The Parliament of the Commonwealth of Australia
Joint Standing Committee on Treaties

Report 156

Treaties tabled on 8 September 2015

Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services (Brisbane, 4 July 2015)

Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters (Brisbane, 15 November 2015)

Amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended Resolution MSC 380 (94) (London, 21 November 2014)

November 2015
Canberra

ISBN 978-1-74366-400-1 (Printed version)

ISBN 978-1-74366-401-8 (HTML version)

Contents

Membership of the Committee

Chair	Mr Wyatt Roy MP *(until 12/10/2015)*	
	Mr Angus Taylor MP *(from 15/10/2015)*	
Deputy Chair	The Hon Kelvin Thomson MP	
Members	Mr Andrew Broad MP	Senator Chris Back
	Dr Dennis Jensen MP *(until 19/10/15)*	Senator David Fawcett
	Mr Ken O'Dowd MP	Senator the Hon David Johnston *(from 12/10/2015)*
	The Hon Melissa Parke MP	Senator Sue Lines
	The Hon Dr Sharman Stone MP *(until 11/11/2015)*	Senator the Hon Joe Ludwig
	Mr Tim Watts MP	Senator James McGrath *(until 12/10/2015)*
	Mr Brett Whiteley MP	Senator Glenn Sterle
	Mrs Lucy Wicks MP *(from 19/10/15)*	Senator Peter Whish-Wilson

Committee Secretariat

Secretary	Lynley Ducker
Inquiry Secretary	Dr Narelle McGlusky
Senior Researcher	Kevin Bodel
Researcher	Elizabeth Shaw
Researcher	Belynda Zolotto
Administrative Officer	Cathy Rouland

Resolution of Appointment

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

a) 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;

b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:

   (i) either House of the Parliament;

   (ii) a Minister; or

   (iii) 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 abbreviations

AMSA	Australian Maritime Safety Authority
CASA	Civil Aviation Safety Authority
DIRD	Department of Infrastructure and Regional Development
FAAOC	Foreign Aircraft Air Operator's Certificate
ICAO	International Civil Aviation Organisation
IMO	International Maritime Organisation
MSC	Maritime Safety Committee
MOU	Memorandum of Understanding
NIA	National Interest Analysis
RIS	Regulation Impact Statement
SAL	Shipping Australia Limited
SOLAS	Safety of Life at Sea

List of recommendations

2 Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services

Recommendation 1 13

The Committee supports Australia's ratification of the *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* and recommends that binding treaty action be taken.

4 Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters

Recommendation 2 31

The Committee supports Australia's ratification of the *Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters* and recommends that binding treaty action be taken.

1

Introduction

Purpose of the report

1.1 This report contains the Joint Standing Committee on Treaties' review of three treaty actions:

- *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* (Brisbane, 4 July 2015);
- Amendments to the *International Convention for the Safety of Life at Sea* (SOLAS) (London, 21 November 2014); and
- *Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters* (Brisbane, 15 November 2014).

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 Australians will not arise.

1.4 Prior to tabling, major treaty actions are subject to a National Interest Analysis (NIA), prepared by the 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 treaties under consideration 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 treaties and associated documentation may be obtained from the Committee Secretariat or accessed through the Committee's website at:

- http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties.

Conduct of the Committee's review

1.8 The treaty actions reviewed in this report were advertised on the Committee's website from the dates of tabling. The Committee invited written submissions. The Committee also invited all State Premiers, Territory Chief Ministers and the Presiding Officers of each Parliament to lodge submissions.

1.9 The Committee held a public hearing on the three tabled treaties on 12 October 2015 in Canberra.

1.10 The transcript of evidence from the public hearing may be obtained from the Committee Secretariat or accessed through the Committee's website under the treaties' tabling date, 8 September 2015.

1.11 A list of submissions received is at Appendix A.

1.12 A list of witnesses who appeared at the public hearing is at Appendix B.

2

Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services

Introduction

2.1 International commercial air travel is regulated by the International Civil Aviation Organisation (ICAO) under the auspices of the *Convention on International Civil Aviation* (1944) (the Convention).[1]

2.2 The Convention requires a country that wishes to establish air services with another country reach an air services agreement containing agreed parameters for the number of flights, number of passengers, quantum of freight; and matters of aviation safety and security.[2]

2.3 The agreement being considered here is the *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* (the proposed Agreement).[3]

2.4 The text of the proposed Agreement was settled in February 2012, along with a Memorandum of Understanding (MOU) that applied the provisions of the proposed Agreement on a non-legally binding basis. In

---

1 Mr Gilon Smith, Acting Director, Air Services Negotiations, Aviation Industry Policy Branch, Aviation and Airports Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, Monday, 12 October 2015, p 9.

2 Mr Smith, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 12 October 2015, p 9.

3 Mr Smith, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 12 October 2015, p 9.

other words, the provisions of the proposed Agreement have been operating since February 2012.[4]

2.5 The purpose of the proposed Agreement is to provide a binding legal framework to support the operation of air services between Australia and Laos.[5] The National Interest Analysis (NIA) claims:

> The proposed Agreement will facilitate trade and tourism between the two countries and will provide greater opportunities for airlines to develop expanded air travel options for consumers.[6]

2.6 According to the NIA, Australian travellers and Australian businesses, particularly in the tourism and export industries, could potentially benefit from the Agreement through the opening of increased commercial opportunities.[7]

The Agreement

2.7 The proposed Agreement is based on Australia's model air services agreement.[8]

2.8 The preamble to the proposed Agreement states that the parties have entered into the Agreement to promote an international aviation system based on competition amongst airlines in a marketplace; and to ensure the highest degree of safety and security in international air travel.[9]

Establishing air services between Australia and Laos

2.9 Article 2 of the proposed Agreement states that each party shall have the right to designate as many airlines as it wishes to conduct international air transport under the Agreement.[10]

2.10 The Article also permits each Party to withdraw or alter such designations.[11]

---

4 National Interest Analysis [2015] ATNIA 15, *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* [2015] ATNIF 22 (hereafter referred to as the NIA), para 4.

