COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON TREATIES

Reference: Treaties tabled on 10 and 11 September 1996

CANBERRA

Tuesday, 17 September 1996

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON TREATIES

Members:

Mr Taylor (Chair)

Senator Abetz	Mr Adams
Senator Bourne	Mr Bartlett
Senator Carr	Mr Laurie Ferguson
Senator Denman	Mr Hardgrave
Senator Ellison	Mr McClelland
Senator Neal	Mr Tony Smith
Senator O'Chee	Mr Truss
	Mr Tuckey

For inquiry into and report on:

Treaties tabled on 10 and 11 September 1996.

WITNESSES

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Tuesday, 17 September 1996

Present

Mr Taylor (Chair)

Senator Abetz	Mr Adams
	Mr Bartlett
	Mr Hardgrave
	Mr Laurie Ferguson
	Mr Tony Smith
	Mr Tuckey

The committee met at 8.15 a.m.

Mr Taylor took the chair

CAMPBELL, Mr William McFadyen, Acting Principal International Law Counsel, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton, Australian Capital Territory 2600

BIGGS, Mr Ian, Executive Director, Treaties Secretariat, Department of Foreign Affairs and Trade, Canberra, Australian Capital Territory 2600

BROWN, Mr Darren, Malta Desk Officer, West Europe Section, Department of Foreign Affairs and Trade, Canberra, Australian Capital Territory 2600

LAMB, Mr Christopher Leslie, Legal Adviser, Department of Foreign Affairs and Trade, Canberra, Australian Capital Territory 2600

GOUGH, Mr Ross, Director, ASEAN and Europe Section, International Relations Branch, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2600

WHEELENS, Mr Tony, Assistant Secretary, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2600

CHAIR—I formally declare open this hearing into a series of treaties. The first one that we will deal with will involve the Department of Transport and Regional Development. That relates to the air services agreement with Malta.

I welcome the witnesses from the Department of Foreign Affairs and Trade, the Attorney-General's Department and the Department of Transport and Regional Development. Would you like to make a short opening statement?

Mr Wheelens—This is the first aviation treaty that has come before the committee. With your indulgence, I would like to spend a little bit of time briefly more on the structural elements of these treaties than the specifics of the Malta treaty.

The department welcomes the opportunity to meet with the Joint Standing Committee on Treaties to discuss the air services agreement with Malta and the framework within which international air services operate. The Department of Transport and Regional Development is responsible for negotiating and administering Australia's international air services agreements with other countries. International air services have been regulated since the Paris Convention of 1919.

In 1944 the United States hosted an international aviation conference in Chicago to create a framework for the future management of international civil aviation. That conference rejected the United States proposal for an open economic regime and chose instead to rely on bilateral agreements between nations to decide the exchange of air rights. Today there are more than 3,000 such arrangements worldwide. Each of these

agreements will have been concluded and amended from time to time, often only after intensive bargaining by individual pairs of countries.

Australia has 49 air services agreements, which include arrangements with all of our major trading partners. The International Civil Aviation Organisation, the United Nations body responsible for international aviation, held a conference in late 1994 extensively examining international air transport. The 137 countries that attended that conference, including all of Australia's major bilateral partners in Asia, unanimously endorsed the current bilateral system as the most appropriate to foster further development of international aviation.

Each nation establishes its air space as sovereign territory and allows foreign airlines commercial access to it only through arrangements of treaty status. Treaty status reflects both international practice and the importance placed on these agreements by government. It provides a legally enforceable platform for airlines to purchase equipment, literally valued in billions of dollars, with absolute confidence that the traffic and route rights that underpin those purchase decisions would continue to be available under the protection of the treaties. The treaties are of fundamental importance to the international air transport system.

While capacity entitlements and route rights are the most visible issues covered under the agreements, other matters covered include aviation security, safety, recognition of certificates and licences, exemption from duties and charges, exchange of statistics and airport services.

Australia adopts a liberal approach to bilateral air services negotiations, seeking to maximise net national benefits and agreeing capacity outcomes well ahead of market demand. Policy no longer is principally focused on the interests of Australian airlines. The clearest example of this lies in capacity negotiations where Australia seeks to have capacity on the shelf and available in advance of demand by both foreign and Australian carriers.

The policy provides for multiple designation, which allows competition between Australia's carriers on international routes and increases the number of foreign carriers operating to Australia. It allows Australian carriers to develop integrated domestic and international networks. In developing Australia's negotiating position for aviation discussions, the formal consultation process provides the opportunity for trade, tourism, foreign policy, airline and state and territory interests to be fully considered.

In the case of the agreement with Malta, consultations took place with Treasury, the Australian Taxation Office, the Australian Customs Service, the Department of Primary Industries and Energy, the then Department of Tourism, the Department of Foreign Affairs and Trade, the then Department of Industry, Science and Technology, the state and territory governments and Qantas and Ansett.

In relation to policies producing significant outcomes, the capacity negotiated has increased by almost 50 per cent in the last four years. During that time, the number of international airlines operating to and from Australia has increased from 40 to 55 and the number of scheduled passenger flights per week has increased from around 430 to almost 700. These flights now link more gateways in Australia and have increased direct links to overseas destinations.

Negotiations with our key Asian bilateral partners, as well as with other more liberal countries, are dependent on our continued ability to offer them what they offer us—guarantees established by agreement of treaty status that honour what is agreed through negotiation irrespective of changes of government or a change in the commercial fortune of airlines. Australia's policy is placed at the forefront of international aviation reform. The initiatives taken by Australia in recent years are consistent with broader trade liberalisation principles and already place Australia well in front of our major trading partners.

CHAIR—Thank you very much. Is today's standard agreement sort of under the umbrella of ICAO, or is it something that has been developed by Australia? Is this particular agreement a standard international one?

Mr Wheelens—It is close to a standard. In the last 50 years as these have evolved and have been negotiated, a lot of common practice and a lot of common phraseology have evolved. So, whilst it is not a standard international agreement, it is based on the standard Australian draft.

CHAIR—You said you involved Qantas and Ansett, in terms of capacity, freight and all that sort of stuff, is that part of the agreement that is not spelt out in the agreement?

Mr Wheelens—No, it is spelt out in a memorandum of understanding that is agreed pursuant to that agreement. The role that Qantas and Ansett play at the beginning of the negotiating process is as technical advisers to the department. They give us their assessment of the capacity, the demands, the strength of the market and the route structures they would like us to negotiate in the event that they were to operate. It is one of the inputs that we take into account. It is obviously an important one.

