today with a delegation from the Japanese Foreign Ministry, expressed Australia's concern at Japanese scientific whaling, particularly in the Southern Ocean Whale Sanctuary. The Japanese delegation is in Canberra for annual officials' talks with the Department of Foreign Affairs and Trade.

"We join the expressions of opposition to the Japanese scientific whaling in the Sanctuary which New Zealand officials made to the same Japanese delegation on 16 Feb," the Ministers said.

"We remind Japan that the International Whaling Commission (IWC) passed a resolution last year, as in previous years, urging Japan to revise its research program to use only non-lethal techniques. We had hoped that the spirit surrounding the declaration of the Sanctuary would have persuaded Japan to continue its program only with non-lethal methods."

The Ministers added that Australia recognised that scientific whaling is permitted under the International Convention for the Regulation of Whaling, including in the Sanctuary.

"The Australian Government, nevertheless, opposes the use of lethal scientific research techniques while it strongly supports whale research based on non-lethal means.

"There is strong opinion in many countries, including Australia, against all forms of commercial whaling and we very much hope that Japan will cease its practice of lethal and large-scale scientific whaling, particularly in the Sanctuary."

Longline Fishing Techniques — Threat to Seabird Populations — Conservation Measures — Australian Response

On 7 June 1995, in the Senate, the Minister for the Environment, Sport and Territories, Senator Faulkner, answered a question upon notice from Senator Woodley (Qld, Australian Democrats). Extracts from the text of the question and answer follow (Senate, *Debates*, vol 171, p 1049):

> Senator Woodley asked the Minister for the Environment Sport and Territories, upon notice, on 1 May 1995:
>
> (1) What is the estimated number of albatross killed by tuna fishing activities in the oceans to the south of Australia and what percentage of this toll is due to the use of longline fishing techniques...
>
> (4) What measures, if any, is the Federal Government taking to address the threat to albatross numbers from tuna fishing.
>
> Senator Faulkner—The answer to the honourable senator's question is as follows:
>
> (1) Albatrosses spend the bulk of their lives at sea, returning to land only to breed. Twelve countries, including Australia, have jurisdiction over the breeding grounds but the migratory range of albatrosses includes the territorial waters of many other countries and the high seas. There are world-wide reports of a sustained decline in many of the albatross populations (eg. Weimerskirch, H. and Jouventin, P. (1987) *Journal of Animal Ecology* 56:1043–1055; Croxall, J.P. (1991) *Reproductive Constraints on Albatrosses 20th International Ornithological Congress.* 1:281–302; and Garnett, S. (1992) *The Action Plan for Australian Birds.* Australian National Parks and Wildlife Service) and capture on the baited hooks used in longline tuna fishing is considered the major cause (eg. Brothers, N.P. (1991) *Albatross mortality and associated bait loss in the Japanese longline fishery in the Southern Ocean Biological Conservation* 55:255–268; and Croxall 1991).

Direct mortality in association with commercial fishing has been documented for 12 of the 14 species. It is this fisheries-related mortality that has been implicated in the decline of albatross populations.

Understanding the nature and magnitude of albatross bycatch associated with commercial fisheries is in its early stages. In 1989, it was estimated that the Japanese component of the Southern Bluefin tuna fishery worldwide had incidentally taken 44,000 albatrosses per year. Since then fishing effort has virtually halved and mitigation measures have been introduced, although the initial analysis has not been repeated. There are no data regarding high seas or domestic tuna longline fisheries of other nations (eg Indonesia, Korea, Taiwan or the USA) although each of these fisheries is reported to "catch birds" in association with tuna longline activity. There are no data available on the incidental catch of albatrosses by the Australian domestic tuna longlining fleet.

Other threats to populations of albatross include ingestion of plastic particles at sea, oil (leading to loss of thermoregulatory ability), threats to breeding habitat (eg by trampling, predation of eggs and chicks—particularly cats and rats), tourism, extreme climatic conditions and the avian pox virus (Gales, R. (1993) *Cooperative Mechanisms for the Conservation of Albatross Australian Nature Conservation Agency*, Project No. 148). There are no data to indicate what percentage of the decline in albatross numbers can be attributed to these causes although anecdotal evidence suggests that these threats are likely to be insignificant compared to longline fishing...

(4) The Federal Government is undertaking a range of cooperative measures to address this problem. I have asked the Australian Nature Conservation Agency (ANCA) to ensure continued funding for research into measures to address the documented decline in albatross numbers due to tuna longline fisheries. ANCA is currently providing the second year of funding for a three year project to the Tasmanian Department of Environment and Heritage. Dr Nigel Brothers and Dr Rosemary Gales are working jointly on this project to investigate the conservation status of albatrosses in Australian waters and the nature and the extent of the albatross-fishery interaction. Their work includes development of mitigation measures and cooperative links to encourage use of these deterrent devices both within Australia's fishing zone and, importantly, on the high seas.

Over the past three years ANCA has allocated some $270,000 to this work. The Australian Fisheries Management Authority (AFMA) has contributed over $300,000 from the Bilateral Japan Australia Access fee and industry contribution, and the Tasmanian Department of Environment and Land Management has contributed some $50,000, as well as the full time resources of Dr Brothers.

The Australian Antarctic Division within my Portfolio will co-host the first International Conference of the Conservation of Albatrosses in August 1995 in collaboration with the Tasmanian Department of Environment and Land Management. Delegates will attend from South America, South Africa, New Zealand, North America, United Kingdom, Japan and Australia. A workshop to examine the interaction between albatrosses and tuna longline fisheries will be held immediately following the Conference to discuss the global issue.

At its last meeting in Hobart the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted a new Conservation Measure which will require mandatory mitigation measures to be used to reduce

the incidental mortality of seabirds during fishing operations in CCAMLR waters (south of 60 degrees S). This Conservation Measure became binding on all Parties (with the exception of France and South Africa who entered reservations) on 7 May 1995. Australian scientists contributed significantly to the development of these conservation measures and were active in pushing for its adoption during the Conference of Parties.

The Convention on the Conservation of Southern Bluefin Tuna, a trilateral treaty between Australia, Japan and New Zealand ratified in 1994, establishes an Ecologically Related Species Working Group which will examine, among other things, the issue of incidental take of seabirds by tuna longline fisheries. The Department of Primary Industries and Energy has the lead in these negotiations and seeks input from AFMA, ANCA, other Government Departments and non-government organisations in preparing its position. Australia has been pushing very strongly for this group to consider experimental testing of the effectiveness of various mitigation measures which will reduce the incidental take of seabirds by tuna longline fisheries operations.

From Nov 1995, the use of bird scaring devices (tori poles) will be made mandatory in the Australian fishing zone for all Japanese tuna longline vessels fishing south of 30 degrees S. AFMA is considering implementing similar measures on larger Australian tuna longline vessels fishing in the same waters.

ANCA convenes a Seabird Fisheries Interactions Group comprising scientists (both fisheries and seabird biologists) representing fisheries interests at the Federal Government level and conservation interests (both Government and non-government). The Group provides a forum for coordinating the development of cooperative mechanisms for the conservation of albatrosses.