COMMONWEALTH OF AUSTRALIA

SENATE

Hansard

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CORRECTIONS

This is a **PROOF ISSUE**. Suggested corrections for the Official Hansard and Bound Volumes should be lodged in writing with the Director, Chambers, Department of Parliamentary Services **as soon as possible but not later than**:

Thursday, 27 September 2007

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BY AUTHORITY OF THE SENATE

PROOF

This Agreement is based on the principle that underpins Australia's other bilateral social security agreements, namely the sharing of responsibility between the Parties in providing adequate social security coverage for residents of both countries.

Mr President, the Committee also reviewed the Status of Visiting Forces Agreement with the Philippines, a reciprocal document affording the same rights to Australian Defence Force personnel in the Philippines and armed forces of the Philippines personnel in Australia.

The Committee is supportive of increased defence cooperation with the Philippines, particularly in the areas of counter terrorism and maritime security contemplated by the Agreement. The Agreement will allow Australia and the Philippines to undertake joint exercises and provide an internationally recognised means to resolve any disputes that may arise from the presence of one country's forces in the territory of the other.

The third treaty reviewed by the Committee in this Report, the Social Security Agreement with the Hellenic Republic, will improve income support for people who have lived in Australia and Greece. Similar to the Agreement with Japan, the Agreement with Greece allows age pensioners who live in either country to claim their entitlement to pensions from both countries. The Committee tabled its recommendations in relation to this Agreement in Report 88 to allow implementation to proceed quickly.

The Agreement with Greece incorporates the key principle of shared responsibility for providing social security coverage for current and former residents of both countries. It should be noted, however, that the Agreement has a unique formula for calculating the rate of the Australian age pension for those who live permanently in Greece. For the first time, many former Australian residents already living permanently in Greece without the Australian Age Pension will be able to claim the Age Pension upon commencement of the Agreement. Under this formula, people currently residing in Greece without a pension may receive a different rate then to those who return to Greece after the Agreement commences operation. A formula such as this has not been used in any of Australia's other bilateral social security agreements.

Finally Mr President, Report 89 also includes the Committee's decisions on the first treaties tabled in a new category, Category 3.

Category 3 treaties were established recently by the Committee in cooperation with the government. They are non-substantive treaty actions – mainly minor/technical amendments to existing treaties – which do not impact significantly on the national interest. Category 3 treaty actions are tabled with a one-page explanatory statement and the Committee has the discretion to formally inquire into these treaty actions or indicate its acceptance of them without a formal inquiry and report.

Report 89 lists, in Appendix E, five category 3 treaties that the Committee has resolved not to formally inquire into. The Committee intends to continue to notify the Parliament of its decisions on Category 3 treaties in appendices to its future reports and through the Committee's website.

The Committee supports the Social Security Agreement with Japan, the Status of Visiting Forces Agreement with the Philippines, and the Social Security Agreement with the Hellenic Republic. The Committee recommends binding treaty action be taken in relation to all three agreements as quickly as possible so that Australians who may access the provisions of the Agreements once they have entered into force will have the opportunity to do so without delay.

Mr President, I commend the report to the Senate.

Question agreed to.

BUDGET

Consideration by Estimates Committees

Additional Information

Senator NASH (New South Wales) (10.22 am)—I present additional information received by committees relating to the following estimates:

Community Affairs Committee—1 volume

Economics Committee—2 volumes

Employment, Workplace Relations and Education Committee—2 volumes

Environment, Communications, Information Technology and the Arts Committee—1 volume

Finance and Public Administration Committee—1 volume

Foreign Affairs, Defence and Trade Committee—2 volumes

Rural and Regional Affairs and Transport Committee—3 volumes

Senator O'BRIEN (Tasmania) (10.22 am)—I seek leave to move a motion in relation to the additional information from estimates for the Rural and Regional Affairs and Transport Committee. I seek leave to incorporate my speech, which I understand has been agreed. In addition, I seek leave to table documents which are referred to in my incorporated contribution.

Leave granted.

The speech read as follows—

I move to take note of the Rural & Regional Affairs & Transport Committee report.

Estimates is an important time and often we deal with issues relating to the Civil Aviation Safety Authority and transport safety in particular.

On 13 August I raised my concern about cabin air quality in aircraft operating in Australia.

I tabled documents that represented agreements between airlines, aircraft manufacturers and component manufacturers.

These agreements provided for compensation for known defects. They contained confidentiality clauses that kept their existence secret.