Mr TUCKEY—Has any assessment been done of the prospective loads both in terms of passengers and airfreight? Are we aware at this stage of their intention as to what gateways are likely to be used and their ability to on carry passengers or through carry them to different destinations? How has the treaty dealt with airfreight in that regard—that is, can airfreight be off-loaded in one of these stopover points, Singapore in particular, for redirection to, say, Japan?

Mr Wheelens—Yes, it would be able to. The Australia-Malta market is not a

particularly strong one. We are averaging about 140 passengers each way each week. That in itself would raise the question about the commercial viability of those services if they had to rely exclusively on Australia-Malta traffic. There is simply not enough there. It is an agreement that is politically important to us. In structuring the agreement, we gave the Maltese the opportunity to pick up traffic in both India and Singapore to improve the commercial viability of it. That would include the freight rights and the passenger rights.

Mr TUCKEY—And the gateways proposed?

Mr Wheelens—Sydney and Melbourne are the two gateways. Again, that reflects the principal residential area of Maltese settlement in Australia.

Mr LAURIE FERGUSON—As you said in the introduction, this is the first time we have had one of these before us. I notice in here that there is some line that Malta very much wanted this agreement. Could you give us some background why we reached this agreement with Malta, particularly at this stage when there is a very significant Maltese diaspora here, one of the biggest in the world. Take, for instance, Turkey which has been pressing very hard, as I understand it, for a significant period of time to have something like this. How did this come about? What was the process that actually put it on the agenda?

Mr Wheelens—Malta has lobbied for many years for this treaty. We have, in recent years, taken a more liberal approach to the way that we deal with these issues. I guess up to about a decade ago the dominant force in these arrangements was the Australian international airline. That has changed quite significantly in the last decade. In that sort of environment and context we are seeing more of these sorts of agreements being done where, as I said previously, the underlying traffic levels may not be there. Ten years ago that would have been the dominant feature of it. I have only just recently returned to the international area so I am not sure what representations Turkey has made in the last three years. I do not think they have been particularly active in the most recent time frame.

Mr LAURIE FERGUSON—You seem to all be shaking your heads, but I actually have a lot of lobbyists who are very keen. Are you saying essentially that Malta very much wanted it—that that was the ball game.

Mr Wheelens—That was one of the important factors.

Mr BARTLETT—I notice in the submission that a wider range of consultations were held. Did any of those groups object or cast serious doubts on the treaty?

Mr Wheelens—No.

Mr BARTLETT—What will be the Maltese carrier involved?

Mr Wheelens—Air Malta.

Mr BARTLETT—What is its safety record like?

Mr Wheelens—It is good. They would have to pass the same test that any international airline operating to Australia passes. The Civil Aviation Safety Authority is the licensing authority. They would have to demonstrate to that authority that they were capable of meeting Australia's safety standards.

CHAIR—On that one, that is bilateral. As I recall, the stockholding in Air Malta involved Pakistan. Is that still the case or is Air Malta a government airline?

Mr Wheelens—My understanding is that it is a government airline.

CHAIR—So there are no other governments involved?

Mr Wheelens—We can check on that. I was talking to the Maltese minister about this the other day at the signing ceremony. My recollection of that discussion was that it is wholly owned by the Maltese government.

CHAIR—I recall that. I was in Malta at the time that Pakistan International Airways, as it was, was training them. Luqa is one of the longest strips in the world. Their standards were pretty low then. So, to pick up Kerry's point, one would hope that the appropriate standards are being maintained.

Mr Wheelens—I understand the point you are making, and it is an important point. But, to reiterate, they would have to pass the Australian licensing standards before they would be permitted to operate.

CHAIR—What sort of aircraft are they? Are they MD11s or 767s? What are they operating?

Mr Gough—It is almost too soon to be able to answer that question because they have not indicated any early plans to operate here. They do not have an aircraft—you are quite right. In the informal discussions we have had with them they have expressed interest in getting a 767 size. They have been talking with Balkan Bulgaria about leasing an aircraft from them. In fact—

CHAIR—That would worry me.

Mr Wheelens—They would have to pass those tests.

Mr Gough—Yes, if that airline were to be Malta's chosen carrier, then Balkan Bulgaria would have to submit its operational material to CASA for oversight and

checking.

Mr Wheelens—I do not expect that Air Malta would operate to Australia before 1998. They have two issues that they have to deal with in terms of the route rights that we have given them—their ability to operate out of India and to Singapore and come on to Australia—and I understand they still have to be negotiated with those two governments.

CHAIR—So with India they would operate through where? Mumbai or somewhere?

Mr Gough—Mumbai is their chosen point. The Indians, unfortunately, will not give the Maltese rights beyond India to other points in this part of the world. So, at the present moment, Malta is blocked from operating to Australia because it cannot get rights at the intermediate points and beyond those points into Australia.

Mr Wheelens—It could operate without exercising traffic rights at either of those points, but it would be commercially unwise to do that.

Mr LAURIE FERGUSON—You have said that in this period there have been more liberal approaches to this. In the last three years how many of these would we have negotiated?

Mr Wheelens—Sorry?

Mr LAURIE FERGUSON—You said that more recently there has been a more liberal approach on this. In the last three years how many of these would we have negotiated? A ballpark number.

Mr Wheelens—We would have negotiated adjustments to these treaties. We would probably do 25 to 30 treaty negotiations a year, mainly amending the memoranda of understanding. New treaties?

Mr LAURIE FERGUSON—New treaties.

Mr Wheelens—Not many. As I said, we already have 49 of these and we are now creating treaties with countries whose traffic levels are down to this level—about 140 or 150 a week. So we are rapidly exhausting the field of commercially viable air services, but we are continuing to push out by negotiating with countries like Malta.

CHAIR—Is the agreement with the Taiwan airline, for example, a standard agreement or is that something special?

Mr Wheelens—That is something special.

CHAIR—Something special? What does that mean?

Mr Wheelens—We have to give due recognition to Australia's one China policy, so we have an arrangement with Taiwan rather than a treaty.

Mr LAURIE FERGUSON—You said in this particular one that the push factor came from Malta. Are there any countries that we are trying to negotiate with where it is more that we are the ones who wish to accomplish it and we are having difficulties?

Mr Wheelens—Not for a new treaty.

Mr TUCKEY—On being able to—

Mr Wheelens—On-rights and the expansion of capacity in existing agreements are the bulk of our work.

CHAIR—For DFAT and A-Gs are there any other sensitive areas in terms of potential bilateral in this area? Taiwan is one. Nothing else?

Mr Lamb—I do not think so.

Mr TUCKEY—I have a question. Again, it is slightly generalised rather than being on the specifics. In terms of airfreight, to what extent are we promoting new opportunities through treaties to increase the airfreight capacity out of Australia? Is there a demand? There certainly is in my state, but I know that is partly because we just do not get enough passenger aircraft.

