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JOINT STANDING COMMITTEE ON TREATIES

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JOINT COMMITTEE ON TREATIES

Monday, 26 March 2001

Members: Mr Andrew Thomson (*Chair*), Senator Cooney (*Deputy Chair*), Senators Bartlett, Coonan, Ludwig, Mason, Schacht and Tchen and Mr Adams, Mr Baird, Mr Bartlett, Mr Byrne, Mrs Elson, Mr Hardgrave, Mrs De-Anne Kelly and Mr Wilkie

Senators and members in attendance: Senators Cooney and Ludwig and Mr Adams and Mr Andrew Thomson

Terms of reference for the inquiry:

Review of treaties tabled on 27 February 2001.

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Committee met at 11.35 a.m.

APOLLONI, Mr Trevor, Assistant Manager, Technical and Regulatory Barriers to Trade Section, Business Environment Branch, Business Competitiveness Division, Department of Industry, Science and Resources

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SCOTT, Mr Peter, Executive Officer (International Economic Law), International Law Section, Legal Branch, Department of Foreign Affairs and Trade

Mutual recognition agreement on conformity assessment with Singapore

CHAIR—I declare open this committee hearing. Today, as part of the normal review of treaties that are tabled from time to time, we are going to review three of the treaties that were tabled in parliament on 27 February. They are the mutual recognition agreement with Singapore on conformity assessment, amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America, and an amendment to the constitution of the International Labour Organisation. Would one of you give an opening statement about these proposed instruments? After that we will go to questions.

Dr Dubs—Very briefly, this agreement clearly reflects the close relationship between Singapore and Australia, and it attempts to reduce the cost of regulatory requirements for trade between Australia and Singapore which amounts to about \$2 billion a year. It reduces also the time that it takes for goods to be imported or exported, so it increases the market access for the Australian industry and it also increases access to products from overseas for Australian industry.

Senator LUDWIG—As I understand it, we have got MRAs with the European Union and the European Free Trade Area. Is this agreement similar in terms? Do you have a model that you use, or is it one which is negotiated from a baseline?

Dr Dubs—It is essentially similar to the EU agreement in terms of objectives and what it achieves. Some of the way it is written is slightly different. The main difference of substance is that it relates only to three sectors at this stage, whereas the EU agreement has eight industry sectors.

Senator LUDWIG—That leads us to the next question. Are there negotiations for other sectors to be included, or have you just started with these and there is no prospect of going any further?

Dr Dubs—We looked at something like eight or 10 sectors. We certainly looked at the eight sectors that were covered by the EU agreement, but we have not yet really come to a conclusion on some of the other sectors. So the decision was taken to go forward with this agreement limited to the three sectors at this stage, with the possibility of adding the other sectors once they have progressed further. Some of those sectors may not be added, because the circumstances are clearly somewhat different between Singapore and Australia, as compared with the European Union and Australia.

Senator LUDWIG—You may want to take this on notice. I am trying to get an idea of how those with the European Union, in comparison with others, have benefited Australia. Effectively, if we are going to enter into this one—and I will ask you a question about whether there are any more with other countries on the drawing board—we want to be able to know not only whether it is in our national interest but also that we have gone back and had a look at the benefits we have obtained from the agreements that we have already put in place, to ensure that we can benchmark it against the Singapore agreement. And you can then tell me if we have got any other countries on the drawing board with the MRA. So we can learn by our experience that it has been a positive or a negative position.

Dr Dubs—Yes, Senator, that is certainly the intention. I suppose it is a little early to draw some firm conclusions on this. We would reckon that it will take another year or so to gather some further evidence, but we do have some case studies, some individual cases where we can demonstrate that there has been benefit to Australian exporters under the EU agreement. We have written up some case studies which show that in some instances thousands of dollars have been saved. Sometimes it is not only the dollars but also the timing: it accelerates the access to the market. In that sense, we have some anecdotal evidence, but I would not call it a cost-benefit analysis at this stage. We certainly are not rushing into doing more agreements. The intention is to consolidate on those we have got—that is, to promote them with industry, because one of the aspects is to make sure that industry is aware that this access is available. So that will be one of the focuses we have.

The second one is, as you suggested, that we will look very carefully at these agreements to see which aspects benefit us and what the problems are. If we are going to propose any further similar agreements, clearly we would want to learn from the experience.

Senator LUDWIG—So there are none on the drawing board at present for other countries?

Dr Dubs—There is another one on the drawing board, but I am advised that we are not supposed to publicise it at this stage.

Senator LUDWIG—Don't go where you can't go.

Dr Dubs—I would say, without perhaps giving away too much, that the one on the drawing board is there for very obvious reasons. It is an add-on to something which already is in place.

