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JOINT STANDING COMMITTEE ON TREATIES

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**JOINT STANDING COMMITTEE ON
TREATIES**

Monday, 27 March 2006

Members: Dr Southcott (*Chair*), Mr Wilkie (*Deputy Chair*), Senators Bartlett, Carol Brown, Mason, McGauran, Sterle, Trood and Wortley and Mr Adams, Mr Johnson, Mr Keenan, Mrs May, Ms Panopoulos, Mr Ripoll, Mr Bruce Scott and Mr Wilkie

Members in attendance: Senators Trood and Wortley and Mr Keenan, Dr Southcott and Mr Wilkie

Terms of reference for the inquiry:

To inquire into and report on:

Treaty tabled on 28 February 2006

WITNESSES

ARMITAGE, Mr Miles, Assistant Secretary, Maritime South-East Asia Branch, Department of Foreign Affairs and Trade..... 1

LOUNDES, Ms Joanne, Executive Officer, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade..... 1

RAYNER, Mr Peter, Director, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade..... 1

THWAITES, Mr Michael Jonathan, Executive Director, Treaties Secretariat, Legal Branch/ILD, Department of Foreign Affairs and Trade..... 1

WHITE, Mr Damian, Executive Officer, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade..... 1

Committee met at 10.03 am

ARMITAGE, Mr Miles, Assistant Secretary, Maritime South-East Asia Branch, Department of Foreign Affairs and Trade

LOUNDES, Ms Joanne, Executive Officer, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade

RAYNER, Mr Peter, Director, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade

THWAITES, Mr Michael Jonathan, Executive Director, Treaties Secretariat, Legal Branch/ILD, Department of Foreign Affairs and Trade

WHITE, Mr Damian, Executive Officer, Malaysia, Brunei, Singapore Section, Department of Foreign Affairs and Trade

CHAIR (Dr Southcott)—I declare open this meeting of the Joint Standing Committee on Treaties. As part of the committee's ongoing review of Australia's international treaty obligations, the committee will hear evidence on a treaty tabled in parliament on 28 February. I understand that witnesses from the Department of Foreign Affairs and Trade and the Attorney-General's Department will be joining us for discussion on this treaty. I thank witnesses for being available for this hearing.

I should also remind witnesses that these proceedings are being televised and broadcast by the Department of Parliamentary Services. Should this present any problems for witnesses, it would be helpful if any issues could be raised at this time. We will now take evidence on the exchange of notes constituting a treaty between the government of Australia and the government of the Republic of Singapore to amend the Singapore-Australia Free Trade Agreement.

I welcome witnesses from the Department of Foreign Affairs and Trade. Do we have anyone here from the Attorney-General's Department?

Ms Loundes—Not that we are aware of.

CHAIR—Although the committee does not require you to give evidence under oath, I advise you that this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Do you wish to make some introductory remarks before we proceed to questions?

Mr Armitage—Yes. The Singapore-Australia Free Trade Agreement provided for ministerial review of the agreement one year after its entry into force, and biannually thereafter. The first ministerial review took place in Sydney on 14 July 2004. The next ministerial review meeting is scheduled for July 2006. The aim of the SAFTA review process is to keep SAFTA up to date and relevant to Australian and Singaporean business.

The review process identifies emerging issues for business in the two countries and builds on the platform provided by SAFTA. The amendments to SAFTA now proposed were agreed at the first ministerial review. These amendments are additional measures that will be incorporated into SAFTA. They form part of the balanced package of outcomes for Australia in Singapore, agreed to at the first ministerial review of SAFTA, and include: Singapore's undertaking to extend to Australia treatment no less favourable than that granted to the United States of America under the United States-Singapore Free Trade Agreement with respect to joint law ventures and formal law alliances, which will help Australian legal firms operate under the same conditions as their competitors; Singapore's undertaking to remove its numerical quota on wholesale bank licences in relation to Australian banks by 1 January 2007, which will allow more Australian banks to provide wholesale banking services to their clients; and Australia's agreement to extend the range of exceptions to Australia's obligations under SAFTA to include reservations made by Australia's state and territory governments. These reflect non-conforming measures in investment and trade in services that are maintained at the state and territory government level.

