

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Report 182

Oil Stocks Contracts: Netherlands

Joint Standing Committee on Treaties

September 2018
CANBERRA

© Commonwealth of Australia

ISBN 978-1-74366-879-5 (Printed Version)

ISBN 978-1-74366-880-1 (HTML Version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

Executive Summary

This Report contains the Committee's review of one treaty action:

- *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* (Canberra, 13 June 2018).

The treaty action will assist Australia to return to compliance with its obligation as a member of the International Energy Agency (IEA). The IEA was established in 1974 and Australia has been a member since 1979. As a member of the IEA, Australia is a party to the *Agreement on an International Energy Program* (IEP Treaty). Under the IEP Treaty, Australia has an obligation to sustain national consumption for at least 90 days with no net oil imports (the 90-day obligation). Australia has been non-compliant with the 90-day obligation since 2012.

This treaty action is concerned with addressing Australia's non-compliance with its requirements under the IEP Treaty and is aimed at meeting Australia's international obligations.

The Committee therefore notes that consideration of Australia's physical oil stocks is outside the scope of its inquiry into this treaty action. However, the Committee acknowledges that the two issues are interrelated. The Committee supports the current review that the Australian Government is undertaking into Australia's liquid fuel security and urges the Government to fully explore the links as it assesses the adequacy, reliability and affordability of Australia's physical oil stocks.

The Committee supports the Agreement and recommends that binding treaty action be taken.

Contents

Executive Summary	iii
Abbreviations.....	vii
Members	ix
Terms of Reference.....	xiii
List of Recommendations	xv

The Report

1	Introduction.....	1
	Conduct of the Committee’s review	2
2	Oil Stocks Contracts: Netherlands	3
	Overview and national interest summary	3
	Reasons for Australia to take the treaty action	3
	IEA obligations.....	3
	Australia’s plan to return to compliance	6
	Oil stock reservation contracts	9
	Obligations.....	10
	Right to purchase oil stock reservation contracts with Netherlands entities .	10
	Approval and notification process	11
	Consultation, dispute resolution, termination.....	12
	Implementation	12
	Costs.....	13

Conclusion	13
Appendix A. Submissions	15
Appendix B. Witnesses	17

Abbreviations

DEE	Department of the Environment and Energy
IEA	International Energy Agency
IEP Treaty	<i>Agreement on an International Energy Program</i>
NIA	National Interest Analysis
RIS	Regulation Impact Statement

Members

Chair

Mr Russell Broadbent MP (*from 12.09.2018*)

Hon Stuart Robert MP (*to 08.08.2018*)

Deputy Chair

Hon Michael Danby MP

Members

Mr John Alexander OAM, MP

Senator Slade Brockman

Mr Chris Crewther MP

Senator David Fawcett (*to 10.09.2018*)

Senator Sarah Hanson-Young

Mr Ross Hart MP (*to 10.09.2018*)

Senator the Hon Kristina Keneally

Senator Kimberley Kitching

Senator the Hon Ian Macdonald

Mrs Nola Marino MP

Senator Jenny McAllister

Senator the Hon James McGrath (*from 10.09.2018*)

Ms Susan Templeman MP

Mr Ross Vasta MP

Mr Andrew Wallace MP

Mr Josh Wilson (*from 10.09.2018*)

Committee Secretariat

Ms Julia Morris, Committee Secretary

Dr Narelle McGlusky, Inquiry Secretary

Mr Kevin Bodel, Senior Researcher

Ms Cathy Rouland, Office Manager

Terms of Reference

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - either House of the Parliament, or
 - a Minister; and
 - such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.

List of Recommendations

Recommendation 1

- 2.49 The Committee supports the *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* and recommends that binding treaty action be taken.

