



COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE ON TREATIES

Reference: Treaties tabled on 29 October 1996

CANBERRA

Tuesday, 5 November 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 19 October 1996.

WITNESSES

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	13
BROWN, Mr Stephen Paul Keating, Assistant Secretary, Legal Services, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600	2
EMMETT, Mr Lindsay Victor, Principal Naval Architect, Australian Maritime Safety Authority, PO Box 1108, Belconnen, Australian Capital Territory 2616	13
HEWETT, Ms Sandra, Executive Officer, International Security Policy, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600	2
HUTCHISON, Mr John Malcolm, ASO5 with responsibility for policy objectives and development of Inmarsat and Intelsat, Department of Communication and the Arts, Canberra, Australian Capital Territory 2600	19
HUTCHISON, Mr Rodney, Policy Officer, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601	13
PHILIP, Mr Glanmore Ernest, Assistant Secretary, Security, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600	2
SAMUEL, Mr Chris, Director, Asia and New Zealand Section, International Relations, Department of Transport and Regional Development, Trace Building, 22 Cooyong Street, Canberra, Australian Capital Territory 2600	7
THWAITES, Mr Richard, Assistant Secretary, Telecommunications, Trade and Development, Department of Communications and the Arts, Canberra, Australian Capital Territory 2600	19
WHEELNS, Mr Tony, Assistant Secretary, International Relations, Department of Transport and Regional Development, Trace Building, 22 Cooyong Street, Canberra, Australian Capital Territory 2600	7

JOINT STANDING COMMITTEE ON TREATIES

Treaties tabled on 29 October 1996

CANBERRA

Tuesday, 5 November 1996

Present

Mr Taylor (Chair)

Senator Abetz

Senator Denman

Senator Ellison

Mr Adams

Mr Bartlett

Mr Laurie Ferguson

Mr Hardgrave

Mr Tony Smith

Mr Truss

The committee met at 8.10 a.m.

Mr Taylor took the chair

Item 1

Agreement between the Government of Australia and the Government of the Republic of Singapore for the Reciprocal Protection of Material Transmitted between the Australian Department of Defence and the Singapore Ministry of Defence done at Canberra on 15 October 1996

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

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

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

CHAIR—Welcome. Would you like to make a short opening statement?

Mr Brown—Thank you. Members of the committee might recall that on 17 September we appeared before the committee in connection with the Canadian security protection agreement. We said on that occasion that it was one of a number of such agreements with various countries around the world, and here we are with another agreement, this time with Singapore.

There is nothing in particular to which we want to draw attention in relation to this agreement. It is very much in that pattern of an arrangement put in place formally to protect classified information that is exchanged between the parties, and to make provision for the security aspects of personnel visits between the two countries.

CHAIR—Basically, you have answered the first question from the committee, and that was whether the agreement was consistent with the Canadian one we did a few weeks ago. I would ask a question about ‘security visits’. It states that ‘access must be forwarded to the host party at least four weeks prior to the commencement of the visit, multiple visits and extension of visits’. Bearing in mind there may be security implications to this one and that you may not be able to answer on the open record, could you just give us a general idea of what the purpose of those visits would be?

Mr Philip—I take it that you are referring to the arrangements for people from Australia visiting Singapore, and vice versa.

CHAIR—Yes.

Mr Philip—I think you are referring to notification arrangements.

Ms Hewett—There are two types of visits mentioned in the agreement. One is a general visit by personnel from the Department of Defence or defence industry in Australia just visiting the Singapore Ministry of Defence to discuss various things to do with the department, or whatever. That information is forwarded to obtain security clearance details for the purpose of the visit, and to clear that at the receiving end. The other type of visit mentioned in the agreement is for security personnel of one country to visit the other country to inspect security arrangements in that country, in respect of the department—the protection they accord our classified information.

Mr Philip—Both types of arrangement are standard with all of these agreements.

CHAIR—Do members have any questions?

Mr TRUSS—What level of activity is expected under the agreement?

Mr Philip—As you are probably aware, there is quite a degree of interchange between the Singaporeans and Australia—

Mr TRUSS—And it has received a bit of publicity lately.

Mr Philip—Yes. The degree of activity obviously varies from time to time, but there would probably be a fair degree of country-to-country visit simply because of those arrangements.

Mr TRUSS—How many visits would there be per year, say?

Mr Philip—I think we would have to take that one on notice.

Ms Hewett—There are also exchange personnel or, say, Singaporeans coming here for training, and that type of thing, which is all included in these visits.

Mr TRUSS—So are there some hundreds, thousands or tens of people involved?

Mr Philip—We are probably not the best placed people to answer that question.

Mr Brown—We can certainly take that question on notice. It will be in the range of hundreds, I think, rather than thousands or tens.

CHAIR—On taking some of these questions on notice, we are on a short fuse on this one for the tabling process. Could we ask for a quick reply to one or two of these? There may be one or two others for other departments too. We do need them by no later than this Friday to meet our remit.