5 NIA, para 5.

6 NIA, para 5.

7 NIA, para 7.

8 NIA, para 9.

9 *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* [2015] ATNIF 22 (hereafter referred to as the Australia – Laos Air Services Agreement), preamble.

10 Australia – Laos Air Services Agreement, Article 2.1.

11 Australia – Laos Air Services Agreement, Article 2.1.

2.11 When a party to the proposed Agreement receives an airline designation from the other party, it must authorise the airline's operations provided that:

- the airline is incorporated and has its principal base of operations in the territory of the other party;
- the airline is qualified to meet the conditions prescribed under the laws, regulations and rules applied to international air transportation under the Convention;
- the airline holds the necessary operating permits; and
- the party designating the airline is maintaining and administering the safety and aviation security standards in the Agreement.[12]

2.12 If at any time a party considers that a designated airline is not meeting the conditions of the Agreement, the party may withhold, suspend, revoke or limit the authorisation and technical permissions of the airline.[13] This can be done immediately if necessary, but should normally occur after consultations with the other party.[14]

2.13 The routes and destinations a designated airline may use under the proposed Agreement are listed in Annex 1 of the Agreement. Annex 1 permits airlines from either party to fly any routes between Australia and Laos.[15]

2.14 At present, despite the MOU being in place since 2012, no airlines have availed themselves of the opportunities presented by the proposed Agreement.[16]

2.15 Given that no services are in place, the Committee asked the Department of Infrastructure and Regional Development's (the Department's) representative whether Austrade had formed a view as to the benefits to be obtained from the proposed Agreement. The Department responded that, while Austrade was provided with the opportunity to give its views on the Agreement, it had not provided any.[17]

12 Australia – Laos Air Services Agreement, Article 2.2.

13 Australia – Laos Air Services Agreement, Article 2.4.

14 Australia – Laos Air Services Agreement, Article 2.5.

15 Australia – Laos Air Services Agreement, Annex 1.

16 Mr Smith, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 12 October 2015, p 10.

17 Department of Infrastructure and Regional Development, *Submission 2*, Attachment A, p 2.

Rights granted to authorised airlines

2.16 The proposed Agreement permits airlines from either party to:

- fly across the territory of a party without landing;
- make stops in the party's territory for non-traffic purposes;
- operate services on specified routes and make stops in the territory of the parties for the purpose of taking on and discharging passengers and freight.[18]

2.17 Authorised airlines are not permitted to undertake domestic services within the territory of the other party.[19]

Application of laws

2.18 Authorised airlines must comply with the laws, regulations and rules relating to the operation and navigation of aircraft of Australia and Laos.[20] In addition:

> While entering, within, or leaving the territory of one Party, its laws, regulations and rules… shall apply to such passengers and crew and in relation to such cargo of the other party's airlines.[21]

2.19 Neither party can preference its own nor any other airline over an airline of the other party engaged in similar international air transport in relation to its entry, clearance, aviation security, immigration, passports, advance passenger information, customs and quarantine, postal and similar regulations.[22]

2.20 Passengers and baggage in transit through the territory of one of the parties may be subject to examination in respect of aviation security, narcotics control and immigration requirements, or in other special cases where such examination is required under the laws of the relevant party.[23]

2.21 Baggage in transit shall be exempt from customs and duty and other similar taxes.[24]

18 Australia – Laos Air Services Agreement, Article 3.1.
19 Australia – Laos Air Services Agreement, Article 3.2.
20 Australia – Laos Air Services Agreement, Article 4.1.
21 Australia – Laos Air Services Agreement, Article 4.2.
22 Australia – Laos Air Services Agreement, Article 4.3.
23 Australia – Laos Air Services Agreement, Article 4.4.
24 Australia – Laos Air Services Agreement, Article 4.4.

Recognition of certificates

2.22 Under the proposed Agreement, certificates of airworthiness, certificates of competency and licences issued by one party must be recognised as valid by the other party for agreed services provided that standards required to obtain the certificates and licences are equal to or above the minimum standards under the Convention.[25]

2.23 If the certificates of air worthiness and other certificates issued by a party should allow a deviation from the standards set by the ICAO, and that deviation has been advised to the ICAO in writing, the other party may request consultations to clarify the differences in questions.[26]

Safety

2.24 Under Article 6 of the proposed Agreement, each party may request consultations about the safety standards maintained by the other party. Such consultations must take place within 30 days of that request.[27]

2.25 If after the consultations, one party is still concerned that the other party does not maintain adequate safety standards; the proposed Agreement permits the first party to notify the other party. When this occurs, the other party must take appropriate corrective action.[28]

2.26 An aircraft operated by or under a lease arrangement with an airline of one party can be subject to a 'ramp inspection' while in the territory of the other party. A 'ramp inspection' is a physical examination of the aircraft to check the validity of the aircraft documentation.[29]

2.27 If a ramp inspection reveals that the aircraft does not comply with the minimum standards, the aircraft can be prevented from operating further until the safety issues identified are addressed.[30]

2.28 If the airline refuses to allow a ramp inspection, the proposed Agreement permits the relevant safety authority to infer that there are safety issues relating to the aircraft and act accordingly.[31]

25 Australia – Laos Air Services Agreement, Article 5.1.
26 Australia – Laos Air Services Agreement, Article 5.2.
27 Australia – Laos Air Services Agreement, Article 6.1.
28 Australia – Laos Air Services Agreement, Article 6.2.
29 Australia – Laos Air Services Agreement, Article 6.4.
30 Australia – Laos Air Services Agreement, Article 6.5.
31 Australia – Laos Air Services Agreement, Article 6.6.