These proposed amendments follow a first tranche of amendments, which were also agreed at the first ministerial review and tabled in parliament in March 2005. Those amendments include new sectoral annexes on horticultural goods and food products, a revised list of Australian government entities subject to national treatment on government procurement and the recognition of two additional Australian law degrees. JSCOT issued a recommendation that those amendments be brought into force in August 2005 and the amendments subsequently came into force through an exchange of diplomatic notes between Australia and Singapore in February 2006. That first tranche of amendments also included revised rules relating to certificates of origin. This amendment will be brought into force once the required customs legislation has been passed by the Australian parliament.

Since SAFTA's entry into force, up until early September 2005, Austrade has assisted 546 Australian companies to win business in Singapore, with a total export sales value of \$A458.6 million. Of these, 249 companies were new exporters. As part of its preparation for the second ministerial review of SAFTA, the Department of Foreign Affairs and Trade has begun consultations with other Australian government agencies, state and territory governments and industry to seek their views on how SAFTA might be improved.

Initial discussions with business have indicated that most are pleased with the operation of the agreement, with only minor changes suggested. Australia and Singapore have had a preliminary exchange of views on what each would like considered under the forthcoming review of SAFTA. Issues that may be considered include improvement to the rules in SAFTA in relation to investment and rules of origin, recognition of more Australian law degrees, revision of the intellectual property chapter to reflect harmonisation of Australia's and Singapore's intellectual property laws, cooperation in competition policy, and commitments under the government procurement chapter. Any further proposed amendments to SAFTA which arise as a result of the second ministerial review in July 2006 will go through normal procedures for amending treaties, including tabling in parliament and consideration by JSCOT.

CHAIR—Thank you very much. I notice you have had consultation with state and territory governments. On the second amendment, relating to the lifting of the numerical quota for wholesale bank licences, has there been any consultation with financial services, with the Australian Banking Association—those sorts of organisations?

Ms Loundes—As part of the lead-up to the first ministerial review, all those consultations took place. In our last tabling of amendments we listed all the individual items and, to save a bit of space, we summarised that we presented them last time, but the lifting of those requirements was as a result of consultation with the Australian financial sector.

CHAIR—What is likely to be the impact? The quota was going to be lifted on 28 July. Now it has just been brought forward because that was the treatment given under the Singapore-United States Free Trade Agreement?

Ms Loundes—That is correct.

CHAIR—What is likely to be the impact here? What was the numerical quota for wholesale bank licences prior to 2007?

Ms Loundes—I believe it was four, but I will probably need to check more specifically with the actual agreement. The effect is none. It really puts them on a level playing field with any US banks which may want to open up in Singapore. Australian banks now have the same opportunity if they wish to take it up. If they do not wish to take it up—

CHAIR—On the first set of amendments, there are reservations for things that are already in state and territory law. Most of these laws are fairly longstanding definitions. Professionals are required to be resident in Australia—that sort of thing. Is there any reason they were not included in the original Singapore-Australia Free Trade Agreement?

Ms Loundes—Basically that was ongoing consultations, as you can understand. Negotiating with eight states and territories takes some time, and so it was decided to conclude the agreement on time. Both sides agreed to continue with the consultations with states and territories to come to an agreement that both sides would be happy with. That took about 18 months to do.

CHAIR—Do Singapore have similar reservations?

Ms Loundes—They are just a federal system; they do not have any states, as it were.

CHAIR—I understand.

Ms Loundes—But they have reservations at the federal level—absolutely.

Mr WILKIE—Do any other free trade agreements have these sorts of reservations with the states, and conflicting obligations?

Ms Loundes—The United States-Australia Free Trade Agreement has state and territory reservations included in the agreement.