Senator LUDWIG—As to the question that you raised during your answer, perhaps we will go back a bit. Can you make the anecdotal evidence, or the case studies you have got, available to the committee?

Dr Dubs—Certainly, yes.

Senator LUDWIG—In addition, can you then put it on the longer drawing board for when you get some more of that evidence, about how you are then going to benchmark the EU agreement and compare it with the current one, if pursuing the Singaporean one is completed, and how it then goes along and then any future ones? Perhaps when you have got sufficient benchmarked information—if it takes a year, by all means; we will not have forgotten and probably you will be back again in any event—at some time you might like to make that available to the committee, if it is at all possible and within your ability to do so. Sometimes it is interesting to get a snapshot now but also to see how it goes with more longitudinal studies about how things benefit Australia.

Another question that you raised was about the Australian industry being aware. What efforts have you made to ensure that the Australian industry is aware of the implications of the agreement and how it will operate? Maybe you could then take this on notice: has there been any feedback in relation to the current one, the EU, from Australian industry, as to whether or not they demonstrate an awareness of it and use of it?

Dr Dubs—Much of the awareness has been raised through the industry associations. That has been the major emphasis so far. Industry associations are closely involved in actually negotiating the schedules and so on, so right through the process there is strong involvement at all levels, including industry representatives. We have relied on this mechanism so far. What we intend to do in the coming months is to take some more proactive steps to promulgate some of that information. Particularly now on the strength of the Singapore MRA, we can go back and publicise that there is a range of agreements in place which are of potential interest and benefit to industry.

Mr ADAMS—I take it Australian consumers are going to benefit from this process of harmonisation. There has been no consumer representative involved in any of your discussions?

Dr Dubs—It is not harmonisation we are talking about here. In that sense, we are not talking about changing the standards that apply to the goods that are sold in Australia. In terms of consumers they will get exactly the same products, satisfying the same regulatory and safety requirements.

Mr ADAMS—That was my next question. Are we cutting Australian standards to meet any obligations? Are there any changes at all to Australian standards?

Dr Dubs—Not at all. The MRA is essentially one of recognising the testing done in another country, in Singapore in this instance, to our standards and, vice versa, for Singapore to accept testing in Australia to their standards. The MRA does not actually go beyond that facilitation even though there may be other moves to try to harmonise standards or accept equivalents. That is not the purpose of the MRA.

Mr ADAMS—It may not be the purpose but there are implications that other countries are jacking up their standards so that we cannot export to them because our standards do not meet their standards. Those sorts of experiences have occurred. You had better tell me why this is just a harmonisation. They accept our tests that we have done on our products. We accept what they

have done on their products. You are saying most of the industry associations have accepted that. Are the medical companies pretty happy with that?

Dr Dubs—Yes. I am not aware of any problems. Maybe I should refer to Ms Maclachlan.

Ms Maclachlan—Perhaps I could answer that. In the case of a pharmaceutical or medicinal product, more widely than just prescription medicines, certainly the three peak industry bodies have been kept fully abreast of these negotiations. In the case of pharmaceutical medicinal products, the standard of manufacturing inspections of Singapore and Australia are equivalent. They are ones that are also met by about another 22 countries that belong to the Pharmaceutical Inspection Convention Scheme. This includes most of the major industrialised countries in the world. Inspection of manufacturers is an important element in our product approval process.

Mr ADAMS—I accept that. There are people with disabilities and in aged care who would welcome some cheaper products. In some of their areas, which seem to be extremely expensive from my experience, we may be able to have a bit more competition.

Ms Maclachlan—Certainly from the point of view of regulatory costs for actually placing a medicinal product on the Australian market, this agreement will mean that there will be reduced costs for the Australian importer of the medicinal product. If they are importing the product from Singapore it means that they no longer have to pay for the Therapeutic Goods Administration to go and inspect the Singaporean manufacturer. There is certainly a cut in costs for the Australian importer. Therefore the importer will have to pay the evaluation cost for the efficacy evaluation of the product to be placed on the market but not the manufacturer inspection costs.

Mr ADAMS—How do we know that those standards are going to be maintained? Do we have an audit process or do we revisit them? What about standards slipping and being able to have another look at that? I was once told we could import cooked chicken from Thailand, but when people started to investigate the heat processes in the cooking process, there was a little bit of difference in the harmonisation of the two temperatures that were being given to us. Those sorts of things you have to justify. People here have to believe that the standard is being maintained. How do we go about that?

Dr Dubs—That is one of the rather lengthy processes we go through. In the European Union agreement, for example, there is a process of confidence building, having certain bodies designated as conformity assessment bodies under the agreement. There are checks and balances, and the whole agreement really relies very heavily on confidence in the other country's conformity assessment system. If there is no confidence in the system, then really we would not want to go ahead with an MRA. That certainly dictates to some extent the countries with which we would consider negotiating such agreements.

