

# Diplomatic and consular relations

## **Diplomatic relations**

*Taiwan. Implications of establishing relations with the People's Republic of China*

On 9 December 1976 Senator Withers, the Minister representing the Minister for Foreign Affairs, was asked the following question in the Senate:

While accepting that delegations from Taiwan cannot claim to represent China, what reasons exist which prevent them from entering Australia claiming to represent Taiwan?

Senator Withers in reply said:<sup>62</sup>

A clear implication of the commitment that Australia entered into in establishing diplomatic relations with the People's Republic of China is that care needs to be taken with any proposal that may have the effect of conferring the status of a separate and independent country upon Taiwan. More than 100 governments have now established diplomatic relations with the People's Republic of China. None of these governments can continue to have diplomatic relations with the authorities on Taiwan or is able to recognise Taiwan as a separate and independent country without doing fundamental damage to relations with the Chinese Government. Fewer than 30 governments continue to recognise the so-called Government of the Republic of China on Taiwan. It does not follow that these governments recognise a separate and independent country of Taiwan. The authorities on Taiwan, like the Government of the People's Republic of China, themselves regard Taiwan not as a country but as a province of China and firmly reject any claim that Taiwan has any other status. This consistent attitude on the part of the authorities on Taiwan was clearly reflected in their refusal to allow a team to compete under the name Taiwan in the Olympic Games held this year in Montreal.

## **Diplomatic relations**

*Embassy. Definition of. Listing of 'Aboriginal Embassy' in Canberra telephone directory.*

On 26 April 1977 in the Senate the Minister for Post and Telecommunications provided the following information when asked on notice if Telecom Australia had refused to insert the words 'Aboriginal Embassy' in the Canberra Telephone Directory and why:<sup>63</sup>

Yes, on official advice that the word 'Embassy' in that context may only be used by the diplomatic mission of a sovereign foreign Government with which the Australian Government has established diplomatic relations.

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62. S Deb 1976, vol 70, 2879-80.

63. S Deb 1977, vol 72, 976-7.

### **Diplomatic relations**

#### *Maintenance of. Basis for. South African example.*

On 7 September 1976 in the House of Representatives the Minister for Foreign Affairs, Mr Peacock, was asked:

1. Does the Government regard the suppression and brutal riot control seen recently in South Africa as cause for the breaking of diplomatic ties with that country.
2. Is the Government concerned that continued trade, diplomatic recognition and sporting and cultural ties, may serve to bolster the white Government and to jeopardise racial justice and equality.'

Mr Peacock replied as follows:<sup>64</sup>

1. The Government deplors the violence and killing which has accompanied the suppression of civil disturbances in South Africa. It regards the present troubles in South Africa as the inevitable result of policies based on the inequality embodied in apartheid. But it does not regard the maintenance of diplomatic relations with other countries as dependent on approval of their political or social systems.
2. In the case of South Africa the Government does not believe that by unilaterally banning trade with South Africa, breaking off diplomatic relations or seeking to impose a total boycott on sporting ties, any useful purpose would be served or that such measures would in isolation either affect the situation in South Africa or persuade the Government of South Africa to change its policies. On sporting contacts, Australia considers its main objective to be to promote change in South Africa's policy in this area. The Government believes this objective can best be achieved through limited contact subject to practical conditions, including especially the test of multi-racial selection for team sports.

### **Diplomatic relations**

#### *Diplomats. Protection of. Convention on. Australian ratification and implementation of. Extension of extradition legislation.*

On 4 June 1976 in the House of Representatives the Attorney-General, Mr Ellicott, made the following statement when moving that the Crimes (Internationally Protected Persons) Bill 1976<sup>65</sup> be read for the second time:<sup>66</sup>

The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, adopted by the United Nations General Assembly on 14 December 1973, was signed by Australia in December 1974. The Crimes (Internationally Protected Persons) Bill and the 2 associated extradition amendment Bills will enable Australia to ratify and implement the Convention, which requires that the intentional commission of murders, kidnappings and other acts of violence against diplomats

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64. HR Deb 1976, vol 100, 780

65. See the Crimes (Internationally Protected Persons) Act 1976, No 89 1977 (Cth).

66. HR Deb 1976, vol 99, 3050-1.

and other persons entitled to special protection under international law be made serious offences under national law. As required by the Convention, the protection is extended by the Crimes (Internationally Protected Persons) Bill to Heads of State and Foreign Ministers in foreign states.