Mr Wheelens—That is an important consideration. As you would appreciate, 90 per cent of airfreight travels in the belly of a passenger aircraft. We currently have about 25 pure freighter aircraft operating to Australia. Since the change of government and the new freight policy that was announced after the election we have managed to negotiate—against the background of 25 pure freighters currently operating—an additional 19 747 freighters. So it is 19 747s of pure freight capacity which have been put into these arrangements since the government took office.

Mr TUCKEY—Is that 19 into the 25 or on top of it?

Mr Wheelens—No, it is in addition to. With each negotiation we have undertaken since the change of government, we have been putting dedicated freight capacity into those arrangements and have done it quite successfully.

CHAIR—If there are no more questions, I thank you very much for appearing.

[8.36 a.m.]

ADA, Dr Neil Ross, Director, Australian Maritime Safety Authority Liaison Section, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

FRANCOMBE, Mr Anthony Jack William, Director, International Shipping Section, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

KELSO, Mr Neil John Reid, Administrative Service Officer, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

HANNAN, Mr Abdul, Senior Marine Surveyor, Australian Maritime Safety Authority, Magenta Building, Benjamin Offices, College Street, Belconnen, Australian Capital Territory 2617

WILLIAMS, Mr Ian Mills, Manager, IMO Relations, Australian Maritime Safety Authority, Magenta Building, Benjamin Offices, College Street, Belconnen, Australian Capital Territory 2617

CHAIR—Welcome. We will deal with the load line protocol, the safety of life at sea protocol and the salvage protocol altogether. You may make an opening statement in terms of the first two, which I think can be dealt with together, and then a short statement in relation to the salvage protocol.

Dr Ada—We do not have an opening statement, but we need to point out that there has been a minor typographical error in both national interest analyses in relation to the date that the protocol was adopted by the IMO. In the first sentence of the fifth paragraph, under 'Reasons for Australia to become a party to the treaty', instead of 11 February 1988, it should read 11 November 1988.

CHAIR—Okay. What is that in relation to?

Dr Ada—When IMO adopted the treaty. It does not make any difference to the national interest analysis. It is merely a minor typographical error. That would be the same for the national interest analysis on the SOLAS convention.

CHAIR—So you do not have an opening statement, you just have an amendment?

Dr Ada—That is right.

CHAIR—What about an opening statement in terms of salvage? Do you want to make a short opening statement?

Mr Francombe—I just have a few comments in addition to what is in the national interest analysis. This is a treaty that is receiving increasing international support. As of now, I believe there are 21 contracting states which are parties to this convention. The minimum that was required to bring it into force was 15. The convention did come into force internationally on 14 July this year. It has also received considerable support from Lloyds—which is the largest commercial marine insurer in the world—in that that organisation has incorporated the main elements of this convention in its commercial contracts of salvage. With that, I just emphasise that it is a convention that has a great deal of international support.

CHAIR—Committee members, in the questioning we will deal, first of all, with the load lines and safety of life at sea—the SOLAS one. Australia accepted the Load Line Convention on 29 July 1968, putting it into effect as a result of the Navigation Act 1912, and there were some amendments made. What amendments were made to the 1912 act?

Mr Williams—Those were contained in the Transport Legislation Amendment Bill 1995 which received assent on 27 July 1995. I do have a copy of the explanatory memorandum and I could take you through what basically—

CHAIR—No, no.

Mr Williams—Australia is a party to both the Load Lines Convention and the SOLAS convention. The essence of the changes is that, in the days when the Load Line Convention was made, when you read through the provisions there is an acceptance that there should be a survey to ensure that the ship is actually in the condition that it should be, and then the certificate is issued. The SOLAS, being made later, makes provision for a three months gap to ensure that ships can enter dry dock to be surveyed and then have certificates issued. One of the difficulties of the two conventions operating side by side was that, because there was no harmonisation in the certification, it could mean that a ship would have to go into port or into dock to have a survey done under one convention and then, shortly after, have a survey done on the other. The essence of the amendments that have been made to both conventions is to ensure that surveys can be done and certificates can be issued in an orderly fashion at one and the same time.

CHAIR—There was some debate in the House about the well-known parliamentary report *Ships of shame*. Is some of what was in that parliamentary report reflected in this convention?

Mr Williams—The provisions of both conventions specify, in the case of load lines, strength of the ship, stability of the ship and the conditions that the ship meets in terms of its watertightness. In the SOLAS convention, it is the condition of the ship and its equipment, all of which bears on the condition of the ship in relation to the *Ships of shame* report. The conventions themselves lay down the requirements; whether the ships

meet those requirements is separate from the convention.

Mr TONY SMITH—In relation to that, does it mean, for example, that if a ship is overloaded you can take action and surveyors can come and check it out and take action in that situation?

Mr Williams—Yes, that is coming into the Load Line Convention, and that is not changed by these provisions. Those provisions were already in the Navigation Act 1912. They are not changed.

Mr TONY SMITH—That only applies to signatories to the convention, not to other ships?

Mr Williams—It does apply to signatories. There are control provisions in the convention which allow us to inspect the ships of other signatories to ensure that they comply. Also in the convention there are what are called no less favoured treatment clauses. They ensure that a party can apply the provisions of the convention to a non-party. That mainly applies to ships of Taiwan, which, for good reasons, is not a party to the conventions.

CHAIR—But flags of convenience are not covered?

Mr Williams—They are party to the conventions.

Mr Campbell—There is a provision on page 35, Article I point 3, that addresses the question of ships entitled to fly the flag of a state which is not a party to the convention. It says:

> . . . the Parties to the present Protocol shall apply the requirements of the Convention and the present Protocol as may be necessary to ensure that no more favourable treatment is given to such ships.

That implies that it will be applied to those ships. Can I just make one other point in relation to *Ships of shame*. In relation to the salvage convention, that contains special provisions additional to the old salvage convention which enable salvage to take place in circumstances where there is likely to be environmental damage.

Mr TONY SMITH—In relation to the proper maintenance of the main engine and equipment, does the function of surveillance of compliance and so forth mean that surveyors would go on board and have a spot check of the logbooks to see that the units are being done on the engines and so forth?

Mr Williams—Yes, indeed. That comes under the control provisions of each of the conventions. Those are the provisions under which Australia conducts its port state

control inspections.

Mr TONY SMITH—If, for example, logbooks indicated that routine maintenance was way overdue, can enforcement procedures be undertaken to ensure that the ship does not sail until those units are done?

Mr Williams—There are provisions in the Navigation Act to detain ships—not so much over logbooks but over the surveyors own first-hand experience of the condition of the ship.

Mr TUCKEY—There is one ship sitting in Newcastle at the moment in that situation, or did they get that on its way? That is the one with the cracks in the bulkhead.