Mr Brown—Yes.

Mr HARDGRAVE—The only question that comes forward is on the pattern of visits. We are seeing a regular exchange each year, obviously. But what is the sort of pattern that is developing? There are a few thousand in Rockhampton at the moment. Is that a regular occurrence?

Mr Brown—That is a particular exercise. We have a number of activities being undertaken by Singapore in Australia. There is the flying training school at Pearce in Western Australia. There is a now well established arrangement for the conduct of training activities at Shoalwater Bay, a training area in Queensland. Also, we have recently signed an agreement for the location of a helicopter training school at Oakey in Queensland.

The present activity at Shoalwater Bay is an annual activity. It extends for a number of weeks and involves a fairly large number of Singaporean personnel being present in Australia. But it is not a continuous activity, obviously. It just extends for the period of weeks during which the exercise is on.

Mr HARDGRAVE—The question that extends from that is: are we doing, necessarily, a tit for tat? If they have 5,000 coming over here one year, do we have 5,000 going over there, or is it more of a one-way street than that?

Mr Brown—I think it would have to be described as more of a one-way activity. The reason for many of these Singaporean activities being undertaken in Australia is the obvious fact that they have a very limited geographical territory. Things like armour exercises, such as those that are taking place at Shoalwater Bay, just cannot be done within the territory of Singapore itself. It is similar with the flying training. They have found it very acceptable to have the opportunity of conducting these activities in Australia. It serves our defence purposes to have the fostering of this relationship with Singapore.

Also, of course, these activities have economic benefits for Australia. The arrangements that we have in place for the flying training school at Pearce and the arrangements for the helicopter training school at Oakey involve commitments on the part of Singapore to place a substantial volume of commercial work with Australian industry.

Mr HARDGRAVE—From my discussions with people involved in Singapore defence, they appreciate the fact that they have that access to Australia.

Mr Brown—I think so, yes. I think it has been a very acceptable arrangement. As ministers have made clear in the last couple of weeks, it is warmly welcomed on both sides.

CHAIR—I do not want to pre-empt. I am putting on an electoral hat here, bearing in mind that the Oakey army aviation centre is in my electorate, but I assume that the Oakey agreement will actually be coming to this committee.

Mr Brown—It will indeed. The Oakey agreement was signed on the same day as this security agreement. It proved a little more difficult to get the Oakey agreement tabled in time.

CHAIR—This deals with materiel security. One would assume—and we will explore it perhaps when the Oakey agreement comes to us—that, in the light of some of the unfortunate events of recent weeks, perhaps there will be something about physical security in the arrangement.

Mr Brown—‘Physical security’ I think, in the sense in which you are referring to it, is more a matter for coverage under the status of forces agreement. But I think as far as Singapore personnel in Australia are concerned, like any other persons lawfully in Australia, they are entitled to the protection of the law enforcement system. We do not have to give a particular commitment that we will protect official safety of Singaporean personnel. But there are provisions, of course, in the status of forces agreement which allow for the mutual exercise of jurisdiction in relation to various kinds of things.

CHAIR—Yes. So let’s not jump ahead to that agreement. We will look forward to seeing that in due course.

Mr TRUSS—In the documents you indicate that there is no cost to Australia associated with these arrangements. So I presume that we have no liability for medical expenses or anything else that might go wrong during a visitation by Singaporean armed services?

Mr Brown—That is certainly the case in relation to this agreement that is before the committee today. The agreement that is in place for the flying training school and the agreement that will be before the committee shortly to do with the Oakey training arrangement regulate the terms and conditions on which Singaporean personnel are present in Australia. Basically, it is for the Singaporean authorities to carry the costs, including the personnel costs, of the presence of their personnel in Australia. I cannot recall offhand what provision is made about medical expenses, for example. But I can certainly pursue that, if you wish.

Mr TRUSS—So that is different from the agreement with the New Zealanders in relation to their air force or navy personnel where we do meet their medical costs. Is that right?

Mr Brown—That is right, yes.

CHAIR—We are pre-empting discussion, and it is certainly not relevant to this one on materiel security. Is there any idea yet as to when the Oakey agreement may be tabled? I have not discussed it with the secretariat. Will it be tabled before Christmas?

Mr Brown—I do not know. If there is another tabling before Christmas, yes, we would expect it to be. We are in the hands of Foreign Affairs as far as the tabling is concerned.

Mr BARTLETT—Is there any way at all in which this agreement is different from the other ones we have, particularly the one with Canada?

Mr Brown—There are always some minor textual variations because the lawyers on the other side tend to have different ideas about how you express particular obligations. But the basic pattern is the same for all of these agreements, I think.

Mr Philip—The basic framework is the same. Obviously, there will be differences from country to country, depending on their system, because we are meshing our system with their system. There have to be adjustments to take account of that.

CHAIR—Do members have any further questions? As there are no further questions, I thank the witnesses for their evidence.

