

RECENT DEVELOPMENTS

COMMONWEALTH*

GOVERNMENT'S MINERALS AND PETROLEUM RESOURCES POLICY STATEMENT.

On 2 February 1998 the Minister for Resources and Energy, Senator Warwick Parer, launched what the Minister described as the first Minerals and Petroleum Resources Policy Statement ever released by any Commonwealth Government.

Key Objectives

The Statement sets out Principles for Government Action, and a detailed forward agenda based on pursuit of five key objectives:

- high levels of certainty to investors and other stakeholders about their rights and responsibilities and the processes of public decision-making;
- a highly competitive operating environment, in an economic sense;
- support for the industry's efforts to achieve sustained wealth generation through growth, innovation and enhancement of the value of its output before export;
- protection of the environment and the interests of the workforce and broader community, by pursuing ecologically sustainable development and world best practice in environmental, health and safety management; and
- allowing the industry to respond confidently to international challenges and seize international trade and investment opportunities.

Resource Security and Sovereign Risk

As to the first objective the Minister stated:

This is a supremely important issue for the industry. Investor confidence is critical if Australia is to compete successfully with other countries in attracting exploration, development and downstream processing. The Coalition parties went into the last election with a firm commitment to dispel any lingering perceptions of sovereign risk that might be impeding investment. The Statement places the first priority in giving effect to that commitment.

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Principles for Government Action

In pursuit of the five key objectives, the Policy states that Government will have regard to the following principles:

Certainty for all stakeholders, especially investors, about their rights and responsibilities and the processes of public decision-making, including the rules they need to abide by.

The Government intends that Commonwealth decision-making processes will:

- be equitable, transparent and timely;
- provide stability over time;
- be easily accessible and seamless for the user regardless of the number of government agencies involved;
- integrate consideration of all values including environmental, economic and social issues; and
- incorporate prompt appeal and review provisions where necessary.

The Government believes that certainty for investors and other stakeholders is essential to maintaining confidence and high levels of investment.

It is interesting to note however that the Policy was launched on the same day that the High Court announced its decision upholding Commonwealth submissions that offshore petroleum exploration permits do not enjoy the Constitutional guarantee of just terms compensation if they were confiscated by the Commonwealth Government (see discussion below and the article in this volume on the High Court decision *Commonwealth of Australia v WMC Resources Ltd*).

In the fishery resources area, the Government has already acted to enhance the resource security access of holders of statutory fishing rights under the *Fisheries Management Act* 1991, by amendments enacted in the *Fisheries Legislation (Amendment) Act* 1997.

There is no reference to comparable legislation in the Resources Policy Statement just released.

PROPOSED AGREEMENT WITH KAZAKHSTAN ON ECONOMIC AND COMMERCIAL COOPERATION - THE JOINT TREATIES COMMITTEE AT WORK

The Parliamentary Joint Standing Committee on Treaties in its Eleventh Report dated November 1997 has recommended against ratification of this Agreement. The Committee in making its recommendation referred to ventures by Telstra and Western Mining Corporation (WMC) in Kazakhstan.