Mr Williams—At any one time, there are of the order of 10 ships detained. My colleague Mr Hannan is the expert in port state control. Do you know how many ships we have detained at the moment for those reasons?

Mr Hannan—Yesterday we had the figure of 186 detentions from the beginning of this year. Only one ship was still under detention. That was at Yamba and I think it was the *Western Express*.

Mr TUCKEY—Is that the one that had the fairly serious bulkhead cracks?

Mr Hannan—The *Western Express* has got some problems with certification and ownership also. One of the ships, *Amalthea*, was detained at Esperance about a month ago. That has gone.

Mr TUCKEY—That might be the one.

Mr HARDGRAVE—Mr Williams, what do we do with ships that do not come near us? I am thinking of ships that traverse the Torres Strait with or without pilotage. There seems to be a slackening in the standards of pilotage up there. We have potentially non-signatory ships coming in. How do we check those, having in mind the concern over any environmental damage that could occur if something was to go crack at the wrong time?

Mr Williams—The short answer is that unless ships enter an Australian port, we cannot check them. If ships transit the Torres Strait without pilotage and we become aware of it, we will catch them next time they come. One of the actions that we have taken through the International Maritime Organisation, which has no connection with the present treaty but relies on parts of the SOLAS convention, is that the SOLAS convention has recently been amended to make provision for mandatory ship reporting systems. That comes into force in December this year. Early next year we are introducing a mandatory reporting system for the Great Barrier Reef. Then it will be mandatory for ships to comply

with the reporting scheme, whereupon we should be able to have a much better handle on the ships that are passing.

Mr HARDGRAVE—In relation to this treaty, if you find a ship flagged on the reporting system entering that sort of area such as the Great Barrier Reef or Torres Strait, would you then look at some sort of enforcement or questioning about the structural safety of that particular ship?

Mr Williams—Again, as far as the structural safety is concerned, not unless we actually had the ship in a position where we could get a surveyor on board.

Mr TUCKEY—Following up on that, the reference to reporting might be a confusing point. By reporting, do you mean that ships have to report that they are in a particular area or that reports are being published on ships that have been surveyed in another port?

Mr Williams—I am sorry; I did not intend to mislead you. We are talking about reports made by ships of their position as they transit the Great Barrier Reef.

Mr TUCKEY—So you know where they are but you don't really know the condition of those ships other than you assume that if they are flying under a particular flag and that country is a signatory to these conventions, they should be alright. It does raise the question of history—who surveys the surveyors? There has been a wide disparity, obviously, of the quality of surveying when ships like the *Kirki* break in half. I see that they lost one near South Africa the other day.

Dr Ada—There are authorities in other countries that also do port state control inspections. AMSA is certainly talking to those authorities in the Asia-Pacific area to try to harmonise some of the port state control inspections and the flow of information between the countries to avoid this sort of issue.

Mr TUCKEY—There is currently no centralised repository of reports between the countries that sign these things?

Mr Williams—Dr Ada has referred to AMSA talking to these countries in the Asia-Pacific. In fact, we have a memorandum of understanding with a number of countries, including Japan, Thailand, Malaysia, Singapore, Canada and the Russian Federation, which brings all of this information on ship reports together. We also have a very strong link between that memorandum of understanding and the Paris memorandum of understanding, which includes all of the European countries. In terms of reports on substandard ships, the information is widely available.

Mr Hannan—The computer has a database information system. At present Australia is providing data to that system, New Zealand is providing data and some other

members are also. In the future all the countries in the Asia-Pacific memorandum of understanding will provide data to that system. At present we have access to that system. In case we want any information we can get access to that system and have data available about a ship. In future when all the countries in the Asia-Pacific region have their inspection report provided to that database we can have readily available data on most of the ships which have been inspected by other countries also.

Mr TUCKEY—Just relating that to these protocols and any future negotiations, is there any intention to include that in the agreements where it becomes obligatory to report to a central database? If you know that certain ships are in your region and you can go somewhere and find out whether or not they are likely to destroy your coastline while they are here, it would be a huge advantage. It would seem to be to our advantage if that reporting to a common database was mandatory in these treaties.

Mr Hannan—Under the Asia-Pacific memorandum of understanding all the countries will eventually provide data on port state control inspections to the system.

Mr TUCKEY—They have agreed to that?

Mr Hannan—They have agreed.

Mr TUCKEY—What about the rest of the world?

Mr Williams—The question of mandatory reporting of port state control information within the treaty set-up raises in the minds of some states fairly grave questions of national sovereignty. The way in which the International Maritime Organisation has been circumventing these, as Mr Hannan says, is through regional agreements. The first such arrangement was the Paris memorandum, which I think covers 15 or 16 countries in Europe. We have the Asia-Pacific memorandum. There is a Latin American agreement. There is discussion at the moment on a southern Mediterranean region. Rather than through treaty arrangements, which would probably require such stringent entry into force requirements that they would not enter into force, we are doing it through a series of agreements between countries who have the greatest interest in ensuring the safety of the ships.

Mr HARDGRAVE—Are you saying that responsible ship owners and shipping lines would generally be reporting in anyway that they intend to be in port on X, Y and Z days and they are travelling this way or that?

Mr Williams—Again, we are running into problems with the two definitions of reporting.

Mr HARDGRAVE—I am working on a scorecard like an aircraft.

Mr Williams—I would not imagine that we would have too many problems with ships not reporting their position as they pass through the Great Barrier Reef.

Mr HARDGRAVE—It is a safety thing in itself, isn't it?

Mr Williams—Yes.

Mr TUCKEY—The issue is the reporting of surveys. If a ship is surveyed in Mangst, when it turns up in our waters we are unable to know whether there were any serious deficiencies reported. With that ship in Esperance that was referred to only temporary repairs were made to it sufficient to get it to a shipyard in Singapore or somewhere. After leaving Australian waters it did not go to that shipyard and then it comes sailing back, how do we know? The database concept adds substantially to that.

Mr LAURIE FERGUSON—In relation to the quote that was put to us on page 35, that seems to cover Panama and Liberia directly, et cetera. Are there any major nations that have refused to sign this anyway?

Mr Campbell—I am not aware of that.

Mr LAURIE FERGUSON—For instance, is Greece a signatory?

Mr Williams—Those countries that you mentioned are all signatories to the original convention. There are 25 signatories to both protocols, which include Norway, China and Greece, which are all fairly big flag states. The entry into force provisions of the Protocol require 50 per cent of the world's gross tonnage. In practical terms, that means that we would need Panama and Liberia to become signatories as well as Cyprus, the Bahamas and Japan.