At the conclusion of my remarks on 13 August I called on the Civil Aviation Safety Authority to investigate the existence of these or any other agreements between aircraft operators and aircraft or component manufacturers relating to known defects.

I called on the Howard Government to reveal whether information about defects has been withheld from the regulator, the courts or the parliament.

And I urged the Rural and Regional Affairs and Transport Committee to consider whether one or more witnesses before

its inquiry into cabin air quality may have given false or misleading evidence.

I regret that CASA, the government and the committee have failed to answer my call.

I consider this an important issue for the very reason stated in the 2000 committee report into cabin air quality — namely, that:

... chemicals introduced into an aircraft cabin can be an important factor in an aircraft's safe and comfortable operation. Excessive levels of chemical contamination can affect two aspects of aircraft operations: the operational environment and the working and travelling environment; a fact apparent to airline operators, to aircrew and to every airline passenger.

Since my remarks on 13 August I have become aware of documents that shine further light on knowledge of known defects.

Defects that result in contaminated air entering the cabin space of aircraft _operating in Australia.

A 1993 document titled 'settlement agreement' contains the terms of an agreement between Eastwest Airlines, Ansett Airlines and Avco Corporation through its Textron engine division.

It says this:

Ansett and EWA have alleged that they experienced engine bleed air problems between the date of purchase of the aircraft in 1989 and early 1993 (the "incidents") and that their experiences with the Engines has shown that various deficiencies and inadequacies exist in the Engines, and that such deficiencies and inadequacies have resulted in economic loss to Ansett and EWA...

The document provides for a cash payment to East West of one hundred and fifty thousand US dollars.

It additionally provides for a parts credit in the favour of Ansett and East West of one hundred thousand dollars.

Like other agreements to which I have referred, this agreement contains a confidentiality clause keeping its existence secret from parties including aircraft crew, passengers and the media.

Mr President

A critical issue in the Senate inquiry into cabin air quality was whether the compound tricresyl phosphate —known as TCP — had been detected in an Australian aircraft.

At a hearing on 2 November 1999, Dr David Lewis, the chief medical officer of Ansett Australia, told the committee:

...the chemical that everybody is worried about and is surmising is the cause of the problem has never been recorded in an aircraft. This is TCP, tricresyl phosphate.

This evidence is directly contradicted by an email communication from Allied Signal, a manufacturer of auxiliary power units, to Dr Lewis himself on 4 September 1997.

Headed "Preliminary Trip Report for Air Quality Testing at Ansett", the communication begins this way:

One ground test and five flight tests were performed while at Ansett Airlines in Brisbane, Australia from August 22 to 25, 1997.

It says, in direct contradiction to evidence received and accepted by the Senate committee:

Tricresyl phosphate is being detected by health and safety measurements during and after pack burns. Levels measured on the bleed air contamination pack burn were 4 times greater than we allow for engine acceptance in our APU facilities.

It's not just evidence about TCP that concerns me.

In a facsimile communication to Ansett executive Captain Trevor Jensen on 4 December 1997, Dr Lewis made reference to the receipt of an Allied Signal report later that day.

In respect to the BAe aircraft, Dr Lewis notes that the aircraft fails critical safety standards.

First, the aircraft "fails" the standard requiring compartments used by passengers and crew to be ventilated so there is adequate air distribution to all parts.

Second, the aircraft "fails" the standard requiring precautions to be taken to preclude the contamination of air in occupied compartments arising from the use of fluids liable to give off noxious or toxic vapours.

Third, the aircraft "fails" the standard precluding the use of materials which give off noxious fumes leading to the dangerous contamination of cabin air.

Fourth, the aircraft "fails" the standard requiring that the probability of failure of components, pipes and ducting in the air supply system is "greater than extremely remote".

Mr President

Finally, I wish to bring to the attention of the Senate an email by the toxicologist who prepared Mobil's submission to the Senate inquiry, Dr Carl Mackerer.

He was identified in evidence as Mobil's "principal toxicologist".

In an email dated 4 October 2000 — the same month the committee reported to the Senate — Dr Mackerer said this:

...we have not moved forward toward solving this problem.

Of course the oils have not received the same amount of testing as

a drug would receive because they are not meant for high dose long term health exposures...

Compounding the problem is that, despite extensive research, no acceptable replacement for TCP has been found that will allow an oil to pass the stringent engine tests, and the market for the oil is very small for a large company to pursue, however, only a large company with [an] existing world wide distribution network can handle such a low volume product (internet not withstanding).

The profit on this product is not high enough to support a very expensive research program by the oil manufacturers...