[8.27 a.m.]

Item 2

Agreement between the Government of Australia and the Government of Macau concerning Air Services

WHEELENS, Mr Tony, Assistant Secretary, International Relations, Department of Transport and Regional Development, Trace Building, 22 Cooyong Street, Canberra, Australian Capital Territory 2600

SAMUEL, Mr Chris, Director, Asia and New Zealand Section, International Relations, Department of Transport and Regional Development, Trace Building, 22 Cooyong Street, Canberra, Australian Capital Territory 2600

CHAIR—Welcome. Would you like to make a short opening statement?

Mr Wheelens—Yes, a very short one. This is a new agreement between Australia and Macau. It provides the opportunity for airlines of both countries to provide direct passenger and freight services. The agreement is substantially based on the Australian standard draft agreement, which we discussed in September at the time of the tabling of the Malta agreement. There are no substantial differences to the text.

This treaty gives Australian carriers the potential—and I stress the word ‘potential’—for access to Asian markets, and it gives us flexibility to link Macau with other countries in the Asian region and beyond to Europe. On the issue of potential, it is useful to note that at the moment about 7,000 passengers travel between Australia and Macau each year. This contrasts with about 220,000-odd to the PRC and about 650,000 to Hong Kong.

This agreement gives us, potentially, an alternative airport in the event that the surge and demand in the region clogs up the other airports—not only, say, in Hong Kong but also in Southern China. It is directed at the potential rather than the immediately available benefit from the airport.

CHAIR—So it is a bit like the Malta agreement: it is a potential thing rather than an actual thing in the short term; it provides the umbrella for services in due course.

Mr Wheelens—The agreement that was on offer was so good that it was the right time to do the deal.

CHAIR—Do we have any idea as to which airlines might want to be involved in this service? Bearing in mind the Hong Kong situation, what is the situation with Macau in relation to handover and transition?

Mr Wheelens—Handover occurs for Macau in 1999, two years later than Hong Kong. The terms and agreement for the handover are roughly similar to those of Hong Kong. We would expect that—and I will refer to my notes on this—the 1987 joint declaration between the PRC and Portugal provides that Portugal will become a special administrative region in 1999.

In 1993, the Sino-Portuguese joint liaison group, which oversees the implementation of the joint declaration, has agreed that Macau has the authority to conclude air services agreements with foreign governments. Because of Macau's status as a non-sovereign entity, signature takes place only after the PRC's consent to the ASA. That has been given. Because the PRC is not a party to the agreement, it is not legally bound by it or obliged to authorise the continuation or renewal of the ASA after 1999. We are advised though that there is a very strong probability that the PRC would permit continuation of the agreement after 1999.

CHAIR—So there is a slight variation between that and the Hong Kong SAR arrangements, is there? Perhaps it would be more appropriate for DFAT to answer that question.

Mr Wheelens—Yes.

CHAIR—Could we hear from somebody from DFAT? Chris Lamb, do you know the answer to that—the differences between Macau and Hong Kong? The Hong Kong situation is that the treaties will apply after 1 July 1997. We are hearing that, with Macau, there is a bit of a question mark.

Mr Wheelens—Perhaps I could clarify that. As I understand it, the joint declaration between the PRC and Portugal provides that Portuguese civil, criminal and administrative law will apply to Macau and remain basically unchanged until 2049. The legislative and administrative capacities of the Macau SAR are those provided under the 1993 basic law of the PRC. So it is essentially the same.

CHAIR—Do members have any questions?

Mr TRUSS—In relation to the fifth freedom rights associated with this, I notice on the annex that the Macau airlines can go to two points beyond Australia. They could land at popular spots, like Singapore and Thailand—in other words, Singapore and Bangkok—and presumably pick up great piles of passengers in those places and come into Australia.

Mr Wheelens—That is right. I think it is important to understand the role that fifth freedom rights play in world bilaterals. One of the constant allegations that is made against air services treaties is that they are bilateral and, of their very nature, create the opportunity for duopolies and domination by national carriers. The best way of breaking that down is to provide third country carriers access to the bilateral markets. So there is a very strong pro-competition reason for introducing third country carriers into the bilateral markets.

Mr TRUSS—But you can end up with a relatively short hop from Macau to the intermediate point and have most of the traffic then on the second leg. That would really circumvent the agreements that you have with Thailand or, say, Singapore.

Mr Wheelens—That potential is recognised in the treaty. There is what is commonly referred to as the primary purpose article in the treaty, which says that the primary purpose of each of these treaties is to provide for the carriage of traffic between the signatory states.

Mr TRUSS—One other point I would like to raise—and it does not seem to apply to this one at all because there are no ports designated in Australia that can be used—is that we have an overcrowded airport at Sydney and underutilised airports in other parts of Australia. I appreciate that Sydney is a popular arrival point. But when we are dealing with countries that are anxious to fly to Australia, have we put forward the proposal that they can land at any port other than Sydney?