Mr LAURIE FERGUSON—Even taking into account this point 3 that was quoted to us, if they were Greek owned flying Liberia, they are seemingly covered, but the tonnage is not covered in getting the required number of signatories. Is that right?

Mr Williams—The convention works on the basis of the flag state, not the state of ownership. If they were flagged in Liberia, the requirements applying to them would be those of Liberia.

Mr ADAMS—This is the whole crunch of it; Wilson touched on it. There seems to have been some pretty bad surveying going on in recent years. That is where the *Ships of Shame* report came from. I would like to get a comment from you on that and also would like to know what this convention is doing in endeavouring to pull some of that together. It seems that a lot of countries are still able to put rust buckets to sea. I know that the database concept is pulling that together in some areas. I would like to have your comments on the surveying that takes place around the world and the classification

societies.

Mr Williams—Essentially, we have been focused on tankers and bulk carriers. Other amendments to the SOLAS convention, which were made in 1994, actually make provision for bulk carriers and tankers to carry a survey report file. This means that surveyors such as our port state control surveyors have a very much clearer idea of precisely what was found when the ships were surveyed. That came into effect at the beginning of the year and will progressively apply to ships as they have their major five-yearly survey. When those provisions are fully effective for those ships which give us most problems—that is, bulk carriers and tankers—we will have a very much clearer idea of the conditions when they were initially surveyed for repairs that were done on the ships.

Mr ADAMS—That stays on board?

Mr Williams—That stays on board so it can be accessed by people like our port state control surveyors.

Mr ADAMS—What about a ship changing from one classification to another? Is that a problem?

Mr Williams—It used to be a problem. It is a problem which is progressively being addressed by the International Association of Classification Societies. Their publicity would have us believe that their members classify 95 per cent of the ships that are at sea. They now have very strict rules about ships 'class-hopping', as we call it. There is a central register kept in London. Mr Hannan is advised by the International Association of Classification Societies every time a ship changes class.

More than that, we are advised when ships are withdrawn from class. If a classification society is unhappy that the owner will carry out the repairs that it requires, it will declass the ship. In a formal sense it will advise the International Association of Classification Societies. They will then inform signatories to the various memoranda on port state control, which is another very powerful control aspect. We then keep a very close eye open for these ships and use that as part of our targeting procedure.

Mr ADAMS—Is the maritime insurance industry playing a role in all this?

Mr Williams—Perhaps a lesser role than they could do. Certainly over the last seven or eight years there has been gradually coming into use what is known as the hull clause, which requires that ships be in a proper condition before they are insured. My friends in the insurance industry tell me that insurance is a very competitive international market. While one set of underwriters may not insure a ship because it is not in appropriate condition, another one may because they can make profit on one voyage.

Mr ADAMS—What about the ageing component of world shipping from a tanker fleet right through? Has there been any improvement in relation to that? Has there been any more capital put into building new ships to upgrade the shipping fleet that is operating in the world?

Mr Williams—I saw some figures only recently which suggested that bulk carrier scrappings were at an all-time high. If the committee wishes, I could provide that information in writing. I do not actually have the figures. However, the same article indicated that new ships were being built at a faster rate than scrappings, which had an effect on the freight rate. One of the effects of reductions in the freight rate is that ship owners are less likely to want to maintain their ship because they cannot make money on it.

It is a very complex matter. I do see that things are improving through amendments to the convention, through the increasing membership of memorandum of understanding on port state control and also more active involvement with the insurers in the condition of the ships.

Mr ADAMS—Are the Soviet states part of the convention?

Mr Williams—Yes.

Mr ADAMS—Is China part of the convention?

Mr Williams—Yes, the convention itself, if we are talking about the basic convention. They are not party to the protocols.

Mr ADAMS—Is there any indication that they will come on board?

Mr Williams—I do not think there is any doubt that they will come in in the longer term because the protocols that we are talking about really do only affect technical issues relating to the survey. In the case of Australia, which is normally considered to be a responsible country in these terms, the convention was made in 1988 and here we are in 1996 just talking about Australia becoming a signatory.

Mr TONY SMITH—In relation to minimum standards for operation of vessels, I do not see anything in here about officer qualifications or crewing levels. Does that not go to this issue?

Mr Williams—Officer qualifications are covered by the International Convention on the Standards of Training, Certification and Watch-keeping for Seafarers, otherwise known as STCW, which is also reflected in the Navigation Act but not in this aspect.

Mr TONY SMITH—What about crewing levels?

Mr Williams—Crewing levels are not covered at all in the international convention, except that under the SOLAS convention all flag states are required to issue a manning certificate. That is another tool that we use in our port state control scheme to ensure that the ships are properly manned. If a flag state issues a manning certificate and the ship carries crew which comply with that certificate, we have a reasonable assurance that the numbers at least are right.

Mr TONY SMITH—That is a sovereign issue.

Senator ABETZ—Following on from the question from Laurie Ferguson, it was pretty obvious from the first treaty that we dealt with that we were entering into an agreement with Malta. With these two that we are dealing with at the moment, can you or somebody provide us with a list of who makes up the IMO and which countries we believe will sign this protocol, et cetera, so we have some idea as to which countries we are actually dealing with that will be signed up and for those that do not look like signing up at all. Could you take that on notice?

Dr Ada—Yes.

Senator ABETZ—A question that has always interested me is the duration of these treaties or international agreements. I notice that with load lines it is five years before you can give notice to get out of it and then it is 12 months before you can get out. In other words, we have signed up for six years no matter what. Whereas with the other one, salvage, it is one plus one. Why do we have to be signed up for six years on the one and two years for another before we can get out? What is the rationale?

Mr Williams—I would have to confess that, in direct response to your question, I do not know. In practical terms, an Australian ship owner would not wish Australia to abrogate this convention because then they would lose the ability to trade freely internationally.

CHAIR—Would you like to take that on notice?

Dr Ada—Yes.

Senator ABETZ—Whilst I agree with you in these circumstances, it has concerned me in the past that Australia has signed itself up to treaties without really giving due and appropriate consideration as to how we can get out of them. Unfortunately, from time to time the meaning of treaties then becomes subject to interpretations which may not necessarily reflect what was initially intended. If we do want to withdraw from them, it is difficult. With one of these, it is six years before we can get out and with the other one it is two years.

This goes back to foreign affairs or whoever does the national interest analysis. We

are told the length, but I would also like to know the reason why some are six years and others are two years. If the others allow you out, are you allowed out in this one? I think that is pretty onerous. In both of them we can get out unilaterally, but one after six years and the other after two years. If you can come back with a rationale as to why six years is picked on and two years for the other, I would appreciate that.

Mr Francombe—It could well be the consensus that arose at the time the treaties were being drafted. You have 100-odd countries sitting around the table drafting the treaty. What ends up in the treaty, particularly in those sorts of clauses, could well reflect the consensus at the time for that particular treaty.