Aviation security

2.29 Article 7 of the proposed Agreement addresses security issues. Under article 7.1, the parties reaffirm their obligations to protect the security of civil aviation against acts of unlawful interference.[32]

2.30 On request, the parties are to provide all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and other threats to the security of civilian aviation.[33]

2.31 Parties must advise each other if there is any difference between their national regulations and international aviation security standard. Either party may request consultations at any time to discuss such differences.[34]

2.32 To address security threats, each party must apply adequate measures within its territory to protect aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading.[35]

2.33 When an aviation security incident occurs, the parties will assist each other by facilitating communications and other appropriate measures.[36]

2.34 The proposed Agreement permits each party, on 60 days' notice, to conduct an assessment in the territory of the other party of the security measures being carried out.[37]

2.35 A party is permitted to take unilateral interim action in an emergency, or to prevent further non-compliance with security requirements.[38]

User charges

2.36 The proposed Agreement permits parties to levy charges on airlines of the other party for the provision of airport, airport environment, air navigation and aviation security facilities. However, these charges must be reasonable, non-discriminatory, and equitably apportioned.[39]

---

32 Australia – Laos Air Services Agreement, Article 7.1.
33 Australia – Laos Air Services Agreement, Article 7.2.
34 Australia – Laos Air Services Agreement, Article 7.3.
35 Australia – Laos Air Services Agreement, Article 7.4.
36 Australia – Laos Air Services Agreement, Article 7.5.
37 Australia – Laos Air Services Agreement, Article 7.6.
38 Australia – Laos Air Services Agreement, Article 7.7.
39 Australia – Laos Air Services Agreement, Article 8.1.

2.37 Reasonable charges reflect, but do not exceed the full cost to the competent charging authority of providing the facilities and services. This may include a reasonable return on assets after depreciation.[40]

2.38 For charges to be non-discriminatory, they must be levied at the same rate applied to a party's own airlines operating similar international services.[41]

2.39 Increased or new charges can only be implemented following adequate consultations with the airlines.[42]

Customs duties

2.40 Aircraft from each party are exempt from import restrictions, customs duties, excise taxes and similar fees and charges imposed by national authorities.[43] This includes:

- components intended solely for the service of the aircraft; and
- items intended for use on an aircraft, such as aircraft stores (like food), fuel, lubricants and spare parts.[44]

Air fares and capacity

2.41 Airlines covered by the proposed Agreement are allowed to determine their own air fares.[45]

2.42 If an aeronautical authority is unsatisfied with the tariff being charged by an airline, it can attempt to settle the matter through consultations.[46]

2.43 An aeronautical authority cannot take unilateral action to prevent the coming into effect or continuation of a tariff of an airline of the other party.[47]

2.44 Article 12 relates to the quantum of service (such as the number of seats, or the volume of freight) offered by an airline. This is called the 'capacity' offered by an airline.

> The designated airlines of each Party shall enjoy fair and equal opportunities to operate the agreed services in accordance with this Agreement.[48]

---

40 Australia – Laos Air Services Agreement, Article 8.2.
41 Australia – Laos Air Services Agreement, Article 8.2.
42 Australia – Laos Air Services Agreement, Article 8.4.
43 Australia – Laos Air Services Agreement, Article 10.1.
44 Australia – Laos Air Services Agreement, Article 10.3.
45 Australia – Laos Air Services Agreement, Article 11.1.
46 Australia – Laos Air Services Agreement, Article 11.3.
47 Australia – Laos Air Services Agreement, Article 11.4.
48 Australia – Laos Air Services Agreement, Article 12.1.

2.45 The capacity an airline can provide is decided between the aeronautical authorities of the parties before the commencement of such services by the airlines concerned, and from time to time thereafter.[49]

Commercial opportunities

2.46 Article 13 permits the airlines of each party the right to sell air transportation to any person in local or freely convertible currencies.[50]

2.47 In practical terms, the airlines of each party have the following rights in the territories of the other party:

- the right to establish offices, including off-line offices, for the promotion, sale and management of air transportation;
- the right to engage in sale and marketing of air transportation to any person directly and, at its discretion, through its agents or intermediaries, using its own transportation documents;
- the right to use the services and personnel of any organisation, company or airline operating in the territory of the other party;[51]
- the right to bring its own managerial, sales, technical, operational and other specialist staff;[52]
- the right to convert its funds into any freely available currency and to transfer them from the territory of the other party at will;[53]
- the right to transfer funds at the foreign exchange market rates for payments prevailing at the time of the transaction;[54]
- the right to perform its own ground handling in the territory of the other party, or to contract the ground handling out to another entity;[55] and
- the right to offer ground handling services to other airlines in the territory of the other party.[56]

2.48 Airlines also are permitted to enter into code share, shared marketing and cooperative marketing arrangements over part or the entire route between the parties, provided the organisations with which they cooperate have

49 Australia – Laos Air Services Agreement, Article 12.2.
50 Australia – Laos Air Services Agreement, Article 13.3.
51 Australia – Laos Air Services Agreement, Article 13.1.
52 Australia – Laos Air Services Agreement, Article 13.2.
53 Australia – Laos Air Services Agreement, Article 13.3.
54 Australia – Laos Air Services Agreement, Article 13.3.
55 Australia – Laos Air Services Agreement, Article 13.6.
56 Australia – Laos Air Services Agreement, Article 13.6.

the authority to operate over the routes to which this cooperation applies.[57]

2.49 Such cooperative arrangements can include domestic flights to link up with international flights operated by the airline,[58] and surface transportation to or from any destination in the territory of the other party or third countries to permit connection with its international air transport services.[59]

2.50 Where cooperation is occurring, the airline must make it clear to the purchaser which airline will be providing the service the purchaser will use.[60]

2.51 The airlines of each party are permitted to use aircraft or aircrew leased from another company, provided the aircraft and crew meet the applicable operating and safety standards and requirements.[61]

Dispute settlement

2.52 Disputes under the proposed Agreement are handled by referral to an arbitration panel by either party.[62]

Implementation

2.53 Australia's obligations under the proposed Agreement can be implemented through existing legislation, including the *Air Navigation Act 1920* and the *Civil Aviation Act 1988*. These Acts will not need to be amended to implement the proposed Agreement.[63]

Consultations with CASA

2.54 In 2014, the Committee reviewed air services agreements between Australia and Serbia and Vanuatu.[64]

2.55 In Report 139, the Committee stated:

---

57 Australia – Laos Air Services Agreement, Article 13.5.
58 Australia – Laos Air Services Agreement, Article 13.5.
59 Australia – Laos Air Services Agreement, Article 14.
60 Australia – Laos Air Services Agreement, Article 13.5.
61 Australia – Laos Air Services Agreement, Article 13.7.
62 Australia – Laos Air Services Agreement, Article 17.
63 NIA, para 27.
64 Joint Standing Committee on Treaties (JSCT), 13 May 2014, *Report 139*, Chapter 2.