Mr ADAMS—Have all the states been involved in negotiations, or have they made a contribution here?

Dr Dubs—Yes, all states get consulted and they actually have to agree.

Mr ADAMS—Are they signed up?

Dr Dubs—Yes, they are signed up, except that there are two states, Queensland and Western Australia, which have not signed up. That is essentially that, because of the elections, there was a delay, but I have no reason to believe that they will not sign.

Senator LUDWIG—When will you know whether Queensland and WA will sign?

Mr Apolloni—We had an indication that WA might even sign today or this week. Queensland may take a little longer, but they envisage it will not take very long. It is just a matter of the new Premier getting through the backload of work.

Senator LUDWIG—You are not asking us to agree to a position without having an understanding that all the states have signed up to it? Is that the position we are currently in?

Mr Apolloni—Yes, but as I said, we do anticipate that the remaining two premiers will sign very shortly, hopefully this week, and certainly before the end of the tabling period. Would that be satisfactory?

Senator LUDWIG—That would be great. If you could let us know that it had actually occurred it would certainly ease my concern.

Mr Apolloni—We will certainly advise when that happens.

CHAIR—Many thanks for your evidence and we will consider this treaty at our next private meeting.

[11.54 a.m.]

GRAY, Mr Mark, Executive Officer, Fisheries and Resources, Pacific Regional Section, Pacific Islands Branch, Department of Foreign Affairs and Trade

HURRY, Mr Glenn, General Manager, Fisheries and Aquaculture Branch, Department of Agriculture, Fisheries and Forests

NEAVE, Mr Peter, Senior Management Officer, Tuna and Billfish Fisheries Section, Australian Fisheries Management Authority

NIMMO, Mr Rick, Director, Pacific Regional Section, Pacific Islands Branch, Department of Foreign Affairs and Trade

WARD, Mr Peter James, Fisheries Scientist, Bureau of Rural Sciences, Department of Agriculture, Fisheries and Forests

Amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the United States of America

CHAIR—Welcome. I call the representatives to give evidence on the next of the three treaties, which is the amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the United States of America. That would be people from the Australian Fisheries Management Authority, the Department of Agriculture, Fisheries and Forestry and the Department of Foreign Affairs and Trade. If one of you will give an opening statement we will go to questions after that.

Mr Hurry—The US treaty has now been in place since 1988. There is a provision under the treaty that each year the treaty be reviewed. There are four proposed changes at the moment to the existing treaty. Three of those changes impact Papua New Guinea and the Solomon Islands. The Papua New Guinea amendment would exclude their archipelagic waters from fishing by the US fleet. That would add to the areas that they have already got excluded under the treaty arrangement. The effect of that would be to let Papua New Guinea develop their domestic fleet to cover the fishing capacity in those waters.

There are two Solomon Islands amendments. One is to increase the access of US boats into the Solomon Islands EEZ—at the moment most of their waters are closed to US fishing activities—and also to lift the restrictions on the amount of days which boats might fish in their Solomon Islands waters. At the moment it is limited to 500 days—collectively/cumulatively—or part thereof, throughout the year. One of the goals for the Solomon Islands in having these days of fishing effort in the Solomon Islands is to lift the capacity of their domestic industry. There is a joint US-Solomon Islands proposal to develop the Solomon Islands domestic fishery.

The amendment that concerned us, I guess, more than the other three was the one to lift the restriction on the US long-line fleet to allow it to operate in the high seas areas of the US treaty waters. It would appear that they were excluded more by omission than anything else when the treaty was originally negotiated. The fleet is based largely in Hawaii. It is a mixed fleet of small and large long-line vessels that target fish out of Hawaii. The effect for us was that it would give

them access to the high seas waters between Australia and New Zealand on the east coast of Australia. The area in which they would fish is currently fished by the Japanese, the Koreans and the Taiwanese as long-line fisheries operators anyway. As our east coast tuna industry is beginning to develop, they are now going across the line and also targeting tuna, particularly broad-billed swordfish, in that area as well. So there is an emerging Australian effort going across our zone into international waters. I would expect that to continue and to grow in the future.

The benefits of this treaty have been spread right across the 16 members of the Forum Fisheries Agency. Fifteen per cent of the access fee that the US pays is split amongst all countries, whether they have got fish taken from their waters or not; then 85 per cent of the money is divided up between those countries in whose EEZs the fish are actually caught. Australia gets about \$US148,000 per annum from this agreement. There has been very limited interest by the US in having their purse seine fleet fish in Australian waters at all. This US treaty is basically solely about the access of the US purse seine fleet, and not the long-line fishing fleet, to fish in our waters.