As to your more detailed question as to why one is six and the other is two, I could not give you any more explanation than that. Ian Williams has attended a lot of these negotiations and would probably know.

Senator ABETZ—Without being too dismissive of your response, it is quite clear that a consensus must have emerged because that is why it is five years plus one in that particular case. The rationale for that consensus being reached is what I am searching for.

CHAIR—Mr Williams may like to take that on notice.

Mr Williams—The provisions of the protocol as regards denunciation are precisely the same as the original convention. While we will certainly provide that information on notice, I have a suspicion that we will find that the original provisions went back to the 1948 convention.

Perhaps I could speculate. The length of currency of the basic certificate is five years. Therefore, if a country denounced the convention and had any less than five years, it could well be that ships were floating around carrying its certificates, which did not have any international force. We will certainly provide that. The salvage convention is a convention of a different nature, which does not involve certification of ships.

Senator ABETZ—That makes a lot of sense and makes me feel comfortable that the issue is being thought through.

CHAIR—In terms of all three, what are the additional costs, if any, particularly to Australian ship owners?

Dr Ada—In terms of the Load Lines Convention and SOLAS, none. These are certificates that are being issued already. All these protocols really do is allow them to be issued at the same time, so there is no extra cost.

Mr Francombe—There are no direct costs to Australia as such. The convention makes provision for the rewards to the salvage company, which are charged to the owner

of the ship that happened to be involved. I do not think you could say that there is any direct cost to Australians.

CHAIR—The emphasis there is on environmental safeguard, isn't it?

Mr Francombe—It provides a reward to the salvage company provided they have put in sufficient and recognisable effort to try to protect the marine environment, even if the ship has been lost. Under the old system, the salvor did not actually get any money unless the ship was saved and you had some property to sell and to claim against. Even if the ship is lost now and the salvage company has done a reasonable job in the eyes of the tribunal or the arbitrator, they can get at least 30 per cent of their expenses back, increasing up to 100 per cent in some cases.

Mr TONY SMITH—From where?

Mr Francombe—From the owner of the ship that was lost.

Mr TONY SMITH—What about collateral damage? If there is environmental damage, is there also an opportunity to get damages from the owner of the ship?

Mr Francombe—Not under this convention. There are other conventions. The Convention on civil liability for pollution damage would cover that sort of thing.

Mr ADAMS—If there are these two-dollar companies that own a ship and nothing else, and the ship is a wreck and the company is insolvent, is the ship just there for salvage for whoever takes it, or what? What is under the convention; how would that apply?

Mr Francombe—If the ship is salvaged, then it can be sold and the various claimants—the salvage company would be one of them, the crew of the ship would be one of the others—would get a certain amount of reward or money due to them, according to the arbitrator.

Mr ADAMS—The arbitrator is structured under this treaty, is it?

Mr Francombe—That depends on how it is handled. The majority of salvage operations are conducted under what is known as Lloyds Open Form. That is a commercial contract between the salvage company and the owner of the ship. Within that salvage agreement, there is provision for an arbitrator at the end of the salvage operation to hear the case and apportion the rewards or the costs, as the case may be.

CHAIR—Do we have any more questions on this subject? Nothing more on salvage?

Mr Lamb—Mr Chairman, I would just make an observation. This is not about salvage; it is in response to one of the suggestions made by Senator Abetz. I think we can probably look at what we could do in the national interest analyses in future to include material on multilateral treaties that would help the committee see who the range of potential states' parties were.

But one comment is that the list of the members of the International Maritime Organisation will not help you much there, because countries can become a party to the treaty with the IMO as a depository without being a member of the IMO themselves. So the range of states' parties will not be limited to the membership of the IMO. That is that point.

Senator ABETZ—If we can be provided with that sort of information, that would be very helpful.

CHAIR—You have given us some food for thought in the first report in terms of NIA, so perhaps you can supplement that.

Mr Lamb—That was just breakfast cereal, Mr Chairman. The second point I would make is that I think, where we see a treaty with an unusual denunciation period, we should probably ask for the NIA in future to show why that is so. So we will do our best on that.

But there will be cases like this perhaps where the history goes back to 1948, or whatever. It will not always be easy, but at least we will be able to say that. But it does seem to me that the five-year certificate suggestion probably makes a difference in a case like this and, if that were not the reason, then it would be a good enough one for us.

CHAIR—Thank you, gentlemen.

[9.20 a.m.]

ANDERSON, Mr Gordon, Assistant Director, Marine Systems Unit, Australian Nature Conservation Agency, GPO Box 636, Canberra, Australian Capital Territory 2601

KAY, Dr David Graham, Executive Director, Wildlife Management Directorate, Australian Nature Conservation Agency, GPO Box 636, Canberra, Australian Capital Territory 2601

MCDONALD, Ms Margaret Christine, Assistant Secretary, Environment and Antarctic Branch, Department of Foreign Affairs and Trade, Canberra, Australian Capital Territory 2600

OAKES, Ms Kylie Deanna, Sustainable Development Section, Environment and Antarctic Branch, Department of Foreign Affairs and Trade, Canberra, Australian Capital Territory 2600

THIELE, Ms Deborah, Senior Project Officer, Marine Systems Unit, Australian Nature Conservation Agency, GPO Box 636, Canberra, Australian Capital Territory 2601

CHAIR—Welcome. Are there any opening statements that anybody would like to make?

Dr Kay—Very briefly, we are dealing with some relatively small changes to a 1946 convention—the International Convention for the Regulation of Whaling. This convention was essentially put together to control the international harvesting of whales immediately postwar.

The nature of the activities of the convention have probably changed quite significantly since that time. In fact, one of the changes that was made as a result of the meeting of the International Whaling Commission in Aberdeen earlier this year is to continue the moratorium on commercial whaling for one further season. This is almost an annual event these days.

The schedule to the convention contains all the technical requirements associated with whaling—it sets quotas, dates, et cetera. The impact of one of the changes is merely to substitute the coming whaling season dates for last year's dates and maintain a zero catch limit. The other change is a small amendment to continue for another three years a small catch of whales by the Bequian natives of St Vincent and the Grenadines. I think I will leave it at that.

CHAIR—Does DFAT have an opening comment?

Ms McDonald—No.

CHAIR—I think, as you say, it is a relatively minor technical set of amendments. But I think it is important for this committee, particularly in the context of our reporting to the parliament, that we get a few facts and figures on the record. I suppose the first one I should ask is the extent of Australia's financial involvement in the International Whaling Commission. Can you outline what money is involved there? Can you also tell us something about the monitoring of whaling around the world?