> Article 38 of the Chicago Convention requires a Party to notify the ICAO when it finds it impractical to comply in all respects with international standards and practices, and when it is unable to change its standards and practices to comply with standards and practices revised by the ICAO.[65]

2.56 The Committee found that both Serbia and Vanuatu had lodged notices of difference with the ICAO.[66]

2.57 At the time, the Department advised the Committee that relevant notices to the ICAO were not considered as part of the process of negotiating air services agreements because air services agreements were essentially economic agreements.[67]

> Air services arrangements provide an economic framework in which airlines can consider serving a market. Differences lodged by States, among other more pertinent kinds of safety-related information, may be taken into account by the Civil Aviation Safety Authority [CASA] in the assessment of applications for the operation of foreign aircraft into and out of Australia.[68]

2.58 The Committee's conclusion was that:

> … it would be imprudent if the Department's negotiators did not at least make themselves aware of the differences notified to the ICAO by States with which they are negotiating. The Committee suggests that, as part of the negotiation process of future Air Services Agreements, the Department's negotiators consult with CASA in order to determine if any of the differences notified by the State with which they are negotiating may pose a safety risk for Australian travellers.[69]

2.59 Bearing in mind that the proposed Agreement was negotiated in 2012, before the Committee's views on the matter were made clear in Report 139, the Committee asked the Department's representative whether the Department had attempted to consult with CASA and other relevant agencies regarding the proposed Agreement since the tabling of Report 139 in May 2014. The Department responded that:

> Since the Committee's hearing on 12 October 2015, CASA was again consulted, and was asked whether Laos is meeting the

65 JSCT, 13 May 2014, *Report 139*, p 10.
66 JSCT, 13 May 2014, *Report 139*, p 10.
67 JSCT, 13 May 2014, *Report 139*, p 11.
68 JSCT, 13 May 2014, *Report 139*, p 11.
69 JSCT, 13 May 2014, *Report 139*, p 12.

International Civil Aviation Organization (ICAO) standards or whether there are any concerns.

CASA noted that Lao-registered aircraft do not currently operate to Australia, and that before a Foreign Aircraft Air Operator's Certificate (FAAOC) is issued to a foreign airline operator, and as part of CASA's ongoing oversight of the holder, CASA assesses the application against ICAO Annex 6 criteria, as well as the relevant provisions of the Australian civil aviation legislation.

CASA advised that, in the absence of an application for an FAAOC or a similar permission, it would not actively monitor a foreign operator or the regulatory authority responsible for the safety oversight of the prospective operator. CASA confirmed that the safety article in the proposed agreement with Laos provides it with the regulatory authority it requires to deal with any future applications from Lao-registered aircraft operators.[70]

Conclusion

2.60 The Committee reiterates its view that consultation between CASA and the Department should be taking place on safety issues pertaining to a country with which Australia is negotiating an air services agreement.

2.61 Where such agreements have already been negotiated, the Committee considers that it would be prudent for the Department to ensure that such consultation takes place before the relevant treaty is tabled in Parliament.

2.62 Nevertheless, the Committee supports the proposed Agreement and recommends that binding treaty action be taken.

Recommendation 1

2.63 **The Committee supports Australia's ratification of the *Agreement between the Government of Australia and the Government of Lao People's Democratic Republic relating to Air Services* and recommends that binding treaty action be taken.**

70 Department of Infrastructure and Regional Development, *Submission 2*, Attachment A, p 1.

3

Amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended

Introduction

3.1 The proposed treaty action is to bring into force changes to the *International Convention for the Safety of Life at Sea, 1974* (SOLAS). These amendments were adopted by the Maritime Safety Committee (MSC) by Resolution on 21 November 2014 and tabled in the Parliament on 8 September 2015.

Background

3.2 The primary objective of SOLAS is to specify minimum safety standards for ship construction, equipment and operation.[1]

3.3 SOLAS is administered by the International Maritime Organisation (IMO), a specialised agency of the United Nations. The IMO has 171 member states, including Australia. A number of non-government organisations—such as shipping industry representatives—have consultative status. Within the IMO the MSC has responsibility for maritime safety.[2]

---

1 Mr Michael Sutton, General Manager, Maritime and Shipping Branch, Department of Infrastructure and Regional Development (DIRD), *Committee Hansard,* Canberra, 12 October 2015, p. 1.

2 National Interest Analysis [2015] ATNIA 14, *Amendments to the International Convention for the Safety of Life at Sea* (SOLAS), 1974, as amended [2015] ATNIF 14 and 24 (hereafter referred to as the NIA), para 24.

3.4 The MSC adopted the amendments at its 94th session under IMO Resolution MSC.380. The National Interest Analysis (NIA) advises that the amendments will be deemed to be accepted by Australia on 1 January 2016, and come into force on 1 July 2016, unless prevented by objections. To prevent the deemed acceptance, there must be objections by more than one third of the contracting governments, or by contracting governments whose combined merchant fleets are at least 50 per cent of the gross tonnage of the world's merchant fleet.[3]

Proposed treaty actions and national interest summary

3.5 The NIA does not recommend any objections to the Resolution.[4] It advises that implementation of the Resolution will ensure that Australia continues to meet its treaty obligations under SOLAS.

3.6 Implementation also allows Australia to apply the obligations to foreign ships in Australian ports, ensuring a high safety standard is met by all ships in Australian waters.[5] When asked by the Committee how this differs from current arrangements, a representative from the Australian Maritime Safety Authority (AMSA) explained:

> It would be a slight change, in that we now have a power and there would be an obligation on the ship when they bring the containers in to contain that verified gross mass number. That means that we automatically start at a point where someone has certified that this container weight is accurate—that would be what we verify against should there be any problems.