1. Introduction

- 1.1 This report contains the Joint Standing Committee on Treaties' review of the following treaty action:
 - *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* (Canberra, 13 June 2018).
- 1.2 The Committee's resolution of appointment empowers it to inquire into any treaty to which Australia has become a signatory, on the treaty being tabled in Parliament.
- 1.3 The treaties, and matters arising from them, are evaluated to ensure that ratification is in the national interest, and that unintended or negative effects on Australia will not arise.
- 1.4 Prior to tabling, major treaty actions are subject to a National Interest Analysis (NIA), prepared by Government. This document considers arguments for and against the treaty, outlines the treaty obligations and any regulatory or financial implications, and reports the results of consultations undertaken with State and Territory Governments, Federal and State and Territory agencies, and with industry or non-government organisations.
- 1.5 A Regulation Impact Statement (RIS) may accompany the NIA. The RIS provides an account of the regulatory impact of the treaty action where adoption of the treaty will involve a change in the regulatory environment for Australian business. The treaty action examined in this report did not require a RIS.
- 1.6 The Committee takes account of these documents in its examination of the treaty text, in addition to other evidence taken during the inquiry program.

- 1.7 A copy of the treaty considered in this report and the associated documentation may be obtained from the Committee Secretariat or accessed through the Committee's website at:
- https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/OilStocks-Netherlands/Treaty_being_considered.

Conduct of the Committee's review

- 1.8 The treaty action reviewed in this report was advertised on the Committee's website from the date of tabling. Submissions for the treaty action were requested by 13 July 2018. Only one submission, a response to a question on notice, was received for the inquiry.
- 1.9 The Committee held a public hearing into the treaty action in Canberra on 13 August 2018. The transcript of evidence from the public hearing may be obtained from the Committee Secretariat or accessed through the Committee's website as listed above.
- 1.10 A list of submissions received for the inquiry is at Appendix A. A list of witnesses who appeared at the public hearing is at Appendix B.

2. Oil Stocks Contracts: Netherlands

- 2.1 This Chapter reviews the *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* (the Agreement). The Agreement was signed in Canberra on 13 June 2018 and tabled in the Parliament on 20 June 2018.

Overview and national interest summary

- 2.2 The National Interest Analysis (NIA) states that the Agreement will assist Australia's return to compliance with its obligation as a member of the International Energy Agency (IEA) to maintain oil stockholdings sufficient to sustain national consumption for at least 90 days with no net oil imports (the 90-day obligation).¹
- 2.3 The NIA claims the Agreement will achieve this by allowing oil stocks held in the Netherlands under oil stock reservation contracts, also known as 'tickets', to be credited towards Australia's 90-day obligation. The oil stocks held under these contracts could be released into the international market in the event of a global oil supply emergency.²

Reasons for Australia to take the treaty action

IEA obligations

¹ National Interest Analysis [2018] ATNIA 9 with attachment on consultation *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* (Canberra, 13 June 2018) [2018] ATNIF 26, hereafter the NIA, para 3.

² NIA, para 4.

- 2.4 The IEA was established in 1974 in response to the 1973–74 global oil crisis. The IEA currently has 30 members including Australia, which became a member in 1979. The IEA’s objective is to promote energy security amongst its member countries through coordinating a collective response to physical disruptions in global oil supply, and in providing authoritative research and analysis on ways to ensure reliable, affordable and clean energy.³
- 2.5 As a member of the IEA, Australia is a party to the *Agreement on an International Energy Program* (IEP Treaty). Article 2 of the IEP Treaty requires Australia to fulfil the 90-day obligation. According to the NIA, Australia has been non-compliant with this obligation since March 2012.⁴ The Department of the Environment and Energy (DEE) advises that since 2008 only two other countries other than Australia have been non-compliant with the 90-day stockholding obligation: Luxembourg and Turkey. Luxembourg has fallen to 89 days on three occasions and Turkey to 88 days (in 2009) and 86 days (in 2018).⁵
- 2.6 Australia’s non-compliance has been driven by falling domestic crude oil production, along with rising product demand and imports. This has increased Australia’s net imports under the IEA statistical methodology.⁶
- 2.7 The Committee asked DEE to expand on the reasons for Australia’s non-compliance with the 90-day obligation and why the Government had acted to restore compliance at this time. The Department explained that it had taken some time to identify why Australia was moving into non-compliance:
- ... if you are a net exporter of oil, you have no obligation to hold stock. As you import more and more oil, your obligation goes up. So, for many, many years, Australia was not a net exporter but we exported a lot of oil and we imported very little and there was a shift in the production. Since that day, just before 2012, our domestic production declined sharply and it hasn’t come back up since. When successive governments realised that there was not going to be a return of that domestic production, we realised that we needed to have a look at how we might return to compliance.⁷

³ NIA, para 5.