Mr WILKIE—I notice that the national interest analysis, in paragraph 9, refers to a statement that suggests that not proceeding with the proposed amendments will send a negative signal to our trading partners about Australia's commitment to free trade or trade liberalisation. Obviously a lot of the amendments that are being put in place are related to state and territory reservations where the provisions range to more exceptions for Australia. How is that to be reconciled? On

the one hand we are saying we need to do this because we have to send a clear signal that we want to have trade liberalisation. On the other hand we are saying that we want exceptions.

Ms Loundes—These amendments essentially allow Singapore business access under the national treatment and market access rules to anything that the states and territories have control over. So, technically, that expands their access to the Australian market. However, in giving them that extra access, the states and territories have said, ‘We would like to just take out some reservations on things that we would not necessarily like to give to them straightaway.’

Mr KEENAN—I have a question about SAFTA in general—not specifically about what we are looking at in this treaty but about the spirit of the agreement: was aviation part of the original agreement?

Mr Rayner—Aviation was part of the SAFTA in terms of the commitment to work to an open skies arrangement, although there was no commitment to time frames.

Mr KEENAN—What was the wording with respect to timing?

CHAIR—I have it here, in Article 22, chapter 7:

... both Parties agree to work towards an Open Skies Air Services Agreement.

Mr KEENAN—What is the Singaporean view of developments in Australia recently? How is that colouring their perceptions of the agreement?

Mr Rayner—Certainly Singapore has very clearly indicated its interest in Singapore Airlines having access to the trans-Pacific route. They were very disappointed with the Australian government’s decision not to grant them access at this point in time. We had some consultations with the Singaporeans at the beginning of this month and they again flagged that disappointment. The issue is something which can be discussed under SAFTA, although we have made it clear to the Singaporeans that the government’s decision has been taken and we fully expect that to stand for a few years. However, it does give provision for that to be reviewed in due course.

Mr Armitage—Could I just add to that answer. In addition to the expressions of disappointment by a number of Singaporean ministers, in the same breath they have noted that it is an excellent bilateral relationship and that we should be able to work through areas of disagreement.

Mr KEENAN—So it is not stopping forward movement on other things?

Mr Rayner—No.

Senator WORTLEY—I understand that many of the proposed amendments are state and territory reservations. Are there reservations that were not included as amendments that remain outstanding? What is their status once the agreement has been reached?

Ms Loundes—All of the reservations that the states and territories wish to table are now in these proposed amendments—so, if they have not included them in there, they are deemed to be liberalised and Singapore has access. There are no further additions to be made. I will clarify that: under annex 4-2, those amendments mean that, if we wish to, we can take out further restrictions under those areas. It is under annex 4-1 that it is at a standstill, and no further restrictions will be made.

Senator WORTLEY—So after that 18 months of consultation with the states and territories, that is where the agreement—

Ms Loundes—That is right.

Senator TROOD—Would you give the committee a general view of your assessment of the overall trade relationship between the two countries and how you think it is travelling as a result of the free trade agreement?

Mr Rayner—It is possibly a bit early at this stage to say with any clarity the effect that the SAFTA will have on trade relations. I suppose the point to emphasise is that this agreement largely relates to trade in services, given that Singapore basically had free market access on very low tariffs. The agreement did succeed in eliminating the remaining tariffs, which principally were on beer and stout, and there was a Western Australian company that had a particular interest in that regard. Our merchandise exports have gone up over the last two years and our services exports have increased by about 11 per cent. Both of those are trending in a positive manner, although I think it is most likely a bit early to say what sort of impact this will really have, particularly in regard to services exports. But at this stage they are trending upwards quite nicely.

Senator TROOD—Perhaps you could help me with the merchandise trade, which is now \$4 billion in deficit.

Mr Rayner—Yes.

Senator TROOD—Is it or is it not a coincidence that the deficit seems to have been rising significantly since the treaty was signed? Is that a causal factor or a completely unrelated factor? I am just looking at the fact sheet on Singapore, which has a little graph relating to the value of trade, but it may be of course that the volumes are increasing. I would be grateful of a clarification on that.