3.7 The Amendments make three main changes to SOLAS and one change to the Appendix. The NIA advises that these amendments will revise and update international safety of life at sea regulations, and that amendments are in Australia's interests to ensure the safety of workers, the safety of cargo and the overall safety of the ship at sea.[6]

3.8 Shipping Australia Limited (SAL), Australia's peak shipowner association, is supportive of the amendments and agrees they will 'enhance the safety of personnel on board ships and ashore whilst ensuring the overall safety of the cargo and the ship.'[7]

---

3 NIA, para 3.

4 NIA, para 16.

5 NIA, para 9.

6 NIA para 7.

7 Shipping Australia Limited (SAL), *Submission 1,* p. 1.

Chapter II-2, Part C, Regulation 10, Paragraph 5.2 (fire safety measures)

3.9 Part C governs fire safety measures for passenger ships carrying not more than 36 passengers. The amendment changes the title of paragraph 5.2 to:

> 5.2 Machinery spaces of Category A containing internal combustion machinery.

3.10 The NIA advises that this change is to clarify the application of the paragraph, to reflect the original intent.[8] A Department of Infrastructure and Regional Development (DIRD) representative explained that the change clarifies that the 'existing regulation only applies to specific machinery spaces and not all machinery spaces'.[9]

Chapter VI, Part A, Regulation 2, new Paragraphs 4, 5 and 6 (cargo weight verification)

3.11 This Chapter governs the carriage of cargoes and oil fuels. Regulation 2 specifically covers cargo information. The amendment adds three new paragraphs to provide a requirement for the verification of the weight of containers before they are loaded onto a ship.

3.12 According to the NIA, incorrectly declared weights may result in a loss of life or property.[10] The departmental representative explained to the Committee the importance of accurate container weights:

> For ships, accurate weight is required so that containers are placed and stowed evenly, both horizontally and vertically, to maintain the ship's stability during the whole voyage. For terminals, accurate weights are required to ensure that lifting equipment and cranes are suitable for the container load.[11]

The NIA also advises that accurate weights ensure appropriate lashing arrangements are applied and sheer force, bending moments and torsional effects of the cargo on the vessel can be calculated. These have been identified as significant problems that may result in the loss of containers or container vessels.[12]

3.13 The NIA advises that current SOLAS regulations require the shipper of the cargo to ensure the weight of cargoes in cargo transport units (such as containers) is in accordance with the weight declared on the shipping documents. The new amendment is intended to ensure:

---

8 NIA para 4.

9 Mr Sutton, DIRD, *Committee Hansard,* Canberra, 12 October 2015, p. 1.

10 NIA, para 8.

11 Mr Sutton, DIRD, *Committee Hansard,* Canberra, 12 October 2015, p. 1.

12 NIA, para 8.

- a consistent approach on how verification of weight is done, providing two options for this process; and
- weight information is provided to the master of the ship and the terminal representative.[13]

3.14 The amendment will offer better assurance to the master of the ship and the terminal representative that the weight of the cargo is consistent with the weight listed in the shipping documents.[14]

Chapter XI-1, new Regulation 7 (atmosphere testing instruments)

3.15 This Chapter contains special measures to enhance maritime safety. The new Regulation 7 will require every cargo ship on an international voyage to carry an 'appropriate portable atmosphere testing instrument or instruments'[15] to test the air of an enclosed space to ensure it is safe to enter. These instruments must, at a minimum, be capable of measuring concentrations of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide.

Appendix

3.16 The Appendix, which governs certificates, will be amended to require certificates carried by ships include an entry for the total number of persons for which lifeboats are provided. This change is editorial and corrects a drafting oversight.[16]

Obligations

3.17 The obligations as set out in the NIA will be:

- the minor amendments to the title of Chapter II-2 Regulation 10 paragraph 5.2;
- the new requirement for mandatory verification of the gross mass weight of containers; and
- the new requirement to carry a portable atmosphere testing instrument.[17]

---

13 NIA, para 4.

14 Mr Sutton, DIRD, *Committee Hansard,* Canberra, 12 October 2015, p. 1.

15 Annex 1, Resolution MSC.380(94) (adopted on 21 November 2014), Amendments to the *International Convention for the Safety of Life at Sea* (SOLAS), 1974, as amended, (hereafter referred to as Annex 1), p. 3.

16 Mr Sutton, DIRD, *Committee Hansard,* Canberra, 12 October 2015, p. 2.

17 NIA, para 10.

Implementation

3.18 SOLAS is implemented in Australia through a number of Marine Orders, made by the Australian Maritime Safety Authority (AMSA) under the *Navigation Act 2012* (Cth). The NIA advises that the amendments will be delivered through existing resources and will only require minor changes to Australia's Marine Orders.[18]

3.19 The amendment relating to fire safety measures requires no implementation action. The amendment relating to atmosphere testing instruments will require minor amendments to Marine Order 21 clarifying the types of vessels to which Chapter XI-1 regulation applies. The amendment relating to certificates will require a minor change to approved forms for two certificates.[19]

3.20 The amendment to Chapter VI, Part A, Regulation 2 relating to the weight of cargo transport units may require a minor amendment to regulations or Marine Orders. AMSA is currently evaluating the most appropriate means of implementing the proposed amendment.[20]

3.21 According to evidence provided by DIRD, AMSA consulted with industry on each of the amendments and did not receive opposition to the changes, however did raise concerns about how verification of container weights will be enforced. The Committee was told AMSA will continue to consult with the trucking and shipping industries "to determine how container bookings and movements are made to ensure the lowest impact for implementing the SOLAS requirements" in preparation for the resolution entering force on 1 July 2016.[21]

3.22 The Committee heard that AMSA are seeking ways to meet the new requirements through existing processes. While some approaches, such as taking weights used by crane operators, have been found unsuitable AMSA referred to other options they are investigating, including using existing weighbridges or weights currently being recorded by shipping consigners.[22]