Mr Wheelens—We have recently introduced that into a couple of our negotiations.

Mr TRUSS—So we might well end up with agreements with some countries that they can come to Brisbane, Perth and Adelaide but not Sydney?

Mr Wheelens—Yes, that is possible. I will just elaborate on that very briefly. It is often a question of whether we do the deal for a particular city. We do have a policy of trying to encourage access to the minor gateway points. We regularly bring that to the table in negotiations.

At the end of the day though, it is the value that our bilateral partner places on that destination that often determines the outcome of the deal. If we are confronted with the proposition of trying to exchange rights at a major point in their country and only offer a minor point in our country, the deal is not always done. What we then have to look at is where the national interest best lies—whether it lies in promoting inbound tourism into Sydney or into another country. That is the judgment we have to make.

Mr TRUSS—But a lot of that, I think, could be that the mind-set on Sydney could be modified by better use of the other ports. We ought to be able to sell the advantages even of flying into some of the other ports, bearing in mind the excellent internal air services that are available, even from our international terminals these days.

Mr Wheelens—Indeed, and we certainly encourage that. But, again, I think we need to keep at the front of our minds that we may well have a perception that Sydney, Melbourne and Brisbane sit next to each other in terms of attractiveness. In the eyes of the foreign carrier or its government, Sydney may be their second choice and Melbourne may be their 35th choice, as opposed to going to Frankfurt, Los Angeles, Tokyo, or somewhere

like that. Australian cities do not naturally sit next to each other in the priority of foreign carriers or their governments—and, again, we have to keep that at the front of our minds.

Mr TRUSS—We may have to test this and make a stand on it in one instance to prove that some of those perceptions are wrong and that it may be better to be able to land on time every day in Perth than to repeatedly circle Sydney.

Mr Wheelens—I think, before that happened, there would need to be a significant change in the perception of consumers buying Australia as a destination. At the moment there is absolutely no question that Sydney is the most popular destination in Australia. Our obligation in government is to provide the opportunity for airlines to serve each of the Australian gateway airports.

I think all of the major capital city international airports have at least somewhere between 45 and 50 international carriers who have the rights to operate into those airports. The fact that they choose not to operate there is a commercial decision. But we have certainly given them the opportunity to operate there. I can provide you with lists of the airlines that have rights to each of the gateway airports. It is certainly in excess of 45 for every one of them, and as high as 50 in some cases.

CHAIR—That would be helpful. To take up Mr Truss's point: for example, would it be reasonable to say that, as far as the department is concerned and as a policy thing, we should increasingly push Brisbane, perhaps for Asian sources, for the hubbing in and out of traffic?

Mr Wheelens—The market is driving that. We are providing the opportunity to the market, and the market is driving that demand.

Mr HARDGRAVE—Along a similar line: in the routes schedule annex of your documentation is the question of routes operated by the designated airline or airlines of Macau to two points in Australia. What are those two points?

Mr Wheelens—They would be of their choice.

Mr HARDGRAVE—And beyond, as in perhaps slipping over to Auckland, or something like that?

Mr Wheelens—That is right. As you would appreciate, there is not much beyond Australia other than New Zealand that is of value. Firstly, we would not expect the national carrier of Macau to be here for some considerable time. Secondly, we would expect them to operate point to point; if they were to operate beyond, it would only be to New Zealand.

Mr HARDGRAVE—The second section of that particular schedule is the routes to be operated of the designated airline or airlines of Australia. So I imagine both Qantas and Ansett would be interested in this—

Mr Wheelens—Or any other carrier.

Mr HARDGRAVE—Or potentially any other. Looking perhaps at those two airlines, they would be automatically restricted though on which particular four points they may choose to go to because the note suggests that ‘Hong Kong, points in Taiwan and inland China may not be served as beyond points’.

Mr Wheelens—Yes. Again, we would expect the two major carriers to be operating already to the principal points in China and Hong Kong, in any case, and operating on a direct basis. So there would be no commercial advantage for them to do that.

Mr HARDGRAVE—But there is a caveat here that says that they cannot operate—

Mr Wheelens—No, that is right. That was the deal that was on the table, the one that we had to do. But, importantly, it gives us access from the region back into Asia and to Europe.

Mr HARDGRAVE—What would be four potential points that an Australian airline could operate to after Macau?

Mr Wheelens—As we do with Hong Kong, for example, we could pull back into Singapore, Bangkok, into the collection of distribution points. There is a very significant amount of traffic generated out of the region that comes back into South-East Asia. Equally, one of the most popular means of travelling throughout the region is group inclusive model-stop tours so that you buy three countries—maybe Singapore, Bangkok and Hong Kong. There is a significant flow of traffic through the region that consumes more than one destination as part of the holiday package.

Mr HARDGRAVE—But Singapore and Hong Kong perhaps are more intermediate stops.