The Convention was adopted by the United Nations following consideration in 1972 and 1973 of proposals aimed at combating terrorism around the world and particularly terrorism against diplomats. Attorney-General Bowen spoke for Australia in the United Nations in 1972 in support of a convention against terrorism. The Convention is not yet in force but the United Kingdom and the United States of America have also signed it and have announced their intentions to implement it and ratify it. For many years nations have accepted an obligation to protect diplomatic representatives; these obligations were formalised in conventions adopted in Vienna in 1963. More recent events have shown the need, which the present Convention seeks to meet, to develop and make more effective these obligations. The Convention follows in many respects the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft and the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft and the 3 Bills likewise follow the general pattern of the Crimes (Hijacking of Aircraft) Act 1972, the Crimes (Protection of Aircraft) Act 1973 and the amendments made to the extradition Acts in 1972 and 1973 to implement those conventions.

Clause 8 of the Crimes (Internationally Protected Persons) Bill implements the obligation that Australia will accept under article 2 of the Convention to make the intentional commission of the offences described in that article crimes punishable by appropriate penalties which take into account their grave nature. As required by the Convention, jurisdiction will be given to Australian courts to deal with these offences, not only when committed in Australian territory, but also when the alleged offender is an Australian citizen or the offence is committed against an Australian internationally protected person overseas. Jurisdiction will also be given to Australian courts when an alleged offender is found in Australia. The intention is that the provisions of the Act dealing with offences in Australia shall be operative on royal assent. However, the provisions concerning offences committed outside Australia will not be operative until the Convention enters into force for Australia. The remaining provisions of the Bill providing for taking suspected offenders into custody, the prosecution of offenders and the proof of various evidentiary matters implement the obligations that Australia will assume under the Convention. These provisions follow, broadly speaking, the legislation dealing with the hijacking and protection of aircraft to which I have previously referred. The definition of 'internationally protected person' in the Convention includes all persons who, under international law, are entitled to special protection from attacks. Lengthy and

detailed provisions would be required to describe fully the classes of persons who would come within that description and accordingly provision has been made in clause 17 for the making of regulations specifying these classes of persons.

With the object that offenders against internationally protected persons be punished, the Convention seeks to ensure that the crimes referred to in the Convention are extraditable under existing extradition treaties and to facilitate the extradition in appropriate cases of alleged offenders. Accordingly, the 2 associated extradition amendment Bills make the new offences extradition crimes for the purposes of Australian legislation. The object of the Convention would largely be defeated if the exclusion provided generally under the extradition Acts in relation to offences of a political character were applicable to the new offences and the 2 extradition Bills therefore provide that the new offences should not be taken to be offences of a political character.

However, honourable members can be assured that the essential safeguards provided under Australian extradition legislation will not be affected by these amendments. Not only must the Attorney-General be satisfied as to the general propriety of the request for extradition before an extradition may proceed but also sufficient evidence must be placed before an Australian magistrate to justify the trial of the alleged offender. Further, both Acts forbid extradition where there are substantial grounds for believing that the alleged offender might be prejudiced at his trial in the foreign state by reason of his race, religion, nationality or political opinions. Observance of the requirements of the Act can be enforced by a superior court in Australia. With the passage of these 3 Bills, Australia will be able to play its part in the international endeavours to better protect internationally protected persons against terrorist acts of violence. I commend the Bills to the House.

### **Consular matters**

*Passports. Retention of by Foreign Government. Accepted practice in certain circumstances.*

On 30 November 1976 Senator Withers, the Minister representing the Minister for Foreign Affairs, was asked in the Senate:

Does the Australian Government permit foreign governments to retain Australian passports, or is there an obligation on the foreign government concerned to surrender such passports to the Australian Embassy in the country in question.

The following answer was provided by the Foreign Minister:<sup>67</sup>

Yes. It is a generally accepted international practice for a government to hold the passport of an alien against whom legal action has been taken or is pending. Such passports are normally returned to the

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67. S Deb 1976, vol 70, 2293.

bearer when authority has been granted for his departure from the country concerned.

**Consular matters**

*Taiwan. Conditions of entry for delegations from.*

On 2 December 1976 Senator Withers, the Minister representing the Minister for Foreign Affairs, was asked in the Senate:

Under what conditions are delegations or groups from Taiwan allowed to enter Australia to attend international scientific or medical congresses?

Senator Withers replied in part as follows:<sup>68</sup>

In general, under current policy, residents from Taiwan may make private and unofficial visits to Australia. Entry for each individual is conditional upon his holding an ordinary passport and submitting in advance a written declaration that he will not purport to represent Taiwan, China or the Republic of China. Residents of Taiwan enter Australia on letters of authority which are usually issued through our Commission in Hong Kong. Persons from Taiwan wishing to participate in medical or scientific congresses in Australia must do so in a private and unofficial capacity consistent with the terms of the general declaration outlined above. For example, they should not seek to use a flag, insignia or any other form of identification suggesting that they are national or government representatives of Taiwan, China or the Republic of China.

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68. S Deb 1976, vol 70, 2392-3.