The status of the stocks in the FFA area—big eye, yellowfin and skipjack—are fairly robust at the moment. In regard to the last scientific studies on them we were concerned about big eye tuna, but the studies in those showed that they were not too bad. There is the development of the multilateral high level commission going on. That convention text has now been agreed. We are moving in April to the first of the preparatory conferences to develop the Western and Central Pacific Tuna Commission. That commission will allow us to effectively manage these stocks between both the high seas nations and the Forum Fisheries Agency nations into the future. That, Chair, is probably a reasonable coverage of where we are at, but we are happy to take questions from there.

Mr ADAMS—We are talking about the US fishing in Australian waters. Did you say that?

Mr Hurry—There is a small area off the Coral Sea that is open under this treaty arrangement, and has been since 1988, for the US purse seine fleet only, to purse seine in if it needed to.

Mr ADAMS—What do they take with that net?

Mr Hurry—Largely skipjack, but they do not take them in Australian waters. I do not think, Peter, there has ever been any fishing effort in there?

Mr Neave—There have been a few boats inside the Australian fishing zone. We understand there has not been any catch taken.

Mr Hurry—It is apparently a fairly rough bit of water and a difficult bit of water to trawl, and it is a fair way away from where the US fleet is traditionally based.

Mr ADAMS—We have been endeavouring to get China and Taiwan and others on this long-line stuff with tuna to get these international conventions to work and to get some science into this fishery internationally. Will this contribute to that?

Mr Hurry—I think it would improve it enormously. I think that the US fleet against the other fleets is a far more responsible fleet. I will be corrected if I am wrong, but I think they have just moved to a 100 per cent observer coverage on their long-line fleet in Hawaiian waters, which is substantially above anything else that we get from anywhere else.

Mr ADAMS—They will submit their catches, their amounts and those sorts of things?

Mr Hurry—Under the US treaty arrangement on the fishing in FFA waters, all the catches are reported and the fishing efforts recorded.

Mr ADAMS—Do you think they will be doing much fishing in the Tasman Sea?

Mr Hurry—I would not think they would come over. I think that their traditional base is more Hawaii. Some of their boats are just not geared for long sea voyages to come across. But if they did come across they would provide us with an interesting benchmark against some of the other high seas boats that are fishing in there and it is something we do not have at the moment.

Mr ADAMS—So what is actually in this treaty for Australia?

Mr Hurry—From a fisheries perspective, the continuation of \$US148,000 a year that comes into consolidated revenue. Politically there are some other advantages, and I will let Mark talk to those.

Mr Gray—Chairman, I think you hit it on the head when you spoke more generally of raising the standards with some of the other distant water fishing nations through the MHLC process. I understand that our chairman headed an Australian delegation to one of those meetings. The tuna fishery in the Central and Western Pacific is the last great tuna fishery in the world. From DFAT's perspective it is very important that the forum island countries be given every opportunity to protect and develop what for some of them is really their only hope of economic self-sufficiency. So in that sense it is very much in Australia's interest to support any process that leads to that outcome. The US treaty preceded the MHLC process and set many of the benchmarks and demonstrated that common management of this common resource could work. So in that sense it is well worth strengthening it.

Mr ADAMS—With the Solomon Islands is there any processing going to take place? Is there any increase in those economic opportunities for the islands of the Pacific?

Mr Hurry—I understand there are five processing facilities in the Forum Fisheries Agency area. I will check that for you and come back to you on it. But the actual take of the skipjack tuna for processing at the moment is down because the world price of it is down. There is an oversupply, and the returns on canning are not that high. I am not quite sure what the joint fishing proposal in the Solomon Islands is, whether it is one where there would be more Solomon Islands involvement in the actual fishing industry itself or whether it is based on the processing and canning industry, but I can check that and come back to you.

Mr ADAMS—Would you find that out for me?

Mr Hurry—No trouble.

Mr ADAMS—It is a big point—as to whether we are getting some US dollars invested in there or some skill and technology transfer into there. It is a positive way of helping that. This treaty does not affect China and Taiwan. They would not have made a comment on this at all.

Mr Hurry—No, this goes out to comment by—and there has to be agreement for these amendments to take place—all 17 signatories to the agreement. China and Taiwan are not signatories to the agreement. Where they begin to get involved is through the Western and Central Pacific Tuna Commission. They will be seeking broader access under that agreement.

Senator LUDWIG—What is your view, your perspective, of long-line fishing?