Mr Samuel—Yes, but there could also be points in Europe which could be served via Macau similar to Hong Kong.

Mr HARDGRAVE—That is what I am getting at. I am trying to imagine what you are allowing Australian operators do here. Literally, they could fly Australia to Singapore, Singapore to Macau, Macau to Anchorage, Macau to Seattle, Macau to Los Angeles, or whatever, under this agreement.

Mr Wheelens—Yes. It is a significant set of rights as an abstract. Whether they have a commercial benefit or not is something for the future.

Mr Samuel—I just come back to your point about the exclusion of points in mainland China, Hong Kong and Taiwan. The reason for that is that they will eventually become part of China. Taiwan is already recognised by China. Those points therefore will become domestic; they will become domestic legs. That is the reason for the exclusion.

CHAIR—Just from the Australian end, I assume that Qantas and Ansett International are keeping a watching brief on this as commercial circumstances arise.

Mr Wheelens—Yes.

CHAIR—Nobody else is expressing interest at this stage?

Mr Wheelens—We have had a recent sniff from a charter operator who is no longer with us but was interested in it as a destination.

Mr TRUSS—Do you envisage that eventually, by the year 2000 or thereabouts, there would be a single agreement negotiated with China that would involve rights to Hong Kong and Macau; or do you think we will continue to have separate agreements with Macau and Hong Kong?

Mr Wheelens—My guess is that we will continue to have separate agreements in that time frame.

Mr TRUSS—I know that I am asking you questions about Chinese politics but, for instance, Tibet has a similar autonomous status to the status that I imagine Hong Kong and Macau would have. We could actually negotiate an agreement with Tibet, if we chose to do so.

Mr Wheelens—I guess that is possible.

CHAIR—DFAT is nodding furiously. As there are no further questions, I thank the witnesses.

[8.43 a.m.]

Item 3

Amendments, done at London on 23 November 1995, to the International Convention on Load Lines of 5 April 1966

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

EMMETT, Mr Lindsay Victor, Principal Naval Architect, Australian Maritime Safety Authority, PO Box 1108, Belconnen, Australian Capital Territory 2616

HUTCHISON, Mr Rodney, Policy Officer, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

CHAIR—Welcome. Would you like to make a short opening statement?

Dr Ada—Thank you. The purpose of this treaty is to move the southern boundary of the tropical load line zone south by 30 nautical miles. The tropical load line zone would then include the port of Gladstone. The direct benefits are that vessels trading at this port will be able to load a greater quantity of cargo.

This treaty amends the International Convention on Load Lines. The convention establishes an internationally recognised and accepted standard by which vessels may safely load. The most obvious sign of the load line convention is a mark or marks on the side of a vessel which indicate the relative points to which the vessel may be loaded, according to the season of the year and the zone in which the vessel is loading. Enforcement of the convention is through port state control inspections.

This treaty involves two amendments related to moving the southern boundary of the zone. We have a chart available which shows the present relevant boundaries of the winter, summer and tropical zones. By moving the southern boundary of the tropical zone to include the port of Gladstone, vessels loading bulk cargoes—predominantly bauxite and aluminium—are able to load greater quantities.

The inclusion of the port of Gladstone within the defined tropical zone will be of benefit to both Australian exporters and ship owners. Also, it should enhance the competitive position of Australia against other countries exporting competing cargoes. Consultations have been held with the Australian shipping industry and Queensland marine and port authorities. All support Australia's acceptance of these amendments.

CHAIR—I am sure that the member for Hinkler, Mr Neville, would be very pleased to hear about this; in fact, we have given him the heads-up on this one, I think. Obviously, there are commercial advantages to Australia. Do you have any idea as to whether there is any quantification of those advantages—firstly, in terms of bulk? You are talking mainly about bulk cargoes, aren't you?

Dr Ada—Yes.

CHAIR—Firstly, in terms of the bulk; secondly, in the dollar terms.

Dr Ada—In terms of the actual increase in cargo, it is hard to specifically quantify, given the range of vessels that visit the port. But an average we would expect would be around a two per cent increase in cargo loaded per vessel. What it might mean for the port of Gladstone is that in 1995-96 there were nearly 600 commercial vessel movements in the port of Gladstone, equating to the export of around 25.6 million tonnes of cargo, worth approximately \$2.3 billion.

The treaty offers significant economies of scale as each vessel may take on board an increased amount of cargo which, in turn, makes each voyage to and from this point more efficient. At the same time, the port of Gladstone may be able to obtain efficiencies in their operations.

Mr BARTLETT—I am just curious about why summer load lines are different from tropical load lines. What is the reason for that?

Mr Emmett—The world is broken up into different zones, which is outlined in the convention. There is a summer zone, a tropical zone. Each zone has a distinct weather characteristic, so you must meet a weather criteria. In a tropical zone the weather is a lot milder and craft are allowed to load to a deeper draft.

Mr TRUSS—You are a bit more likely to have cyclones.