Mr President

The concerns I expressed in this place on 13 August have been met by silence from the government and CASA.

Last month I called on CASA to investigate the existence of agreements between aircraft operators and aircraft or component manufacturers relating to known defects.

I called on the government to reveal whether information about defects has been withheld from the regulator, the courts or the parliament.

Finally, I called on the Rural and Regional Affairs and Transport Committee to consider whether one or more wit-

nesses before its inquiry into cabin air quality may have given false or misleading evidence.

I reiterate those calls tonight with reference to the additional material I have brought to the attention of the Senate.

Mr President

We all know we are on the eve of an election.

Election fever is convulsing those on the other side, but that's no excuse for the government ceasing to govern.

The executive remains accountable to this Parliament for its actions, whatever the political season.

I want an answer to my questions that concern the health, welfare and safety of aircraft passengers and crew.

This is a matter that transcends partisan politics. It even transcends domestic politics.

As I have previously noted, questions about the existence of agreements with BAe have been raised by a member of the House of Lords.

The UK's Private Eye magazine has recently reported my tabling of agreements in this place, noting that:

Both deals contained secrecy clauses prohibiting disclosure — extraordinary in an industry where issues relating to safety and health should be paramount.

I wholeheartedly agree.

That's why I am disappointed the government has been silent about corporate deals on cabin air quality — deals that, in my view, should never have been made.

It's time CASA and the government stopped pointing to overseas studies on cabin air quality and accounted for their own knowledge and conduct over the past decade and more.

Senator O'BRIEN—I move:

That the Senate take note of the additional information from estimates for the Rural and Regional Affairs and Transport Committee.

Question agreed to.

MIGRATION AMENDMENT REGULATIONS 2007 (No. 7)

Motion for Disallowance

Senator BARTLETT (Queensland) (10.23 am)—I move:

That items 41 and 72 of Schedule 1 and items 7 and 8 of Schedule 2 of the Migration Amendment Regulations 2007 (No. 7), as contained in Select Legislative Instrument 2007 No. 257 and made under the *Migration Act 1958*, be disallowed.

The motion simply seeks to disallow four separate items within what is quite a large block of regulations. I emphasise at the start that I realise this is a complex matter and it has been flagged at fairly short notice. I only submitted the disallowance motion yesterday. Once again I make the point that if we had fixed parliamentary terms in this country we would know whether or not we would be sitting in three weeks time. I would have been able to defer the motion until the next sitting period so there would have been a greater opportunity to properly examine the issue before us. That is as frustrating for me as it is for everybody else who has to deal with the issue at short notice. The reality of the situation is that if I do not move this disallowance motion today, that may be it; there will be no further opportunity to debate it—certainly not until after the election, which could mean the parliament not sitting before February next year, by which time the regulations will have been in force for four or five months and it becomes much more problematic to disallow them. So I recognise the less than desirable circumstances. If we had fixed terms we would know when the last sitting was going to be and we could plan and do our business accordingly. We do not have fixed terms so we will have to operate in that air of uncertainty and push forward with things now. I acknowledge that, for the very same reason, we have about 20 pieces of legislation to get through before the end of the week. Therefore, in the circumstances I will truncate my remarks somewhat more than I otherwise would.

The core of the intent of the disallowance—and it is my understanding that it is the effect of the disallowance—relates to changes to the general skilled migration program criteria and, in particular, the impact on family migration and the weight placed on getting sponsorship from a family already in Australia. The Democrats are on record over the years as giving strong support to the family component of migration. The balance of our migration program over the last decade, particularly in recent years, has tilted very heavily towards the skilled program and away from the family program. In very crude terms, when the Howard government came into office, two-thirds of our migration intake was family related and one-third was skilled. It has now pretty much reversed: two-thirds skilled, one-third family. The humanitarian criteria are being put to one side. I think it is out of balance and that we could rebalance it somewhat. But the key issue for me is not to further degrade the importance of the family migration component.

Having said that, it does need to be emphasised that there is quite a bit of overlap. A significant part of our skilled migration program takes into account family linkages and whether or not people are already in Australia. A significant number of people who come here are on skilled visas, both permanent skilled visas that are seen as part of the migration program and long-term temporary ones. These are sometimes seen as separate to the migration program and include spouse visas linked to the skilled visa and that immediate family component. So there is an overlap there which is often not immediately apparent, given how the statistics are put forward.

In short, the changes the government has introduced from 1 September will not provide specific points for applicants whose families are already based here or who are prepared to sponsor them coming to Australia.