Dr Kay—The financial contribution is a bit difficult to give a precise figure for because it is paid in pounds sterling and it depends on the exchange rate.

CHAIR—If you give us the pounds sterling, we can work it out.

Dr Kay—Our contribution is of the order of $A57,000 annually. It is a fairly complex formula to work that out. It depends on the size of the delegation we send to the annual meeting, whether in fact we have—which we do not—an Aboriginal whaling catch, the extent of our involvement in the industry, and various other issues.

You have asked about the monitoring of whaling. There are two types of whaling permitted under the convention. One is essentially commercial whaling—and there is currently a moratorium on commercial whaling. The other is Aboriginal subsistence whaling, and there are a number of provisions for catches—largely in the Northern Hemisphere circumpolar from the Russian Federation, Alaska and Greenland. I think that is probably it. Norway, as you are probably aware, has lodged an objection to the moratorium decision and is therefore not bound by that particular decision.

CHAIR—And Japan too, or just Norway?

Dr Kay—Just Norway. Scientific whaling is perhaps the third category of whaling which is conducted which is not as closely supervised. Under the convention, the provisions of the convention allow states which are party to issue permits for the taking of whales for scientific purposes. The whole of Japan's current whaling effort, both in the Southern Hemisphere and in the Northern Pacific, is done under scientific permits issued by the Japanese government.

CHAIR—How is Australia involved in all of that—in various participatory bodies?

Dr Kay—Each member of the convention nominates a commissioner. The International Whaling Commission meets generally annually. Australia's commissioner currently is Dr Peter Bridgewater, Chief Executive of the Australian Nature Conservation Agency; he also happens to currently chair the commission. So Australia participates in the debate and discussion at the commission actively. We also participate in the scientific committee, which is the principal advisory body of the commission. Currently there is also

an Australian chair of the scientific committee.

Mr HARDGRAVE—I take it that, with a zero catch, we are not catching whales.

Dr Kay—Australia's industry ceased to operate in 1979 and the Whale Protection Act 1980 prohibits whaling in Australian waters.

Mr HARDGRAVE—I do not mean right from the beginning with this particular convention back in 1946, or whatever it was; but we are really just there to lend our support as one of those middle ranking nations to the overall management of the whale catch throughout the world; is that essentially our involvement?

Dr Kay—That is one interpretation of it. The government has a stated policy that it wishes to seek permanent international ban on commercial whaling and, therefore, we have a policy goal to pursue through the International Whaling Commission.

Mr HARDGRAVE—So by being there, by being involved, that is the best way to get a stake in the action—to get involved. You cannot do it from the outside looking in; you have to be on the inside.

Dr Kay—That is true, yes.

Mr HARDGRAVE—I guess Australia's contribution of $56,000 annually is incredibly modest in comparison with other nations; in other words, a country like Japan, which is still whaling, is a greater contributor to the overall cost of this organisation.

Dr Kay—Yes, Japan does contribute a higher sum than we do annually.

Senator ABETZ—And why is that? How is the contribution determined?

Dr Kay—I am sorry, I have not got the financial rules and regulations with me.

Senator ABETZ—Take it on notice, please.

Dr Kay—But it is a component based on the size of the delegation, whether there is in fact a catch—and there is a third factor which I cannot quite remember. But the Japanese have a significant number of attendees at the annual meeting. Australia's contribution is two units; I think Japan's is four.

Mr HARDGRAVE—All I am getting at is that we do not catch whales; we have an ideological desire to stop the whale catch throughout the world; we have a very modest stake in the operation of this particular organisation; and Japan technically, theoretically, economically, every other possible way, could blow us out of the water. So do we really get much of a say for our $57,000 a year?

Dr Kay—We get one vote, in the same way as any other party gets one vote.

CHAIR—But I think it would be fair to say that there is good scientific feedback, et cetera; that is part of the equation too, isn't it?

Dr Kay—Certainly the scientific input from Australia has been quite significant. The return for that scientific input has been of value.

CHAIR—I had some correspondence with Senator Hill over the last couple of weeks about Aberdeen and the delays affecting parliamentary handling of this. Are there likely to be further amendments, short notice, which might affect the process?

Dr Kay—The same amendment as we have this year.

CHAIR—I made some suggestions to him as to how it might be handled in the future.

Dr Kay—Our belief would be that the zero catch limit will remain for a number of years yet, in which case there will be an automatic amendment to the schedule each year to put the new season's dates in. Beyond that, there are amendments to the schedule discussed at most of the annual meetings. There are revisions of the Aboriginal hunting arrangements which can lead to changes in numbers and changes of dates. Most of the changes would be of that order.

Mr ADAMS—We have never been a whale-eating nation, other than in the early days when they slaughtered all the whales in the Derwent River. Are there some methods tied to the Aboriginal hunting with the Alaskans and others? They have a tradition of going back many centuries. I am interested in how that is handled in these protocols and in the convention or the commission.

Dr Kay—The convention makes a provision where there is a continuing nutritional and cultural requirement. That has been debated and guidelines developed within the commission. There have been recommendations as to how the hunts are carried out and the sorts of capture methods used. There is a fairly significant concern within the commission to ensure that any harvest of whales is carried out as humanely as possible. There are provisions—I am not sure whether they are actually in the convention or the schedule—to enable contracting states to undertake the capture of whales for Aboriginal populations.

The Russian federation, and previously the USSR, used its commercial whale-catching vessel to capture the whales, which were then delivered to the northern Russian Eskimo populations. I do not know that those are specified in detail in the schedule. I think they have been discussed through the commission.

Mr ADAMS—Are whales on the decline or on the rise?

Dr Kay—The majority of populations that were harvested are now showing signs of recovery. The records we have, which largely come from the whale-watching industries around Australia—which have come into being and expanded quite rapidly over the last decade—suggest that most of the populations are now showing quite strong signs of recovery.

Mr ADAMS—There were big losses weren't there?

Dr Kay—There were some real crashes and some suspicion that some of the populations may become extinct.

Mr BARTLETT—Are Japanese scientific whaling activities carefully monitored in terms of the total take?

Dr Kay—The only way in which they are monitored is through reports that the Japanese provide.

Mr BARTLETT—So there is no idea as to the accuracy of those reports?

Dr Kay—There is no independent monitoring of scientific whaling. It is a loophole in the convention in some respects.

Mr BARTLETT—Given their activities and the activities of Norway, is there any significant undermining of the effectiveness of this convention?

Dr Kay—To answer that, I would have to make some sort of political comment, and I do not know that I am really the person who should be making that.

Mr BARTLETT—I will rephrase that. How effective do you see this convention in effectively limiting the take of whales?