Mr Emmett—In a tropical zone, I think one of the criteria is one cyclone per 10 years per area. In putting forward this proposal, that was looked at.

Mr HARDGRAVE—I just have a question on the technical side of the position on the map. Perhaps you, Mr Chairman, would be the most qualified person at the table, given your nautical experience. As to the particular parallel of latitude 24S and that type of description with regard to regulation 49(7)(b), in a physical sense in layman's term what is the difference? Are we moving the border 50 clicks down the coast?

Dr Ada—Thirty nautical miles.

Mr Hutchison—I have a chart here that I can distribute for the benefit of the members of the committee.

Mr HARDGRAVE—The minimum length of 30 nautical miles of change in itself makes this a very easy and sensible change to the treaty, I would have thought.

Dr Ada—Yes.

CHAIR—There being no objection, we will accept the tabling of the chart.

Mr TONY SMITH—I assume that vessels loading bauxite at Weipa would then be able to load a greater quantity to get into Gladstone for the processing of the bauxite. That is what this means too. So it is a significant intrastate movement of the load line for that purpose.

Mr Emmett—Vessels loading in the south hub in Australian ports can load to their maximum cargo but top up bunkers in Gladstone. So they can load deeper by adding bunkers. That is an advantage to southern ports.

Mr TONY SMITH—But doesn't it mean effectively that they could load more in Weipa and come into Gladstone much more heavily laden than previously?

Mr Emmett—I will just have a look at the map. Yes, Weipa I think is already in the tropical zone, so it can load to a deeper draft and then go into Gladstone.

Mr TONY SMITH—I think it is pretty close. It is very hard to tell from that.

Dr Ada—Yes, it is hard to say from this particular map.

Mr TONY SMITH—But previously, prior to this convention, it could not go that 30 nautical miles.

Mr Emmett—I believe it could only load to the summer draft, that one.

Mr TONY SMITH—Are you able to say what that would mean on, say, an 80,000 tonne bulk carrier?

Mr Emmett—In general terms, with 100,000 tonnes, you would probably pick up something in the order of 2,000 to 3,000 tonne extra dead weight.

CHAIR—In terms of reef passage and in the water, empirically what is the difference roughly between the two marks?

Mr Emmett—The difference between the summer load line and the tropical load line is one 48th per summer draft. So you reduce the summer free board by one 48th per summer draft. So in a vessel around about 13 metres draft, you would probably increase to about 13.2, 13.3.

CHAIR—So it is relatively small.

Mr Emmett—Yes.

Mr ADAMS—What does it do for safety on a ship?

Mr Emmett—One of the conditions of the convention is that, where a load line is assigned, they have to establish that strength, stability, water tightness in part is satisfactory to assign that free board.

Mr ADAMS—What about the loading plans; do they change because you are putting more on and stressing the ship out more?

Mr Emmett—You are talking about an extra 2,000 tonnes on, say, 100,000 tonnes. So the loading plan would have to be looked at.

Mr ADAMS—But we are actually putting more stress on ships, aren't we? The outcome of this is that there will be more stress on ships.

Mr Emmett—It depends on how you load it. You have to distribute the load. You might need ballast, or whatever.

Mr ADAMS—But by putting more loads on ships, we are making ships more unsafe, aren't we? We are going for more productivity here, and we are stressing ships.

Mr Emmett—But we are making sure, under the terms of the convention, that those ships are capable of taking that load.

Dr Ada—Those ships are already travelling in the tropical zone. So, if they were voyaging between two ports in the tropical zone, they would be loading to that level already.

Mr ADAMS—What about when there is the next application? How can they change it again to give them another 3,000 tonnes? Is there another line by which we can squeeze a bit more on board? Can we stretch it a bit more to get a bit more productivity?

Mr Emmett—No.

Mr ADAMS—We are regulated enough to be able to restrict that, are we?

Mr Emmett—Designs are defined in the load line convention. We would have to rehash the whole convention.

Mr ADAMS—You cannot stack a bit more on the top?

Mr Emmett—No, unfortunately.

Senator ABETZ—Was the Maritime Union consulted about this treaty? I think that is the bottom line of Mr Adam's question, isn't it?

Mr ADAMS—No, I was asking my own questions, thank you. I am quite capable of doing that.

Senator ABETZ—Were the local ship owners and the local maritime unions consulted about this?

Mr Emmett—The ship owners were consulted through the Ship Owners Association and they were quite happy with the proposal. As for the unions, I could not answer that question.

Mr ADAMS—Ship owners do not actually travel on the ships.

Senator ABETZ—In relation to the briefing that we have received, I think it is just a typo, but under 'denunciation or withdrawal', it would be notification 'to the IMO' rather than 'by the IMO'. Is that right? This is the very last line: 'such denunciation would take effect one year after the notification by the IMO'. It ought be 'to the IMO'.

Dr Ada—Yes.

CHAIR—And that is what the NIA says.