Mr Hurry—I guess it is a bit mixed, depending on where you are coming from, but we find it a fairly selective way of fishing. There are obviously concerns about the interactions with non-target species in long-line fishing, particularly with sea birds and sea turtles these days. The US are doing quite a bit of work on interactions with sea turtles, and most long-line fishing nations around the world now are undertaking significant work on reducing the by-catch of sea birds in long-line fishing, both by setting at night using underwater setting chutes and also using tori poles or bird streamers to keep the birds off the waters. Australia has probably led some of the technology in developing better fishing practices in long-line fleets. But from a fishing perspective we think it is a fairly good, selective method of catching target species.

Senator LUDWIG—There is a view that it is an environmentally unfriendly form of fishing, though, isn't there, as you have just articulated. The question that then comes to my mind is this: if that is the case, what we intend to do is extend the scope of long-line fishing into areas that allow more fishing, obviously of the US and perhaps other countries as well. Is that responsible?

Mr Hurry—I think there is a real benefit in having the US on the water in these areas where the other high seas fishing nations are fishing. I think it gives us a good benchmark for what the catch per unit effort or the amount of fish you catch with each set of hooks that you put in the water actually is and not what we are told by some of the other countries. I think the practices that they adopt in long-line fishing are far stronger and more environmentally friendly than those of a lot of the other countries on the water. If there are interactions with non-target species in the US fleet, it again gives us some picture of what is happening on the others. You could probably catch fish a number of ways, but I think this way is reasonably selective. You can set high for certain species, you set low for other species, you set at night for broadbill. There is a range of ways you can fish with a long line that makes it more selective than others. I guess we are learning and improving as we are going along.

Senator LUDWIG—Where did the amendment proposal come from? Was it a US sponsored amendment?

Mr Hurry—The one on long-line fishing is definitely a US sponsored amendment, yes.

Senator LUDWIG—How does that come across to us? When this agreement is up for review each year, as it is, do they write to us and say, ‘Well, this year we would like to propose an amendment’? Do they write to you and ask for that? Is that how it works?

Mr Hurry—Each year there is an annual review of it. Mark may have some idea of how this one came about.

Senator LUDWIG—I understand it is an annual review. In this particular year did they write to you and say, ‘We would now like an extension of our ability to enter some of these areas and we propose an amendment. Do you agree?’ I am just trying to get an understanding. You did not come up with it?

Mr Hurry—No, we certainly did not come up with it. The way I understand it is—

Senator LUDWIG—By all means take it on notice if you need to.

Mr Hurry—I am happy to.

Senator LUDWIG—I just think it would be helpful to understand that. What we try to do here is to have a look at a national interest analysis to see what benefit it has for Australia. That is our prime matter that we have to examine, and so far you are telling me that it is a US sponsored amendment for the US’s benefit. I read some of your submission, if not all, and skimmed some of the other parts, but I still have a lot of difficulty in understanding the direct benefit to Australia—the direct benefit, not the indirect benefit that there might be some economic wellbeing in that we might be able to monitor catches a little bit better but, effectively, catches that have gone from that area. What is the benefit to us?

Mr Hurry—I am happy to take it on notice but I am also happy to have a go at answering it if you like. In a broader political sense, there is a lot of advantage in Australia being seen to be firmly behind the Pacific Island countries at the moment, given the difficulties they have got over there. Staying with this treaty and helping them with the changes they want to the treaty seemed to us to be an important part of how we approach our broader issues of fisheries management in the Pacific Islands. This treaty, actually, requires the support of all members of it in order for it to be accepted. Three of the proposed amendments, the Solomon Islands ones and the Papua New Guinea ones, clearly provide benefits to the Solomon Islands countries and, in effect, provide benefits to us by way of stability in the region. DFAT may want to correct me or improve on that.

The US treaty itself provides a stable way of engaging the US fleet in fishing responsibly in the Forum Fisheries Agency area. These amendments and our phone calls and discussions with the US indicate that they were clarifying the right of the US long-line fishing fleet to fish on the high seas, which is the same right that any other country in the world has. As I said when I started, it appears to be more by omission and certainly does not—

Senator LUDWIG—I read that. I understand, but be that as it may—

Mr Hurry—I am not winning on this one.

Senator LUDWIG—How does it benefit the Pacific nations to allow US long-liners into their area?

Mr Hurry—They can actually negotiate their way into their waters, on a bilateral access, at the moment, anyway. Back in the early 1990s they negotiated their access into Fijian waters, to long-line in there, but again found it to be a non-profitable exercise. They just did not make enough money out of the process. Most of the long-line fleet is still based in and fishes out of Hawaii. For that reason, I expect that it is unlikely that it will come over and try and target fish in the high seas area off the Australian coast. They have already flagged that, if they were interested in the future in coming across, they would negotiate with all countries in the region, particularly on broadbill and yellowfin stocks, before they actually came over to fish. With the other countries—China, Taiwan, Korea and Japan—they are in there fishing anyway. We have got little idea of what comes out of the Tasman Sea, high sea area at this stage anyway. For that alone, I reckon there are some benefits in having the US fleet in there.