Dr Kay—I think there have been significant gains for the conservation side in the debate within the commission under the convention. In recent years the institution of the moratorium in the 1980s, the agreement on the Indian Ocean sanctuary and the subsequent agreement on the southern ocean sanctuary have all been major steps forward towards the conservation of whale stocks. I suspect that there will continue to be pressures from a number of parties to the convention who still feel that the convention should look at the sustainable use of whale stocks. That was its original intent.

More broadly, in the conservation debate internationally there is a growing move to see sustainable use as a means of conservation. By putting a value on wildlife populations, conservation incentives can be created. In some ways it is the same argument as operates

for elephant populations, rhino populations, et cetera.

Mr BARTLETT—Do you think that would be an effective approach at the moment?

Dr Kay—I think there are pros and cons to both sides of the argument.

CHAIR—Is there a diplomatic dimension to this agreement?

Ms McDonald—There is a diplomatic dimension to every agreement.

CHAIR—We are only dealing with one.

Ms McDonald—I guess you would say that it is to those nations where whaling is a particularly important domestic issue, such as Japan and Norway. This is quite a significant element in, for instance, bilateral relations.

CHAIR—Our relationship with Japan is very important. What impact does this agreement have on that relationship? Is it small, medium or incidental?

Ms McDonald—It is incidental. However, developments under the convention and choices by Japan about how to deal with its whaling activities obviously do impact on the bilateral relationship from time to time. We find that we have to undertake diplomatic activity to make our views clear about some of the scientific take.

Mr BARTLETT—Have members of this convention made their concerns about the scientific take clear to Japan?

Ms McDonald—Yes, bilaterally and in the IWC as well.

CHAIR—There are no additional costs as a result of this, are there?

Dr Kay—There are no direct costs. Australia has played a lead role in the initial moves to establish the southern ocean sanctuary. We have made modest contributions to international research and collaborative research undertaken on whale populations in the sanctuary.

CHAIR—Thank you very much for appearing before us today.

[9.40 a.m.]

BROWN, Mr Stephen Paul Keating, Assistant Secretary, Legal Services, Department of Defence, Canberra, Australian Capital Territory 2600

PHILIP, Mr Glanmore Ernest, Assistant Secretary, Security, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

HEWETT, Mrs Sandra, Executive Officer, International Security Policy, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

CHAIR—I welcome witnesses from the Department of Defence. Did you want to make an opening statement?

Mr Brown—Only to make the point that this is a proposed bilateral agreement with Canada. It is to serve as a formal basis for the mutual protection of defence related information having a national security classification which is exchanged between the two governments. It is similar to a number of other agreements that we have with other countries.

CHAIR—So there are a number of others? It is basically a technical document, a mechanical type document.

Mr HARDGRAVE—Have we had one of these with Canada before?

Mr Philip—For a long time we have had an informal arrangement in place where information has obviously been exchanged and looked after in the same way that this document requires. This is really just formalising the situation and I guess tying up the loose ends in a formal way.

Mr HARDGRAVE—I understand it is a general formality. I was just wondering about the timing of it. There is a lot of concern about the stability of Canada as a united nation. Is that a factor that is discussed at these sorts of meetings or is it really a case of: there is a government; it is constituted; we are having this arrangement and that is that?

Mr Philip—I think the latter is the case. There is actually a move generally across the board, I think you could say, for what have been informal arrangements in relation to treating classified information to become formal. There are probably a number of motivations for this that we could speculate on. One is that relationships are becoming much more complex in terms of lots of countries having relations with lots of other countries and it is much better to put it on a formal basis rather than just rely on the informal arrangements we had in the past.

Mr HARDGRAVE—What is the traffic flow like? Is it likely to be a two-way

street with an even amount of traffic flow or is it mainly their way or mainly our way?

Mrs Hewett—It is probably fairly equal. There are a number of projects and bilateral things—the purchase of equipment, for example, contracts let in both countries by both governments. One of the items that this document particularly covers is that further extension into the defence industries of both countries. It provides suitable protection for classified information that goes out to these companies.

Mr HARDGRAVE—So some potential trade benefits can come from this sort of agreement?

Mrs Hewett—Yes, there certainly is.

CHAIR—Let us take the Canuck agreement as an example. If you have a series of bilaterals, would this supplement that particular agreement, the Canadian-UK-US one, which, as I recall, used to be quite an important one.

Mrs Hewett—Certainly, this is a stand alone document with certain restrictions in relation to other countries. But, yes, many of them are supplementary.

CHAIR—There used to be a number of collaborative agreements like the ABC group—group A or group B or whatever it used to be. Is this a similar sort of thing?

Mrs Hewett—Really it is a stand alone agreement between the two countries. It precludes passing exchanged information onto another country even AUSCANUKUS countries.

CHAIR—I really do not have any specific questions. It is a fairly mechanical thing. The confidentiality is specified in terms of the classification levels, et cetera, aren't they, in the various articles?

Mrs Hewett—Yes.

CHAIR—The bilateral with Canada in a technical sense is quite an important one. As you say, it is getting more and more important in terms of some of the capital acquisitions and technical exchanges.

Mrs Hewett—It certainly is. In fact, there are multi million dollar contracts waiting for this to be finalised.

CHAIR—Are there?

Mrs Hewett—They wish to include reference to this document—

CHAIR—Just to tidy things up?

Mrs Hewett—Yes.

Mr Philip—I think it gives an iron clad guarantee that the information will be handled appropriately at the other end.

Mr TONY SMITH—Why is the definition of designated information there?

Mr Philip—The bit that you are referring to is where you have a series of equivalences between Australian classified material and the material that the Canadians protect. The Canadians have two lots of information that they protect—they have the national security classified material and the designated material. In fact, in Australia we also have a similar arrangement. We have national security classified material and sensitive material. In Australia, the Department of Defence does not use the sensitive material classifications for any defence related matter because our definition of national security material includes all material related to the defence of the country that an unauthorised release of which would cause harm to the country.

CHAIR—So that is the AUSTEO stuff?

Mr Philip—No that is just our national security classifications, our top secret, confidential, et cetera. What we are really doing there is striking equivalences to the Canadian system where they obviously use both types of protection that can be afforded government material that might be transmitted between the two countries.

Mr TONY SMITH—How wide is the definition of defence related information?

Mr Philip—It covers all material passed by the Australian Department of Defence, the Australian Armed Forces and defence industry.

Mr TONY SMITH—So it has to have a defence ingredient?

Mr Philip—Yes.

Mr TONY SMITH—Not an internal type security situation?

Mr Philip—This agreement only applies to defence information.

CHAIR—Are there any more questions? If not, I thank the witnesses from the Department of Defence for appearing before us today.

Resolved (on motion by Mr Hardgrave):

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

Committee adjourned at 9.47 a.m.