⁴ NIA, para 5.

⁵ Department of the Environment and Energy (DEE), *Submission 1*.

⁶ NIA, para 6.

⁷ Mr Shane Gaddes, Assistant Secretary, International Energy Implementation, Department of the Environment and Energy (DEE), *Committee Hansard*, Canberra, 13 August 2018, p. 2.

2.8 The Department emphasised that the physical stock levels held in Australia have remained relatively stable over the period since 2012, despite the non-compliance with the IEP Treaty:

... there hasn't been a significant decline with our consumption cover. That's the useable stocks that we hold, that commercial entities hold, to balance supply and demand in the country.⁸

2.9 The Committee asked for clarification between Australia's obligations under the IEA to contribute to stability in the international market in fuel and Australia's physical stock of oil. The Department explained that, although interrelated, they are two separate issues and this treaty action applies to the former issue. The Department sees no threat to Australia's overall fuel security:

We currently import crude oil from 21 countries and refine product from 47 countries. Just because we're non-compliant with the IEA obligation doesn't directly imply that we have a liquid fuel security problem. We would say that, because we have a very diverse supply from a large range of countries, we would have some resilience to a disruption. We have international obligations that we need to meet, and that's why we're entering into this treaty. To make sure that we have got sufficient fuel security, the government is currently conducting a domestic liquid fuel security assessment, which they'll report back to government on by the end of the year.⁹

2.10 The Department went on to explain that experience to date has reinforced the view that Australia can weather possible disruptions to the global oil market with regard to its physical oil supply:

The reason the government doesn't hold a strategic reserve is we've never had a significant disruption in the history of the IEA which has impacted on Australia's supplies. So over the 40 years, there have been a number of supply disruptions ... There has been a range of significant disruptions in the market over the time that we have been an IEA member and there has never been, over that period, a significant impact on the Australian supply.¹⁰

2.11 The Committee asked how other countries are managing their compliance with the IEP Treaty requirements. The Department explained that there are a range of mechanisms that can be employed:

⁸ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 1.

⁹ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 4.

¹⁰ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 5.

For example, the US uses what they call the strategic petroleum reserve, where they store vast quantities of crude oil in salt caverns. Some countries in Europe use tickets. Other countries use a mixture with an industry obligation, where they require people that buy and sell oil to hold a certain amount. Other countries will use reserves or large storage tanks owned by the government, or by private entities, to meet the obligation. We could also lease physical stocks in other countries in our supply chain. That would be another option we could use.¹¹

- 2.12 The Committee questioned if the IEP Treaty should be reviewed and possibly revised to better reflect the changed conditions of today's market. The Department advised that such a review was under consideration:

... we are engaging with the IEA on modernising the oil stockholding mechanism ... I wouldn't infer directly that reducing the 90 days would be the best way to do it, but trying to look at the changes in the oil market that have occurred since the treaty was signed – and it first entered into force in '74 and we joined in '79 – to see: is there a more relevant way to manage liquid fuel security?¹²

Australia's plan to return to compliance

- 2.13 The NIA states that Australia submitted a phased plan to return to compliance to the IEA's Governing Board in June 2016. Under Phase 1 of the plan, Australia will procure up to 400 kilotonnes of tickets in each of the financial years 2018–19 and 2019–20. Phase 2 will see a long-term and least-cost approach to return to full compliance by 2026. Policy options for Phase 2 are currently under consideration.¹³

- 2.14 Asked if Phase 1 would substantially improve Australia's compliance with the IEP Treaty obligations, the Department said that it will only provide Australia with a small fraction of its requirements:

We currently have around 51 or 52 days – it changes each month. We would need 40 days to return to full compliance. The 400 kilotons will get us 3.8 days. The second phase of the return to compliance will meet the rest of the gap.¹⁴

- 2.15 The Committee queried how the period of 3.8 days had been determined and the Department explained that it was calculated on previous experience:

¹¹ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 4.

¹² Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 6.

¹³ NIA, para 7.

¹⁴ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 3.