Mr Rayner—Indeed. You could say that those changes in merchandise trade have not been impacted by SAFTA as such. They in fact preceded the SAFTA in 2003. They are largely put down to trade in two commodities: oil and gold. Singapore used to be a hub for the gold market in the South-East Asian region, and we used to export a considerable amount of gold; for instance, nearly \$1.2 billion in 2001. That has since declined to \$280 million as a result of policy changes in surrounding countries which used to get their gold through Singapore. Now that gold can be directly exported from Australia to those countries; for instance, to Thailand and India, given their domestic policy changes. So that has been taken out of the equation considerably in terms of our exports to Singapore.

The crude petroleum trade has also been significantly affected by the maturing of a lot of Australian production facilities, and therefore there is an overall decline in the amount of petroleum we are exporting. That has also seen a related significant increase in refined petroleum from Singapore, as Australia is relying more heavily on imported petroleum. Those two items alone are really responsible for the significant changes in the merchandise trade over the last five years or so. I will just ask my colleagues if they want to clarify anything or add anything further.

Ms Loundes—Part of the reason for the increase as well has been that the price of oil has gone up rapidly. Like you pointed out, volumes are probably not quite as significant in the increase. We do not have volume data for Singapore, but values have gone up substantially because of the oil price rise.

Senator TROOD—The trend does not look very encouraging on the merchandise front. The import trajectory is rising more steeply than our export trajectory and it would seem as though this deficit is going to increase into the future. Is that a reasonable observation?

Ms Loundes—As long as Australia keeps continuing to import its oil requirements and it keeps coming through Singapore, that is probably likely to be the case. These changes are pretty much directly related to our refined petroleum imports from Singapore.

Mr Rayner—Which have, I might point out, increased from about \$800 million in 2001 to \$4.5 billion in 2005. That one item has led to the significant increase in imports from Singapore over that period.

Senator TROOD—Is there anything we can do on the trade negotiation front to gain greater access or is this a matter of our exporters being more enthusiastic about getting into the Singapore market? Is there a need to do something in relation to the trade agreement which might facilitate better access for merchandise or is that not a problem?

Mr Armitage—Even before the SAFTA negotiations were concluded, the levels of tariffs on both sides were very low. In terms of merchandise trade and access, the access is very open so that the scope for generating further access on the merchandise side is limited.

Senator TROOD—I agree. Singapore has obviously been an exemplar of open trade amongst the ASEAN states. It is too bad that the others do not emulate the policy.

Mr White—The second ministerial review of SAFTA is coming up in July. In that review we will be looking for further liberalisation in the services sector. So I think it is fair to say that it is on the services sector where the focus of our trade negotiations will be now.

Senator TROOD—And that is where you think the growth is going to be in the future; is that right?

Mr White—Yes. Given that the tariffs on products are zero, that is what we have to focus on.

Senator TROOD—Do you know of any other Australian exporters that might actually be in a position to reduce this merchandising deficit? Is there any news out there in the market that might encourage us to think that that deficit is going to decline?

Mr Rayner—Not that we are aware of, Senator, no.

Senator TROOD—Okay. Thanks.

Mr WILKIE—In relation to that, we heard earlier that 536 companies have been generating \$458 million in exports for Australia, largely as part of SAFTA. Can you tell us how many companies from Singapore have benefited in the other direction from SAFTA and what sort of income they are generating from that?

Mr Rayner—I am sorry; we do not have that information. We can take that on notice and find out.

Mr WILKIE—Can we get it, because I would have thought it was very important to be able to compare the two. It is fine to say, ‘Australia is doing very well because of X, Y and Z,’ but if we cannot compare it with what Singapore is getting out of the agreement it tells us nothing really. So if you could take that on notice that would be good.

CHAIR—As there are no further questions, thank you very much again for appearing before the committee today.

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

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 10.26 am