

2 September 2005

Committee Secretary
Senate Rural and Regional Affairs and Transport Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

Attention: Ms Trish Carling

By email: rrat.sen@aph.gov.au

Our Ref: **G400-034**

Dear Ms Carling,

Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003 (the Bill)

We refer to your email of 17 August 2005 and your subsequent telephone conversations with Mr Michael O'Neil.

The Australian and International Pilots Association (**AIPA**) is an organisation of employees registered pursuant to the *Workplace Relations Act 1996*. AIPA represents pilots and flight engineers employed by Qantas Airways Limited and its subsidiaries.

AIPA made written submissions in relation to the Bill on 11 May 2004. We adopt and repeat those submissions. I attach a copy of those submissions for your information.

We confirm your advice that the Senate Rural and Regional Affairs and Transport Committee (**Committee**) will consider previous submissions in its current inquiry and report.

Summary of earlier submissions

In its first submission AIPA raised its concerns that the fundamental premise of the Bill, that mutual recognition will have no adverse impact from a safety perspective, had not been established.

The detailed analysis by the Civil Aviation Safety Authority (**CASA**) that apparently supported this proposition had not been made available to any interested parties, or the public. Accordingly, its accuracy and reliability had not been tested. Reliance was placed on International Civil Aviation Organisation (**ICAO**) audit data where that data is patently unsuitable for the type of comparative analysis that is required in this case. The fact that the aviation safety systems in Australia and New Zealand meet ICAO requirements does not mean that they are equivalent.

Finally no detailed analysis of the effectiveness of the New Zealand's aviation safety system, in terms of accident and incident statistics, had been conducted.

2004 Report

In June 2004 AIPA was provided with a copy of the Committee's report in relation to the Bill (**2004 Report**).

In paragraph 2.57 the Committee stated:

"the Committee accepts the view put by AIPA that a detailed analysis of the aviation safety records is essential"

In paragraph 2.58 the Committee recommended:

"that the safety records of both countries be examined"

AIPA is pleased that the Committee endorsed the position put by AIPA. Ensuring that the aviation safety regimes of the two jurisdictions are equivalent, is an essential first step.

However, we are concerned about the Committee's statement in Paragraph 2.58 that:

"The Committee also accepts that without empirical evidence that the assertion that Australia may be accepting a lower safety standard in a New Zealand AOC cannot be justified"

This statement fails to appreciate the responsibilities that lie on those who propose the changes set out in the Bill. The Bill is premised on the assumption that the safety standards in Australia and New Zealand are equivalent. It is for those who advance this proposition to support it with empirical, reliable and appropriate evidence. If safety standards in Australia and New Zealand are equivalent, the Australian travelling public must be provided with evidence that supports this. It is not acceptable for the Committee, or the proponents of the Bill, to state that the proposed regime is safe unless it can be proved that it is unsafe.

Recommendations of the 2004 Report

The Committee makes two recommendations in the 2004 Report. AIPA is alarmed by recommendation 1 where the Committee recommends that:

"...12 months after the commencement of mutual recognition of AOCs, CASA conduct a comparative assessment of the safety records of airlines operating in Australia under both Australian and New Zealand AOCs..."

With the greatest of respect AIPA submits that this recommendation is ill considered and reckless. It is difficult to understand the logic of introducing a new system of aviation safety regulation and only after it is implemented, determining its impact on safety. The regime proposed in the Bill must not be implemented until it has been established that there are no adverse safety implications arising from it.

AIPA makes no comment in relation to recommendation 2

Conclusions

AIPA is extremely disappointed that the Bill has been resubmitted without, as far as we are aware, the necessary inquiries being undertaken. We note that 12 months have now elapsed since the Committee first reported and we would have thought that this period was sufficient for the necessary work to be done.

AIPA reiterates its initial position that, before mutual recognition can be accepted it must be properly established that there will be no reduction in Australia's aviation safety standards. This has not been done. To support the implementation of the scheme in the Bill without the necessary assurances in relation to the maintenance of Australia's enviable aviation safety record would be to abandon the interests of the Australian travelling public. AIPA is not prepared to abandon the Australian travelling public and its members and the Committee should not either.

Please do not hesitate to contact us if we can provide any further information.

Yours sincerely,

Michael O'Neil
Legal Counsel (Industrial Relations)

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Encl.

11 May 2004

Ms. Maureen Weeks
The Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee
Suite SG.62
Parliament House
CANBERRA ACT 2600

By Email: rrat.sen@aph.gov.au

Our Ref: **G400-034**

Dear Ms Weeks,

Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003 ("the Bill")

We refer to our letter dated 3 May 2004 and to your letter dated 24 March 2004.

This is a submission from the Australian and International Pilots Association ("AIPA") to the Senate Rural and Regional Affairs and Transport Legislation Committee ("the Committee") in relation to the Bill.