Mr ADAMS—They are not part of this treaty at the moment, but they will be. They were left off. Is that the case?

Mr Hurry—The US pay all the funds under the treaty, but when they negotiated the original treaty in 1988, obviously the long-line fishing part was not included.

Mr ADAMS—I take it that, in scientific terms, their catch figures will be made available if they are not now.

Mr Hurry—Peter Ward is a scientist with BRS who has worked in the Forum Fisheries Agency area on the science of tuna and billfish stocks and he is probably better placed to answer that question for you.

Mr ADAMS—I am seeking to find out what information will come from the American long-line presence and becoming a part of this treaty by fishing in these waters. Will we gain information from them of what their catches have been, to add to our knowledge?

Mr Ward—Yes. There is no clear guarantee that the US long-line fleet are going to be fishing in that treaty area. But if they were fishing in that treaty area, then I would expect that under the treaty they would be providing catch and effort data and also information from independent observers that are placed upon those vessels.

Senator LUDWIG—They are not required to negotiate to go into the area once this treaty is signed, are they?

Mr Hurry—Not into the high seas area.

Senator LUDWIG—It is the high seas.

Mr Hurry—But into the EEZs they certainly are. They have to do that on a bilateral basis.

Mr ADAMS—Under our eighth report we recommended to the government of the day to negotiate bilaterally and multilaterally about by-catch. I know you say that long-line catches can

be targeted, but we do that with gummy and school shark: it is a bit difficult to get which one and we are having some difficulty sorting that one out, I think. How is this treaty going to help us in that regard with the by-catch. Is anything being given consideration in that? Has Mr Ward given any consideration to that?

Mr Ward—I would repeat what Mr Hurry has already said. The US fleet has a very good reputation in terms of monitoring what their fleet is doing and introducing some of those by-catch reduction methods. For the long-liners I know that they have introduced what are called tori lines—bird scaring lines—to reduce the by-catch of sea birds. They often set their lot lines at night to reduce the by-catch of turtle.

Mr ADAMS—Are they set automatically? Do they throw it under the water mechanically or do they just throw the hooks out the back?

Mr Ward—In terms of the operation the hooks are baited manually. Even the US has gone as far as weighting those lines so that they sink more quickly.

Mr ADAMS—The bait does not have an air bag for the fish that are put on the bait? Is there some difficulty with them retaining a certain amount of air and floating? You are saying the weighting processes overcome that?

Mr Ward—The bait that they use when they are fishing for species like swordfish tends to be squid. Squid does sink quite quickly. The weights are added to the lines to make sure that that sinking rate is even higher.

Mr ADAMS—We would get a good knowledge of their by-catch, whether it was birds or any other fish that they were pulling in on those lines? We would expect to get an honest view from the US fishing fleet? Is that the experience that we have had?

Mr Ward—That is the experience that we have had as far as the purse seiners are concerned. There is a very high level of observer coverage of the US purse seine fleet. It is running at about 20 per cent. I would expect that you would have at least similar levels for long-liners if they are fishing in the high seas area of the US treaty.

Senator LUDWIG—Have you consulted with all the states about the agreement and the relevant fishing authorities?

Mr Hurry—We have. We have been through a fairly extensive period of consultation. The only two states we have not consulted are Western Australia and South Australia because the FFA fish species do not go across into those two areas. The US long-line fleet can operate off their coast without any restrictions at the moment. The Northern Territory was happy with the proposed amendments. The east coast tuna and billfish—

Senator LUDWIG—Put it in the negative: is there anyone that disagrees?

Mr Hurry—The east coast tuna and billfish group had some concerns about the amendment when we first put it to the management advisory committee. They have since talked it through with our people and AFMA and are now happy with the proposal and note the financial benefits

to Australia under the treaty. New South Wales had some concerns. They noted the potential for bait supplies to be a problem given the killer pilchards if the US was seeking bait in our zone but I do not see that as being a problem. Queensland had some initial concerns that it might impact on their gamefish fishery but later acknowledged that there was a significant difference between where the black marlin and normal game fishing take place, closer to the Queensland waters and in shallower waters—

Senator LUDWIG—I read that.

Mr Hurry—The long-liners operate off. There are no other real reservations or problems with accepting the recommendations.

Senator LUDWIG—You can confidently say to WA and South Australia that you are aware of no-one objecting to the treaty?

Mr Hurry—Not that we have got at the moment.

Senator LUDWIG—Is there likely to be anybody?