Senator ABETZ—Yes, I thought so. I just wanted to get that clear.

Senator ELLISON—Looking at the summer zone line, which is at 30 degrees south, does that include the port of Geraldton on the Western Australian coast?

Mr Emmett—The Western Australian coast includes the ports of Walcott, Hedland and Dampier.

Senator ELLISON—And it does not include Carnarvon?

Mr Emmett—I would have to look at our big map.

Senator ELLISON—I am just wondering, if it is taken south to Gladstone, whether there is any similar application on the west coast with a port which is involved in trading vessels just missing out but where virtually the same circumstances apply.

Dr Ada—No.

Senator ELLISON—No similar application?

Dr Ada—No.

CHAIR—As there are no further questions, I thank the witnesses.

[8.55 a.m.]

Items 4 & 5

Amendment done at Copenhagen on 31 August 1995, of the Agreement relating to the International Telecommunications Satellite Organisation "INTELSAT" of 20 August 1971, to Implement Multiple Signatory Arrangements.

Amendment done at Washington on 16 April 1966, of the Operating Agreement relating to the International Telecommunications Satellite Organisation "INTELSAT" of 20 August 1971, to Implement Multiple Signatory Arrangements

HUTCHISON, Mr John Malcolm, ASO5 with responsibility for policy objectives and development of Inmarsat and Intelsat, Department of Communication and the Arts, Canberra, Australian Capital Territory 2600

THWAITES, Mr Richard, Assistant Secretary, Telecommunications, Trade and Development, Department of Communications and the Arts, Canberra, Australian Capital Territory 2600

CHAIR—Would you like to make a short opening statement?

Mr Thwaites—Yes, thank you. The amendments here are to the Intelsat agreement—it is a treaty known as an agreement—and also to the second level instrument, which is called the operating agreement. Intelsat is an organisation which has played a very important role in establishing space segment communications technology. It was put together in a peculiar form to achieve that purpose. That was, when the notion of satellite communications was fairly new and the technologies were unfamiliar, it was seen to be appropriate—and necessary, in fact—that, for that technology to be applied globally, a treaty form be used which would ensure that the sovereignty concerns and the particular needs of some of those who would not be in a strong position to influence the technology by other means would be incorporated into the treaty format.

Therefore, the organisation is at two levels. The first level is the treaty between sovereign nations, and they appear as the parties in the constitution of Intelsat. The second level consists of signatories, signatories being the operating bodies who both make the investment and use the organisation's assets and facilities to provide international communications.

The reason for these amendments having been put forward is that, along with most of the other parties to this treaty, Australia no longer exists in an environment where there is only one carrier. That was the norm and the presumption at the time of Intelsat being set up—and in most cases there was, and it was thought that there probably would continue to be, one carrier responsible for managing the Intelsat interface and access in each territory. That is now becoming the rare case rather than the norm.

Around the whole extent of Intelsat membership, which I think is 139 different states, there is generally a move to make it possible for more than one operating carrier to have a direct relationship with Intelsat, both in the form of being able to have access to it and in the form of being able to invest in it on their own commercial criteria. That is the purpose of these amendments here today.

CHAIR—What are the direct benefits to our service providers? Will there be additional competition as a result of these amendments?

Mr Thwaites—Yes. We say that the benefit to consumers and users will be felt through that—that being a more open and competitive environment. A competitive provision of space segment is already a reality. Intelsat was the only provider when it was set up. Now there are numerous space segment providers, including those in our own region for whom there is not a bottleneck power invested in any one carrier.

In the case of Australia, Telstra still nominally has the power to refuse, say, Optus or another carrier direct access to a satellite and insist that they go through a Telstra facility. This we do not see as having any validity in the present environment, and naturally it will be of benefit to keeping Intelsat's services competitive as well.

Mr BARTLETT—Has there been any consultation with the Australian telecommunications industry?

Mr Thwaites—Yes. There is a regular and consistent process of consultation with the people who have an interest in Intelsat. In this case we are talking about the basic telecommunications uses—the public switched network type applications. Intelsat, of course, is also used broadly for broadcasting type applications, moving program material across oceans. So there has certainly been consultation. Telstra, for example, recognises that this is the way things are going and accepts it. Telstra plays a significant role in the management of Intelsat through office holding on the board.

Mr BARTLETT—Has Telstra in the past refused access to any of the other carriers?

Mr Thwaites—We have had complaints that there has been obstruction. There is in existence a ministerial directive to Telstra requiring it to facilitate access, which was seen as an interim means to overcome this inappropriate bottleneck power. However, I think we have had complaints that at the operating level officers have sought to use their ability to say no to try to persuade other carriers to use Telstra facilities. I think I will leave it at that.

Mr HARDGRAVE—The Telstra arrangement comes from the old OTC part of Telstra, does it?

Mr Thwaites—Indeed, yes. This has been inherited from OTC.