3.23 The Committee asked DIRD and AMSA officials about the process for enforcing accurate weight record requirements. They were told that

18 NIA, para 11.

19 Mr Sutton, DIRD, *Committee Hansard*, Canberra, 12 October 2015, p. 2.

20 NIA, para 12.

21 Mr Sutton, DIRD, *Committee Hansard*, Canberra, 12 October 2015, p. 2.

22 Mr Allan Schwartz, General Manager Ship Safety, Australian Maritime Safety Authority (AMSA), *Committee Hansard*, Canberra, 12 October 2015, p. 1.

monitoring compliance of the treaty requirements would be AMSA's responsibility:

> That would be the sort of thing that we would ensure in the drafting of regulations that, where appropriate, the obligations are placed where they should be placed, and that AMSA has the power to ensure compliance. Fundamentally, we would do that through our routine port state control activity of random sampling—when we are onboard the ship we would ask to see the documentation, much as we do now, but that would be something that we would be looking for specifically.[23]

3.24 The Committee sought clarification from AMSA on whether routine compliance activities involved checking container weights or checking documentation only:

> The first step we would take is to look at the paperwork and we would go from there. As it is now, it is not uncommon for us to get phone calls from stevedores or the port terminals to say that a container seems to be heavier than it should be—in which case, if we so desire, we can then have that container weighed to check its weight.

When asked whether random weight checks were ever conducted, the AMSA representative stated that they were not.[24]

3.25 The Committee also enquired whether containers may be subject to random checks through the National Heavy Vehicle Accreditation Scheme implemented by state authorities. A response from DIRD confirmed that transport authorities and police do undertake compliance under the Heavy Vehicle National Law, which includes mass and dimension inspections on heavy vehicles transporting freight containers. This may require the inspection of Container Weight Declaration documentation, which is required to include the weight or purported weight of the container.[25]

Costs

3.26 The cost impact varies across the three amendments.

---

23 Mr Schwartz, AMSA, *Committee Hansard*, Canberra, 12 October 2015, p. 2.

24 Mr Schwartz, AMSA, *Committee Hansard*, Canberra, 12 October 2015, p. 3.

25 Department of Infrastructure and Regional Development (DIRD), *Submission 2*.

3.27 Amendment to Regulation 5.2 (adjusting the title) is expected to reduce costs, as it is intended to limit the scope of the application of this provision.[26]

3.28 Amendment to Chapter VI (cargo weight) will result in additional costs for weighing each container. The NIA advises that current weighing costs are around $5 plus GST per container; however not all containers will need to be weighed, as some may already be weighed at other points in the transport chain. According to the NIA, given that the majority of shipping containers arrive at port by truck, and AMSA has confirmed that it will accept the National Heavy Vehicle mass management documentation used to verify the cargo weight, the impact to industry is expected to be minimal.

3.29 Amendment to Chapter XI (atmosphere testing equipment) is estimated to be $1300 per ship with ongoing annual maintenance costs of $450.[27] However the NIA believes that less than five Australian ships will need to obtain new equipment, as ships that are subject to the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* are already obliged to carry atmosphere testing equipment.[28]

Conclusion

3.30 If no objections are made, amendments to the SOLAS Convention will take effect automatically for Australia on 1 July 2016. As a result, the Committee is not required to make a recommendation. Nevertheless, the Committee would like to record that it has no objections to the amendments and supports their automatic entry into force.

26 NIA para 17.

27 NIA para 20.

28 NIA para 15.

4

Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters

Introduction

4.1 The proposed treaty action is to bring into force the *Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters,* which was signed for Australia on 15 November 2014 and tabled in the Parliament on 8 September 2015.

Background

4.2 The National Interest Analysis (NIA) describes mutual legal assistance as a formal process by which the government of one country requests assistance from the government of another country in relation to a criminal investigation or prosecution.[1] Under mutual assistance treaties, parties can request information and evidence for the purpose of investigating or prosecuting serious crimes. They can also request for proceeds of crime located in the other party's jurisdiction to be located, restrained and returned.[2]

4.3 According to the NIA, Australia has mutual legal assistance treaties with 29 countries and mutual assistance obligations under several multilateral

---

1 National Interest Analysis [2015] ATNIA 16, *Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters* [2014] ATNIF 32 (hereafter referred to as the NIA), para 2.

2 NIA, para 2.

conventions. Australia does not currently have a bilateral agreement with Brazil to facilitate mutual legal assistance.[3]

4.4 In response to the Committee's enquiry regarding which country initiated the proposed treaty, the Attorney-General's Department advised that negotiations date back to at least 1992, when Australia presented Brazil with a draft model treaty.[4]

Proposed treaty action

4.5 Mutual assistance requests provide the framework for countries to seek assistance on transnational crime cases, as explained by an Attorney-General's Department official:

> […] foreign evidence can only be admitted into Australian criminal proceedings if it has been obtained under a mutual assistance request. Also, in Australia, we can only exercise coercive powers such as executing a search warrant if authorised in response to a mutual assistance request.[5]

4.6 Brazil and Australia are party to multilateral conventions that contain mutual assistance obligations and can currently provide assistance based on reciprocity. However a formal bilateral treaty would have a number of benefits:

- It would expand the number of offences on which Australia and Brazil can cooperate. The Committee heard evidence that multilateral conventions may only cover assistance for certain offences.[6]
- It will guarantee mutual assistance by providing an obligation to consider requests where the treaty requirements are met. In the absence of a treaty there are no assurances that Australia's requests for assistance will be considered.[7]
- It will establish practical arrangements and define mutually agreed terms for requesting and providing assistance.[8]

3 NIA, para 5.

4 Attorney-General's Department, *Submission 1.*

5 Ms Catherine Hawkins, First Assistant Secretary, International Crime Cooperation Division, Attorney-General's Department, *Committee Hansard*, Canberra, 12 October 2015, p. 5.

6 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 8.

