



Australian Government
Department of Infrastructure and Transport

File Reference: 13/1047

Committee Secretary
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Dear Secretary

Hearing – Monday 4 February 2012 – clarification of evidence

I refer to the transcript from the Department's appearance before the Joint Standing Committee on Treaties hearing on 4 February 2013. I wish to clarify two of the statements made by the Department at the hearing.

During the hearing, Mr Adams agreed with Senator Thistlethwaite that an Australian creditor would be covered in a situation where Australia had ratified the Cape Town Convention ('the convention') and the creditor suffers a default in relation to an aircraft operated in a country that is not party to the convention (page 11 of the transcript refers).

In fact, further information would be needed before an assessment could be made as to whether the convention would apply.

The information provided to the Committee on which circumstances the Convention would apply is correct. However, the Senator's example did not state whether the debtor is situated in a country that is a party to the convention.

If, under the Senator's example, the debtor were situated in a country which is a party to the convention, the convention would apply. If the debtor was not situated in a country which is party to the convention, the convention would not apply.

In addition, during the hearing, I agreed with the Member for Ryan that, for Australian creditors, it is desirable that countries with major airports sign up to the convention (page 12 of the transcript refers). To clarify, the desirable outcome for Australian creditors is the following countries accede to the convention:

- countries with a large proportion of debtors with which Australian creditors do business; or
- countries with a large number of registered aircraft in which Australian creditors have an interest.

I have also proposed minor alterations to the attached transcript on pages 11 and 12.

I hope this clarifies the evidence that the Department provided to the Committee at the hearing. Please do not hesitate to contact me if I can further assist the Committee.

Yours sincerely

Stephen Borthwick
General Manager
Aviation Industry Policy

14 February 2013