Mr Hurry—From the consultations we have had, the parties that we have consulted with are happy with the proposed changes to the treaty. That is consistent with the other 15 members of the treaty who are prepared to accept it. With that flows an annual \$US18 million benefit to the Forum Fisheries Agency countries which is something we cannot disregard in the considerations of adopting these amendments.

Senator LUDWIG—You understand the view that we might look like we are signing the treaty for the benefit of the US rather than ourselves?

Mr ADAMS—Is the \$US18 million scientific research?

Mr Hurry—No, the \$US18 million is the fee that the US government pays annually to the 16 members of the FFA for their access into the fishery—

Mr ADAMS—Into their waters, just like the Japanese pay to get into our tuna waters?

Mr Hurry—Yes, as they used to in the past up until 1997. It is an access fee for fisheries.

Mr ADAMS—How is the Australia east coast tuna fishery growing?

Mr Hurry—Fairly well at this stage. Since 1998 when we took out the Japanese licences—I think we took out about 62 licences—that has allowed the fleet to build up its capacity. They have basically absorbed the capacity that the Japanese fleet had and they tend to be fishing more effectively. It has gone fairly well.

Mr ADAMS—There are not too many people running across other lines and things, I do not think. What would the monetary figure be?

Mr Hurry—For the east coast tuna?

Mr Neave—In the order of \$50 million annually.

Mr ADAMS—That goes out fresh chilled?

Mr Neave—The bulk of it is fresh chilled. The broad-billed swordfish will go to the United States and Japan and the big eye yellowfin will go to Japan predominantly.

Mr ADAMS—And are the little tuna taken at all by the long-liners—the little albacore?

Mr Hurry—Albacore will be taken as a by-catch.

Mr Ward—They are further south, are they not, largely? They are a temperate species.

Mr Neave—That is right, they are more a temperate fish.

Mr Hurry—They are more colder water tunas; the albacore would be down in the more temperate waters than this Forum Fisheries Agency area.

Mr ADAMS—I am a Tasmanian; I live in a temperate climate.

CHAIR—Can I just ask about the high level commission: who is heading it at the moment and where is it headquartered—is it Honiara?

Mr Gray—It does not actually exist because it will not until the treaty comes into force. There is a preparatory conference that, as Mr Hurry said, will have its first meeting in Christchurch in April.

CHAIR—Who is heading it up?

Mr Gray—At the moment the head would actually be the chairman of the first meeting, and that is something we are still negotiating. There is no body or no permanent process with a head at the moment.

CHAIR—So the Forum Fisheries Agency is still on foot until this thing takes over from it?

Mr Hurry—It actually stays in place afterwards as well.

CHAIR—For research and stuff like that?

Mr Gray—The FFA has been around for 20 years and it will continue to exist as a body for the coastal states. MHLC is a broader process but of course involving fishing states as well.

CHAIR—But when that fellow was elected—

Mr Gray—Satya Nandan.

CHAIR—Yes. What does he do?

Mr Gray—His role ended when the treaty was adopted in September last year because he was chairman of the negotiating process. There had been some talk of bringing him back as the Prepcon chairman but there were some political difficulties with that, so he is not looking like a candidate at the moment. He has a full-time job as Secretary-General of the International Seabed Authority in Kingston.

CHAIR—Yes, that is right.

Mr ADAMS—A variety of groups have been concerned on the conservation of tuna. Have they had any input into this at all?

Mr Hurry—The main NGO group that is involved in the Pacific and on the east coast is TRAFFIC OCEANIA. We have consulted with them and we consult with them on a regular basis on a range of tuna issues. They are prepared to adopt all four amendments.

Mr ADAMS—Thank you.

CHAIR—Many thanks for your evidence this morning.

[12.24 p.m.]

FFRENCH, Ms Jean Heather, Director, International (ILO) Section, Labour Relations Policy Branch, Department of Employment, Workplace Relations and Small Business

Amendment to the constitution of the International Labour Organisation

CHAIR—Welcome, Ms Ffrench. We do not require evidence on oath, but these are legal proceedings of parliament and should be treated as such. Would you make a brief opening statement about the proposed amendment.

Ms Ffrench—Acceptance of the constitutional amendment will allow the ILO to abrogate or withdraw obsolete ILO conventions once the amendment to the constitution comes into force, which will not happen until 117 member countries have accepted it. The amendment will enable the International Labour Conference to consider the abrogation of obsolete conventions that have been identified by the governing body of the ILO. A two-thirds majority agreement by the conference will be necessary to achieve that abrogation. Once abrogated, conventions will have no legal effect for its contracting parties.

The proposed treaty action of accepting the constitutional amendment imposes no obligations for Australia. Australia supports moves to review standard-setting processes. It is important for international labour standards to be up to date and relevant if the ILO is to retain its status as the primary body for establishing, maintaining and supervising labour standards. This amendment goes some way towards reforming the standard-setting processes. There is widespread support from interested parties in Australia for the acceptance of this amendment, particularly the Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions, as well as the state and territory governments.