Mr HARDGRAVE—What satellites are above us, other than the OTC or Telstra controlled one?

Mr Thwaites—In our immediate region there is Panamsat operating over the Pacific. Also, there is the Indonesian one, Palapa, which I think has two or three satellites doing some business into Australia—not in the telephony area, but they could. It may be that in the environment from the beginning of next year, when we have a variety of niche carriers or new service providers looking at business they will then be able to pursue, then Palapa and others may well be in the market.

Mr HARDGRAVE—You have anticipated where I was going with the question; well done. What sort of access is possible currently? There is a deal of, perhaps, unauthorised or attempts at free riding type access off some of the satellites now, isn't there?

Mr Thwaites—No, at the moment—

Mr HARDGRAVE—Officially not.

Mr Thwaites—It would certainly be traced, if not reported, by competitors. But where the bottleneck resides is in connection with the public switched telephone network. There are other provisions for importing or exporting signals that are not connected to the public telephone network; various forms of licensing are involved there. But this particular issue relates to interconnection with the public switched telephone network—and Telstra is very vigilant in policing that, I can assure you.

Mr HARDGRAVE—This is all more about telecommunications than perhaps television transmissions, and so forth?

Mr Thwaites—Yes, it is, although the signatories also do business in broadband type applications, such as programming transmission. They do not have a monopoly on it, but they do participate in that business.

Mr HARDGRAVE—How do American television networks beam their signals into Australia? CNN, ABC, NBC and CBS are all beamed into Australia every day, as we speak. How are they doing that; with which satellite?

Mr Thwaites—If they are coming through Intelsat, in many cases they will be coming through a Telstra down link, but in other cases they will be individual down links.

Mr HARDGRAVE—Each television network seems to have an earth station in their backyard.

Mr Thwaites—That is right, and that is an arrangement that has been made. But, as I say, those are not things which are connected to the public telephone network.

Mr HARDGRAVE—That is what I was trying to work out. It is easy for me to talk OTC. It is the old OTC satellite network? Are Aussat and all those bits and pieces tied up with the provision of those services; or are they from separate satellites that are floating around up there which authorised earth stations are being able to pick up?

Mr Thwaites—This only applies to Intelsat's fleet. What happens with other satellites and interconnection to the network is governed by other rules that are not subject to this treaty.

Mr ADAMS—Who knows what is coming into Australia? How do we know what is coming down here from satellites from American television, Indonesian television or anyone else's television? Who keeps an overall view of what comes into Australia by satellite?

Mr Thwaites—Australia is bathed with the signals of 40 or 50 satellites—Russian, Japanese, Thai. There is signal coming in as, indeed, for decades there has been short-wave radio signals floating across Australia. So there really is not any attempt that I am aware of, certainly in the communications portfolio, to assess all of the signals which reach Australia and which could be received. Indeed, we do not restrict in this country the reception of signals. If someone wants to put up a large dish, then it will only be local government approval that they need.

Mr ADAMS—So if we had a pornography channel operating out of somewhere, they could beam all sorts of images into Australia without any consideration from government regulation at all. There is nobody actually monitoring this situation in our country at the moment.

Mr Thwaites—An individual can receive—

Mr ADAMS—No, I am talking about a regulator; I am talking about a government departmental situation.

Mr Thwaites—Yes, I understand that. An individual is permitted to receive, as indeed he or she is permitted to listen to a radio. But if an individual were to seek to re-transmit or distribute such signals, they are caught by the regulatory arrangements which are in place for broadcasting and transmission.

Mr HARDGRAVE—The other question left hanging there is: under this agreement or under the context, you say, of 30 or 40 different satellite footprints that may be touching Australia, could we envisage a situation where an Australian organisation may well want to use, or contract with, one of those foreign satellite service providers to

literally use that footprint to some commercial advantage here; perhaps even set up their Australian targeted television operation, or whatever, in the other country up on the satellite and down; or is that not possible?

Mr Thwaites—Technically, those things are possible. In terms of the spectrum access, if they were violating the international conventions on agreed use of spectrum, that would be a problem. But if they are operating within the law, it would be conceivable. But where we have looked at instances of this and proposals for this, it would normally be expected to involve the need for specialised receivers of some kind, and there is a natural kind of market brake on things like that.

As the committee is probably aware, for many years there have been individuals who have been enthusiastic enough to put up \$3,000 satellite dishes in their backyards in order to receive Moscow television. That has not been seen to be a threat to this country or to the broadcasting industry either. As I say, when it comes to there being more convenient redistribution networks, they become subject to the kind of regulation that applies to broadcasting and cable systems.

Mr HARDGRAVE—Trying to plan where telecommunications will be going in 10 or 20 years time must be a very frustrating/interesting process for you.

Mr Thwaites—We are sure that the Senate will be dealing very wisely with these matters in due course.

CHAIR—As there are no further questions, I thank the witnesses.

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

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

Committee adjourned at 9.10 a.m.