The reason that the government has selected 400 kilotons is that it is between one and two times the maximum amount that we've been asked to contribute to a collective action.¹⁵

- 2.16 The Committee asked why the Government had chosen not to commit to buy a larger quantity of tickets and make a more substantial contribution to reaching full compliance. The Department indicated that the Government was being cautious and that cost considerations were a factor in the decision:

This is considered to be a pilot phase of things that we would implement before we take another government decision in 2019. It was seen as sufficient to respond to two times ... the biggest collective action we've been asked to contribute to. We recognised that we couldn't get to full compliance very quickly, because it would be very expensive, so that was seen as a reasonable interim step before the full return to compliance.¹⁶

- 2.17 However, the Department confirmed that planning for Phase 2 had not yet been finalised:

The phase 2 plan hasn't yet been decided. You may be aware that the government committed earlier on this year to a full assessment of our liquid fuel security. That assessment will help inform phase 2. So we will look at what we need domestically and then we will look at how we might achieve that through phase 2.¹⁷

- 2.18 The Committee questioned the length of time taken to devise a solution to Australia's non-compliance, particularly if Phase 1 has only provided an incremental increase and Phase 2 is still in the planning stage. Australia became non-compliant in 2012. The Government made a commitment in 2016 to return to full compliance by 2026. The Department explained that Phase 1 contains other components designed to address non-compliance:

Another element of phase 1 was to improve our mandatory reporting. Until last year, the reporting from oil companies to the government was voluntary, and we weren't certain that we were collecting all of the information that was available. The government implemented a mandatory reporting regime late last year, which took effect on 1 January. That improved our oversight of the oil market in Australia and that identified additional days. We created the energy security office within the Department of the Environment and Energy.

¹⁵ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 3.

¹⁶ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 9.

¹⁷ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 3.

There have been other actions that've been taken in addition to the ticketing program.¹⁸

- 2.19 The Committee asked if there were any consequences or penalties for non-compliance. The Department explained that there were no penalties but that Australia could face some consequences:

There are no specific penalties for Australia's non-compliance, as international law does not permit punitive sanctions (such as penalties) to be applied to nation states. However, Australia could be obliged by an international tribunal to make reparations (such as through restitution and compensation measures) to International Energy Agency (IEA) Member/s if economic damage was attributable to Australia's non-compliance ...

Other IEA Members could also suspend or terminate Australia's participation in the *Agreement on an International Energy Program* (IEP Treaty) due to non-compliance.¹⁹

- 2.20 The Department also warned that Australia's international reputation could be jeopardised by its non-compliance:

A likely consequence from continued non-compliance with the IEA 90-day oil stockholding obligation is further international reputational damage. Several IEA Members perceive Australia to be free riding on the IEA's oil security mechanism and that Australia is not a committed IEA member – this has been mitigated to an extent by progress on Australia's plan to return to compliance.²⁰

- 2.21 Considering the apparent slow progress, the Committee sought assurance that Australia would return to full compliance within the proposed timeframe, i.e. by 2026. The Department could only offer limited assurance that the commitment would be met:

I can only reflect on the government decisions that have been taken to date. There was a decision taken in 2016 that's just about to be implemented through this treaty. There's a second decision that will be taken in either 2019 or 2020 for the full return to compliance. Beyond that, I couldn't give you any more certainty.²¹

¹⁸ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 3.

¹⁹ DEE, *Submission 1*.

²⁰ DEE, *Submission 1*.

²¹ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 3.

Oil stock reservation contracts

- 2.22 According to the NIA, part of Australia's plan to return to compliance with its obligations under the IEP Treaty is to purchase oil stock reservation contracts (tickets). Under Article 3 of the Annex to the IEP Treaty, Australia can credit stocks held overseas towards its 90-day obligation under the IEP Treaty, provided there is an arrangement in place stating that the country hosting the stocks will not impede stock transfer during an emergency.²²
- 2.23 The NIA explains that oil tickets give Australia a right to either purchase a reserved oil stock outright; or to release the stock back to the host market. Both of these options would operate in accordance with the terms and conditions in each ticketing contract. In the event that the IEA declares a global oil supply emergency, oil could either be transferred to Australia for use, or released into the Netherlands market to alleviate the economic consequences of a supply disruption, depending on the nature of the emergency.²³
- 2.24 The NIA states that the Government intends to purchase tickets through a competitive multi-staged procurement. The Netherlands requested a treaty-level agreement to govern the purchase of tickets in order to comply with its domestic legal requirements.²⁴ The Agreement will therefore allow entities in the Netherlands to participate in the tender. If entities in the Netherlands are successful in the procurement process, these tickets can be counted towards Australia's 90-day obligation.²⁵
- 2.25 The NIA considers that it is important for the success of the procurement process that Australia has access to Dutch ticket sellers, as the Netherlands is the largest seller of tickets globally. Accessing the Dutch market will help to ensure that the procurement process is competitive and achieves value for money.²⁶
- 2.26 The NIA offers assurance that Australia is seeking the widest possible range of tenders. In addition to the Netherlands, Australia has concluded bilateral arrangements with the United Kingdom, United States and Germany, and is