7 NIA, para 10.

8 NIA, para 9.

- It is specifically tailored to meet the operational and legal requirements of Australia and Brazil.[9]

Reasons for Australia to take the proposed treaty action

4.7 A Departmental witness told the Committee that effective international cooperation via mutual assistance treaties is essential in tackling serious and organised crime, such as drug trafficking, money laundering, human trafficking, people smuggling, cybercrime and terrorism.[10] Where evidence or proceeds of crime are located in a foreign jurisdiction, it is in Australia's interests to be able to request and provide the broadest possible assistance.[11]

4.8 The treaty will enable cooperation with Brazil, which government officials described as a major transhipment country for illicit drugs originating in other Latin American nations[12] and 'an important partner in South America in the fight against transnational crime and particularly in addressing the rapid expansion of the global drug market.'[13]

4.9 The treaty contains safeguards and protections that are consistent with those in the *Mutual Assistance in Criminal Matters Act* 1987 (Cth) (the Mutual Assistance Act). The effect of these safeguards and protections is that Australia could refuse assistance if there was a concern that the resulting sentence may be out of alignment with what would be acceptable in Australia.[14]

4.10 The safeguards allow Australia to refuse assistance in cases where the request has been made for the purpose of prosecuting someone on discriminatory grounds, or where the action did not constitute an offence in both countries (dual criminality). The safeguards also allow Australia to refuse assistance where the death sentence may be applied.

---

9 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 5.

10 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 5.

11 NIA, para 4.

12 Mr Brett Hackett, Assistant Secretary, Canada and Latin America Branch, Department of Foreign Affairs and Trade (DFAT), *Committee Hansard,* Canberra, 12 October 2015, p. 6.

13 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 5.

14 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 7.

4.11 The Committee heard that Brazil has abolished the death penalty for all crimes which Australia is likely to deal with under mutual assistance.[15] Brazil retains the ability to use the death penalty for wartime offences only.[16] The Brazilian Ministry of Foreign Affairs advised the Attorney-General's Department that wartime is defined as a time of war declared by the President of the Republic and authorised by Congress. The death penalty must be executed according to the Military Penal Code, which contains no reference to terrorism.[17] There have been no executions carried out in Brazil since 1855.[18]

Obligations

4.12 The obligations as set out in the NIA are provided below.[19]

4.13 The Treaty will oblige the Parties to provide each other with assistance in the investigation and prosecution of criminal offences and related proceedings **(Article 1**(1)). The assistance to be provided may include:

- taking evidence and obtaining statements of persons, including experts **(Article 1**(3)(a));
- providing information, documents and other records, including criminal and government records, judicial documents and expert evaluations **(Article 1**(3)(b));
- locating persons and objects, including their identification **(Article 1**(3)(c));
- examining objects and sites to the extent that it is not inconsistent with the laws of the Requested Party **(Article 1**(3)(d));
- search and seizure **(Article 1**(3)(e));
- delivering property and evidence **(Article 1**(3)(f));
- making persons in custody and others available to give evidence or assist investigations **(Article 1**(3)(g));
- service of documents, including documents seeking the attendance of persons **(Article 1**(3)(h));

15 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 6.

16 Ms Hawkins, Attorney-General's Department, *Committee Hansard,* Canberra, 12 October 2015, p. 6.

17 Attorney-General's Department, *Submission 1.*

18 NIA, para 15.

19 NIA, paras 12 to 27.

- measures to locate, restrain and forfeit the proceeds and instruments of crime and return and share assets **(Article 1**(3)(i)); and
- other assistance consistent with the objects of the Treaty and the law of the Requested Party **(Article 1**(3)(j)).

4.14 Mutual assistance under the Treaty does not include extradition, execution of criminal judgments imposed in the territory of the Requesting Party (except to the extent permitted by the Treaty and the Requested Party's laws) and international transfer of prisoners to serve sentences **(Article 2** (Exclusions)). Australia has an existing extradition treaty with Brazil. Australia does not have an agreement with Brazil covering the international transfer of prisoners.

4.15 The obligation to provide mutual legal assistance in **Article 1** is subject to a number of internationally accepted grounds for refusal which largely reflect the existing grounds contained in the Mutual Assistance Act. Under **Article 4**(1) (Refusal or Postponement of Assistance), the Requested Party may refuse to provide assistance if:

- the request relates to an offence for which the death penalty may be imposed or executed **(Article 4**(1)(a));
- execution of the request would impair the Requested Party's sovereignty, security, public order, essential public interest or prejudice the safety of any person (Article 4(1)(b));
- the request relates to an offence that is regarded by the Requested Party as an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, of a political character **(Article 4**(1)(c));
- there are grounds to believe the request has been made for the purpose of prosecuting a person on account of race, sex, religion, nationality, ethnic origin or political opinions, or that that person's position may be prejudiced for any of these reasons **(Article 4**(l)(d));
- the request relates to an offence the prosecution of which in the Requesting Party would be incompatible with the Requested Party's law on double jeopardy **(Article 4**(l)(e));
- the request relates to an offence that is regarded by the Requested Party as an offence under military law, which is not also an offence under ordinary criminal law **(Article 4**(l)(f));
- the request relates to an offence where acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested Party, have constituted an offence, or

could not be prosecuted in the Requested Party in similar circumstances **(Article 4**(1)(g)); or

- providing the assistance sought could impose an excessive burden on the human or financial resources of the Requested Party **(Article 4**(1)(h)).

4.16 Brazil abolished the death penalty for ordinary crimes in 1979 and has not carried out an execution since 1855. Australia has a long-standing policy of opposition to the death penalty. According to the NIA, **Article 4**(1)(a) relating to the death penalty is able to be implemented consistently with Australia's policy position and domestic legal requirements under subsections **8**(1A) and **8**(1B) of the Mutual Assistance Act.

4.17 **Article 4**(4) of the Treaty provides that, prior to refusing or postponing assistance, the Requested Party must consider whether assistance could be granted subject to any necessary conditions. If the Requesting Party accepts conditional assistance, it must comply with the conditions.

