

Office of International Law  
Spec 23-1.

99/10313

22 December 1999

The Research Director  
Legal, Constitutional and Administrative  
Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Director

#### THE ROLE OF THE QUEENSLAND PARLIAMENT IN TREATY-MAKING

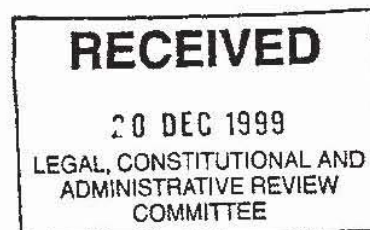
We refer to our letter dated 17 December 1999. We wish to clarify our comments in paragraph 5.

Those comments were made on the understanding that the schedule of treaties to be periodically tabled in the Queensland Parliament would only contain multilateral treaties, as does the schedule of treaties tabled in the Commonwealth Parliament. As we noted in our previous response, the schedule of treaties to which we referred is a public document. I understand that the schedule of treaties provided to the States is done so on the condition that bilateral treaties shall not be made public while under negotiation. Bilateral treaties under negotiation should not, therefore, be tabled in the Queensland Parliament.

Yours sincerely

Sama Payman  
A/g Principal Legal Officer  
Public International Law Branch

Telephone: (02) 6250 6347  
Facsimile: (02) 6250 5931  
Email: sama.payman@ag.gov.au



Submission No 10

Office of International Law

99/10313

17 December 1999

The Research Director  
Legal, Constitutional and Administrative  
Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Director

#### THE ROLE OF THE QUEENSLAND PARLIAMENT IN TREATY - MAKING

We refer to the letter from the Chair of the Legal, Constitutional and Administrative Review Committee ('the Committee'), dated 17 November 1999, seeking our views on the Committee's preliminary position on the three proposals emanating from the Seminar held in June this year on the Role of Parliaments in Treaty-Making. We note that the Committee's position on these three proposals is detailed in a Position Paper which was enclosed with the letter of 17 November 1999.

2. Before looking at the Committee's position in relation to each proposal, we would like to commend the Committee on the quality of its Position Paper which provides background information on Australia's treaty-making process, including the 1996 reforms, the residual State concerns about the treaty-making process and the 1999 review. We do not intend, therefore, to repeat the information you have provided in the background information.

#### Proposals emanating from the Seminar on the Role of Parliaments in Treaty-Making

3. The proposals upon which the Committee was required to formulate its position are as follows:

- (a) arranging for information about proposed treaty actions to be tabled in that jurisdiction's parliament as a matter of routine;
- (b) having a dedicated parliamentary committee to review proposed treaty actions and advise on the local impact of international law making; and
- (c) contributing to the establishment of an inter-parliamentary working group on treaties to help improve general awareness of proposed treaty actions and encourage wider parliamentary scrutiny of treaty making.

## The Committee's Position in relation to each Proposal

### Committee Position 1 in relation to Proposal (a)

4. We note the Committee's endorsement of the 1996 reforms which it notes have greatly assisted in the dissemination of information about proposed treaty action to State and Territory Governments, parliaments and citizens.

5. We note the Committee's view that there is scope, however, for a formal process whereby proposed treaties and treaty information can be brought to the attention of the Queensland Parliament. We see no difficulty with Committee Position 1, which requires the Premier to periodically table in the Queensland Parliament a schedule of treaties being negotiated by the Commonwealth Government and other treaty information such as National Interest Analyses. These are public documents that are readily accessible under the treaty-making process that is in place.

### Committee Position 2 in relation to Proposal (b)

6. We note the Committee's view that the 1996 reforms, together with the procedure outlined in Committee Position 1, to a large degree address the intent of seminar proposal (b). Further, as pointed out by the Committee, it is always open to the Queensland Parliament to refer a particular proposed treaty action to a Queensland Parliamentary Committee for inquiry and report, if it considers such separate State inquiry is desirable. As pointed out in the background information in the Position Paper, this would not give the State and Territory parliaments a formal role in approving treaties. We do not perceive any difficulty with Committee Position 2 that the Queensland Parliament not appoint a Parliamentary Committee with specific treaty responsibilities, or confer responsibilities on an existing Committee.

### Committee Position 3 in relation to Proposal (c)

7. We note the Committee's view that the establishment of an inter-Parliamentary working group would not significantly add value to the measures introduced in the 1996 reforms. We note the Committee's view that the 1996 reforms, together with Committee Position 1, provide adequate avenues for parliamentary and public information and consultation regarding the development of treaties. Further, we note the Committee's view that it does not believe that the benefits which an inter-parliamentary working group might bring will necessarily outweigh associated costs. We do not see any difficulty in the Committee's decision not to favour the establishment of an inter-parliamentary working group on treaties.

Yours sincerely



Sama Payman  
A/g Principal Legal Officer  
Public International Law Branch

Telephone: (02) 6250 6347  
Facsimile: (02) 6250 5931  
Email: sama.payman@ag.gov.au