²² NIA, para 8.

²³ NIA, para 9.

²⁴ NIA, para 8.

²⁵ NIA, para 10.

²⁶ NIA, para 11.

negotiating or exploring bilateral arrangements with a further six countries. According to the NIA, several of these are at the final stages.²⁷

- 2.27 The Committee queried if there was any difference cost-wise between the ticketing contract and accessing physical reserves. The Department said that ‘tickets were seen to be the cheapest option’ available when the assessment was made.²⁸ However, DEE advised that the situation would need to be re-evaluated in future to ensure ongoing cost effectiveness:

We will, between now and when we go back to government in 2019, redo that work to look at not just the outcomes of our domestic liquid fuel security assessment ... but also what we foresee our future compliance gap to be. What’s the forward-looking view of how much fuel Australia will use? At the moment it’s going up, and our production is going down. We understand that there could be an increase in production associated with the LNG production in certain states. They produce condensate that can be counted against the IEA commitment. It can be refined and used. We would need to look at what the long-term forecast for that would be and then look at what the cheapest or most effective option would be to return to compliance. There’s quite a bit of work for us to do in looking at what the most cost-effective option for a full return to compliance would be.²⁹

Obligations

- 2.28 The following summary of Australia’s obligations under the Agreement is taken from the NIA.

Right to purchase oil stock reservation contracts with Netherlands entities

- 2.29 **Article 5** sets out the right of the Australian Government or Australian entities to negotiate and conclude ticket contracts with entities in the Netherlands.³⁰
- 2.30 Under **Article 7**, Australia would be able to call on tickets held in the Netherlands in the event the IEA calls for members to take collective action during a global oil supply disruption.³¹

²⁷ NIA, para 12.

²⁸ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 7.

²⁹ Mr Gaddes, DEE, *Committee Hansard*, Canberra, 13 August 2018, p. 7.

³⁰ NIA, para 13.

³¹ NIA, para 14.

- 2.31 Commercial contracts will sit under the Agreement. These will generally give two options to Australia during such a disruption: an option to purchase and an option to release. An option to purchase will involve Australia buying all or part of the previously reserved oil stock outright. The option to release will likely see the cancellation of all or part of the contract, making the oil available again to the market within the host country to help ease the supply issue. The exact operation of these options will be set out in the terms and conditions of contracts entered into with Netherlands entities.³²
- 2.32 **Article 9** places an obligation on the Netherlands not to impose any impediment (legislative, physical, or by other means) on the transfer of oil stocks held under a ticket contract to Australia from its territory.³³

Approval and notification process

- 2.33 **Article 5(2)** requires contracts for holding oil stocks in the Netherlands to be approved by the Competent Authorities of the Netherlands (the Minister of Economic Affairs and Climate Policy) and Australia (the Department of the Environment and Energy).³⁴
- 2.34 A process of government-to-government notification and approval is set out in **Articles 6–8**. This is to ensure the Netherlands can manage its own stockholding obligations and ensure the ticketed stock is only reported to the IEA as stock credited to Australia (and is not double counted by two countries within the IEA's stockholding system).³⁵
- 2.35 Australia must first seek advice from the Netherlands as to any annual maximum limits on ticket offers, pursuant to **Article 6(1)**.³⁶
- 2.36 Australia must then seek the Netherlands' approval for ticket contracts that Australia has concluded one month before the contract's intended start date (**Article 6(2)**). This notification is to include information relating to the ticket seller, the nature, quantity and location of the ticketed stock, and the terms of the ticket contract. The Netherlands shall notify Australia of its approval

³² NIA, para 15.

³³ NIA, para 16.

³⁴ NIA, para 17.