1. Introduction

AIPA is an organisation of employees registered pursuant to the *Workplace Relations Act 1996*. AIPA represents pilots and flight engineers employed by Qantas Airways Limited.

Australia has an aviation safety record that is second to none. Qantas has the best safety record of any airline in the world. This outstanding record is due, in no small part, to the professionalism and skill of Australian, and particularly Qantas, pilots.

AIPA is very concerned that this Bill has the potential to make Australian aviation less safe. Any reduction in Australia's aviation safety standards is unacceptable.

2. The Premise of the Bill

The Bill is apparently premised on an acceptance that:

“...while some systems and processes may vary, Australia and New Zealand have safety standards that produce equivalent safety outcomes in high capacity airline operations”¹

In other words the Bill assumes that the Australian aviation safety standards are the same as New Zealand aviation safety standards and that New Zealand airline operations are as safe as Australian operations.

3. AIPA's Concerns

The problem that AIPA sees with the assumption that apparently underpins the entire Bill is that it has not been established. It is asserted in the Explanatory Memorandum to the Bill and the Second Reading Speech² that the two regulatory systems produce equally safe skies³ however no evidence is supplied to support this assertion.

Civil Aviation Safety Authority CASA Analysis

It is stated that:

“CASA has advised that a detailed analysis of the safety systems has been conducted and both sides are confident that aviation can interoperate safely in the form being considered”⁴

To the best of AIPA's knowledge this detailed analysis has not been made public. It has not been scrutinised and, as far as we are aware, has not been the subject of independent review. AIPA and the Australian public have no way of assuring themselves that CASA's analysis is accurate. AIPA is not stating that the analysis done by the CASA is faulty. However AIPA does believe that, given that the whole Bill is apparently premised on the accuracy of CASA's analysis, it is critical that it be properly scrutinised and this has not been done.

Compliance with International Civil Aviation Organisation (“ICAO”) Audits

It is also asserted that:

“As signatories to the Chicago Convention, Australia and New Zealand are both subject to ICAO audits; the publicly available audit findings indicate both have equivalent safety regimes”

¹ Explanatory Memorandum to the Bill at page 3.

² Tuckey, Wilson, MP Minister for Regional Services, Territories and Local Government, House Hansard, 25 June, 2003, page 17422.

³ Ibid, pages 3, 9 and 12.

⁴ Ibid, page 12.

AIPA has not had the opportunity to review any publicly available audit findings. However, it is AIPA's position that audit results do not establish that Australia and New Zealand have equivalent aviation safety regimes. ICAO audits determine the status of implementation of relevant ICAO Standards and Recommended Practices, associated procedures and safety-related practices⁵. They do not analyse and compare the aviation safety regimes of different nation States. New Zealand's aviation safety system may well comply with the standards required by ICAO and still offer a lesser standard of aviation safety than Australia's system. Finally it is AIPA's position that compliance with ICAO standards represents the minimum level of aviation safety, not the desirable level.

Lack of detailed analysis of accident and incident statistics

According to the Explanatory Memorandum no detailed analysis of how New Zealand's accident and incident statistics compare with Australia's has been carried out⁶, although it is apparently considered that the two countries have comparable safety records. AIPA believes that a detailed analysis of each jurisdiction's aviation safety record is essential if any proper comparison of those systems is to take place. AIPA does not understand how it can be asserted that the two systems offer equivalent safety standards without a detailed examination. AIPA believes that an examination of this material is absolutely essential.

4. Conclusion

AIPA is concerned that the fundamental premise of this Bill, that mutual recognition will have no adverse impact from a safety perspective, has not been established. The detailed analysis by CASA that apparently supports this position has not been made available to any interested parties, or the public. Accordingly its accuracy and reliability has not been tested. Reliance is placed on ICAO audit data where this data is patently unsuitable for the type of comparative analysis that is required in this case. The fact that the aviation safety systems in Australia and New Zealand meet ICAO requirements does not mean that they are equivalent. Finally no detailed analysis of the effectiveness of the New Zealand's aviation safety system, in terms of accident and incident statistics, has been conducted.

Before mutual recognition can be accepted it must be properly established that there will be no reduction in Australia's aviation safety standards. This has not been done.

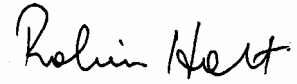
The Committee must now satisfy itself that the passage of the Bill will not make Australia's skies less safe. Any reduction in Australia's aviation safety standards is unacceptable to AIPA, its members and to Australia's travelling public.

⁵ <http://www.icao.org/cgi/goto.pl?icao/en/anb/mais/index.html>

⁶ Op cit at note 1, at page 12.

We are happy to provide any further assistance that the Committee may require. Should you require any further information or assistance please contact me or Michael O'Neil.

Yours faithfully,

A handwritten signature in black ink that reads "Robin Holt". The signature is written in a cursive style with a large initial 'R'.

Captain Robin Holt
President
Australian and International Pilots Association