CHAIR—Thank you.

Mr ADAMS—I take it that the Australian Chamber of Commerce, the ACTU and the state governments have all given this the tick and that it has been through the consultation process?

Ms Ffrench—Yes, they have.

Mr ADAMS—It is a way of disagreeing with ILO conventions, is it? Could you explain to me what the actual body of it is?

Ms Ffrench—I will use one convention as an example of one that is proposed for abrogation once the amendment to the constitution comes into force, and that is one that sets a minimum age for employment of trimmers and stokers because there is no such occupation as a trimmer and stoker any more.

CHAIR—What were they when there was such an occupation?

Ms Ffrench—They are on board ships.

Mr ADAMS—Coal-fired ships.

Ms Ffrench—The stoker shovels the coal into the furnace, I believe. I was informed only recently that a trimmer breaks up big blocks of coal into small blocks.

CHAIR—Thank you.

Ms Ffrench—What has happened to date when a convention is obsolete is that the ILO stops supervising its implementation by parties to that convention. It does not ask for reports on it. It is just idle. But technically speaking a contracting party is legally bound by it and, on the face of it, a complaint could be made about non-compliance. Australia is a party to that convention. We do not have any legislation implementing a minimum age for trimmers and stokers, so technically we could be said to be in breach. It is a tidying up more than anything.

Mr ADAMS—Okay.

Senator COONEY—We are in the death throes, if you like, of this meeting. I wonder if it would be possible for us to come back next week with this amendment. You have quite properly told us what all the issues are. Is this of your own knowledge or is this what you have been told and what you have read as to who does and does not work in ways that are covered by these conventions which we might denounce?

Ms Ffrench—That convention has been identified by a working party of the governing body of the ILO, which comprises workers, employers and government representatives. It is information that governments have provided over the years to the ILO.

Senator COONEY—Have you given your evidence on the basis of information received or what?

Ms Ffrench—From ILO governing body documents, not my own—

Mr ADAMS—There is a resurgence of steam driven boats in the state of Tasmania. We have a wooden boat festival, and there is a beautiful boat called the *SS Theresa* with a boiler right in the middle and you sit around the outside. It is powered by somebody actually stoking the wood in there, so there is a stoker. I suppose if you put a 13-year-old on, we could probably break the ILO convention in legal terms.

Senator COONEY—What about the Apt railway?

Mr ADAMS—There are two motors on an Apt railway.

Senator COONEY—What do you say about the Apt railway? Would it be relevant there?

Ms Ffrench—From an ILO point of view, they would say that they are protected by the fact that there is now an all-encompassing minimum age for employment convention, No. 138, that covers all industries.

Mr ADAMS—What is the minimum age under that convention?

Ms Ffrench—The minimum age for employment is 15.

Mr ADAMS—That is an international standard?

Ms Ffrench—That is an international standard.

Mr ADAMS—And is that an Australian standard?

Ms Ffrench—Australia has not ratified that convention. There is no jurisdiction in Australia that has a universal statutory minimum age for employment.

Mr ADAMS—There is not, is there? The states do not have anything either, do they?

Ms Ffrench—No.

Mr ADAMS—Fifteen is a good age.

Ms Ffrench—Australia implements the policy of that convention, you could say, by the fact that we have legislation that requires you to be at school until age 15. We would argue that state jurisdictions have adequate occupational health and safety legislation to protect those people that do work at a younger age than 15.

Mr ADAMS—Yes, there is usually an arrangement made through the educational processes, is there not?

Senator COONEY—The occupational safety and health convention, do you know what that encompasses?

Ms Ffrench—Yes, No. 155.

Senator COONEY—No, it is the occupational safety and health convention No. 28—

Mr ADAMS—I am quite happy to bring it back, Chair.

Senator COONEY—What happens with slipping regulations, for example?

Ms Ffrench—I am not familiar with it. This would be a fairly old convention focused on a single issue. There is a much more modern all-encompassing ILO standard No. 155.

CHAIR—Can I suggest that we hold over to the next hearing?

Senator COONEY—Yes.

Ms Ffrench—I must emphasise that these conventions have been used only as examples. When it comes down to the detail of which conventions will be abrogated, that will be a part of the whole process within the ILO itself.

CHAIR—We might adjourn this hearing today. If in the meantime there is more questions, we will forward them to you in writing beforehand and then you can come back with some more specific information. It is a pity that today went on a bit longer. Many members are very interested in ILO conventions and we ought to give it more time.

Resolved (on motion by **Mr Adams**):

That this committee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 12.32 p.m.