4.18 Where a request would interfere with an ongoing investigation, prosecution or civil proceeding, the Requested Party may temporarily delay providing assistance **(Article 4**(2)). The Requested Party must promptly inform the Requesting Party if the request is wholly or partially refused or its execution is postponed and provide reasons for the refusal or postponement **(Article 4**(3)).

4.19 **Article 5** (Contents of Requests) outlines the content of mutual legal assistance requests. **Article 5**(1) lists the information that is to be included in a request, including:

- the name and contact details of the competent authority **(Article 5**(l)(a));
- a description of the nature of the investigation or proceedings, including a summary of the facts and provision of the applicable laws **(Article 5**(1)(b);
- a description of the nature and purpose of the assistance sought **(Article 5**(l)(c));
- the need and reasons for any confidentiality required **(Article 5**(l)(d); and
- any time limits for compliance with the request **(Article 5**(1) (e)).

4.20 **Article 5**(2) lists additional information that should be included where possible to facilitate execution of the request.

4.21 **Article 3** (Execution of Requests) of the Treaty requires each Party to execute requests for assistance promptly in accordance with its laws (**Article 3**(1)). The Requested Party must promptly inform the Requesting Party of the outcome of the execution of the request (**Article 3**(5)). If the

Requested Party becomes aware of circumstances likely to cause significant delay in responding to the request for assistance, it must promptly inform the Requesting State (**Article 3**(4)).

4.22 **Article 7**(1) (Limitation and use of Confidentiality) of the Treaty provides that the Requested Party may require, after consultation with the Requesting Party, that information or evidence provided, or its source, be kept confidential or be disclosed or used subject to terms and conditions it specifies. **Article 7**(3) provides that the Requesting Party may require that a request, its contents and supporting documents and any action taken be kept confidential except to the extent necessary to execute it or under terms and conditions specified by it. **Article 7**(2) of the Treaty requires that information and evidence obtained under it not be used for purposes other than those stated in the request without the prior consent of the Requested Party.

4.23 **Article 8** (Certification and Authentication) of the Treaty sets out certification and authentication requirements for documents, records or objects provided through a request for assistance.

4.24 **Article 9** (Language) provides that requests and supporting documents must be accompanied by a translation into the language of the Requested Party.

4.25 **Article 10** (Representation) provides that the Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceedings arising out of a request for assistance, and shall otherwise represent the interests of the Requesting Party.

4.26 **Articles 12 to 22** of the Treaty set out requirements for specified forms of assistance available under the Treaty. This includes:

- taking of evidence **(Article 12);**
- obtaining of statements **(Article 13);**
- presence of persons involved in proceedings **(Article 14);**
- transmission and return of documents and objects **(Article 15);**
- availability of persons to give evidence or assist investigations **(Article 16);**
- making persons in custody available to give evidence or assist investigations **(Article 17);**
- the safe conduct of any person who is in the Requesting Party in order to give evidence or assist in investigations **(Article 18);**
- requests relating to proceeds and instruments of crime **(Article 19);**
- service of documents **(Article 20);**

- provision of publically available and official documents **(Article 21);** and
- search and seizure **(Article 22**).

4.27 **Article 23** (Other Assistance) specifies that the Treaty will not affect the obligations between the Parties, pursuant to other treaties or arrangements, or otherwise.

4.28 **Article 27** (Consultation and Dispute Settlement) of the Treaty provides that the Parties shall consult promptly on the interpretation, application and implementation of the Treaty, and if the Central Authorities of the Parties are unable to agree, any dispute shall be resolved through consultation by diplomatic channels.

Implementation

4.29 The NIA proposes that the treaty be implemented through new regulations under the Mutual Assistance Act. Under section 7 of the Act, regulations can be used to stipulate the countries the Act applies to, subject to any mutual assistance treaty between Australia and that country.

4.30 This is the mechanism through which mutual assistance treaties are given effect in Australia's domestic law and is consistent with the implementation of other mutual assistance treaties.[20]

Costs

4.31 As outlined in the NIA, Article 11(1) (Expenses) of the treaty provides that the Requested Party shall meet the costs of fulfilling the request for assistance. The Requesting Party shall bear the travel expenses of any person travelling to or from the Requested Party in connection with a mutual assistance request, including custodial or escorting officers, as well as expert's fees and expenses.

4.32 Where expenses are of an extraordinary nature the Parties shall consult to determine the terms and conditions under which the requested assistance can be provided (Article 11(2)).[21]

4.33 Expenses related to mutual assistance requests under the proposed treaty would be met from existing budgets, principally from those of the

20 NIA, para 30.

21 NIA, para 28.

Attorney-General's Department and the Australian Federal Police (who execute the majority of requests). This is the usual practice for mutual assistance treaties.[22]

Conclusion

4.34 The Committee supports Australia's ratification of the Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters and recommends that binding treaty action be taken.

Recommendation 2

4.35 **The Committee supports Australia's ratification of the *Treaty between Australia and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters* and recommends that binding treaty action be taken.**

Mr Angus Taylor MP
Chair

12 November 2015

22 NIA, para 29.

A

Appendix A - Submissions

1 Shipping Australia Limited

2 Department of Infrastructure and Regional Development

3 Attorney-General's Department

4 Department of Infrastructure and Regional Development

B

Appendix B - Witnesses

Monday, 12 October 2015 – Canberra

Australian Maritime Safety Authority

Mr Allan Schwartz, General Manager Ship Safety

Department of Infrastructure and Regional Development

Mr Michael Sutton, General Manager, Maritime and Shipping Branch

Mr Andrew McDonald, Director, Maritime Economic Regulation Section

Mr Gilon Smith, Acting Director, Air Services Negotiations

Department of Foreign Affairs and Trade

Mr David Mason, Executive Director, Australian Treaties Secretariat

Mr Brett Hackett, Assistant Secretary, Canada and Latin America Branch

Attorney-General's Department

Ms Catherine Hawkins, First Assistant Secretary, International Crime Cooperation Division

Ms Ashleigh Saint, Acting Assistant Secretary, Transnational Crime and Corruption Branch

Ms Celia Maunder, Acting Principal Legal Officer, Extradition and Mutual Assistance