³⁵ NIA, para 18.

³⁶ NIA, para 19.

no later than two weeks before the contract's intended start date (**Article 6(3)**).³⁷

- 2.37 The Netherlands has the right to withdraw its approval if it identifies a significant inaccuracy in the information provided by Australia under **Article 6(2)**. However, it must first give Australia a reasonable opportunity to have the inaccuracy rectified, and if Australia does so, the Netherlands cannot withdraw its approval (**Article 6(5)**).³⁸
- 2.38 If Australia intends to call on tickets held in the Netherlands (as set out under **Article 7**), it must notify the Netherlands of that decision two weeks in advance (**Article 8**).³⁹
- 2.39 **Article 6(6)** permits Australia and the Netherlands to agree to vary the time limits for notification and approval outlined above.⁴⁰

Consultation, dispute resolution, termination

- 2.40 **Article 10** requires the Competent Authorities to consult as soon as reasonably practicable where either Party faces a supply emergency; to resolve difficulties in the interpretation of the Agreement; or if circumstances arise which may be taken into consideration in the exercise of Australia's purchase options under oil stocks contracts. Disputes are to be settled through consultations through diplomatic channels, under **Article 10(2)**.⁴¹

Implementation

- 2.41 According to the NIA, no new legislation is needed for the Agreement to enter into force.⁴² The legislative authority for the Australian Government to spend funds on entering into and purchasing oil stocks under a ticket contract exists under section 40A of the Liquid Fuel Emergency Act 1984.⁴³

³⁷ NIA, para 20.

³⁸ NIA, para 21.

³⁹ NIA, para 22.

⁴⁰ NIA, para 23.

⁴¹ NIA, para 24.

⁴² NIA, para 25.

⁴³ NIA, para 26.

- 2.42 The NIA states that a multi-stage procurement process is being developed to enable the Australian Government to run a competitive process for the purchase of tickets. The Agreement will allow entities of the Netherlands to participate in the procurement process.⁴⁴

Costs

- 2.43 The NIA states that the Australian Government has provided both departmental and administered funding of \$23.8 million over four years to implement Australia's oil stockholding compliance plan. This includes funding for the purchase of up to 400 kilotonnes of tickets in the 2018/19 and 2019/20 financial years. The NIA notes that further ticketing commitments may be made under Phase 2 of the compliance plan; as noted above, options for Phase 2 are currently being investigated.⁴⁵
- 2.44 According to the NIA a multi-stage procurement process will ensure value for money is achieved when acquiring ticketing contracts. The NIA notes that, although the Agreement gives Dutch entities the opportunity to compete in the tender it does not guarantee that they will be successful. The NIA cautions that, due to the nature of the procurement process, it cannot be specified how much, if any, spending would occur with entities in the Netherlands under the Agreement.⁴⁶
- 2.45 The NIA explains that the price of oil or product purchased under any ticket contract will be determined by the market price of the type of oil at the time of purchase and the terms and conditions contained in the specific ticket contract. The NIA notes that details of contracts will be commercial-in-confidence.⁴⁷

Conclusion

- 2.46 The Committee understands that this treaty action is concerned with addressing Australia's non-compliance with its requirements under the IEP Treaty and is aimed at meeting Australia's international obligations.

⁴⁴ NIA, para 27.

⁴⁵ NIA, para 28.

⁴⁶ NIA, para 29.

⁴⁷ NIA, para 30.

- 2.47 The Committee therefore acknowledges that consideration of Australia's physical oil stocks is outside the scope of its inquiry into this treaty action. However, the Committee is aware that the two issues are interrelated. The Committee supports the review that the Australian Government is currently undertaking into Australia's liquid fuel security and urges the Government to fully explore the links as it assesses the adequacy, reliability and affordability of Australia's physical oil stocks.
- 2.48 The Committee supports the Agreement and recommends that binding treaty action be taken.

Recommendation 1

- 2.49 The Committee supports the *Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands concerning Oil Stocks Contracts* and recommends that binding treaty action be taken.**

Mr Russell Broadbent MP

Chair

17 September 2018

A. Submissions

1 Department of the Environment and Energy

B. Witnesses

Monday, 13 August 2018

Canberra

Department of the Environment and Energy

Department of Foreign Affairs and Trade