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JOINT STANDING COMMITTEE ON TREATIES

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JOINT STANDING COMMITTEE ON
TREATIES
Tuesday, 20 June 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, Mrs Mirabella, Mr Ripoll and Mr Bruce Scott

Members in attendance: Senators Carol Brown, McGauran and Wortley and Mr Adams, Dr Southcott and Mr Wilkie

Terms of reference for the inquiry:

To inquire into and report on:

Treaties tabled on 10 May 2006

WITNESSES

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

Committee met at 8.10 pm

BACON, Dr Rachel, Acting Assistant Secretary, Attorney-General's Department

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

HUGHES, Mr Peter, First Assistant Secretary, Department of Immigration and Multicultural Affairs

Amendments to the Constitution of the International Organisation for Migration, done at Geneva on 24 November 1998

CHAIR (Dr Southcott)—I declare open this public hearing 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 the remaining treaty tabled on 10 May, Amendments to the Constitution of the International Organisation for Migration, done at Geneva on 24 November 1998.

I welcome the witnesses from the Department of Immigration and Multicultural Affairs, the Department of Foreign Affairs and Trade and the Attorney-General's Department. I thank witnesses for being available for discussion on this treaty this evening at short notice. I apologise that the committee was not able to hear from you yesterday. I also remind witnesses that these proceedings are being televised and broadcast by the Department of Parliamentary Services. Although the committee does not require you to give evidence under oath, I should 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 Hughes—The International Organisation for Migration was established in 1951 as an intergovernmental organisation to resettle European displaced persons, refugees and migrants. Since the end of the Cold War and with the effects of globalisation, the IOM has grown very rapidly in size and stature. With this growth has come an increase in its reach and capacity to deliver migration management services worldwide. The IOM's mission is to assist in meeting the growing operational challenges of migration management, to advance understanding of migration issues, to encourage social and economic development through migration and to uphold the dignity and wellbeing of migrants.

In our view, the amendments to the constitution will strengthen IOM as the leading global body for international migration. For example, we believe they will streamline IOM processes, further strengthening its responsiveness and service efficiency; provide an incentive for states to settle outstanding contributions, thereby reducing adverse effects on IOM's ability to deliver services from non-paying members; free up administrative resources by abolishing the IOM executive committee without affecting Australia's ability to influence IOM decision making; and explicitly provide that new states must join, in accordance with their own domestic constitutional processes.

We believe these changes will improve the effectiveness and efficiency of the organisation. Australia plays a very active role in the IOM's governance structures, including its council and budget and finance processes. We annually provide approximately \$A700,000 to the IOM's administrative budget. We also make use of the extensive range of services provided by IOM on a fee-for-service basis that enable better management of people movement and support Australia's immigration and refugee policies. Although there are a number of international bodies involved with migration related issues, no other agency matches IOM's worldwide presence and breadth of services. Therefore, improving the efficiency of its operations is in line with our migration interests.

Supporting these reforms to IOM would reflect our wish to see the continuing development of the organisation. The strengths valued by Australia are responsiveness to the needs of states as key stakeholders, a focus on worldwide migration policy issues, promotion of managed migration and provision of a wide range of efficient services which take the burden of managing migration issues off states. The value of IOM to states is evidenced by the fact that the membership continues to grow, with new member states joining every year. On 10 June this year, following two additional states joining IOM, total membership rose to 118.

The amendments to the IOM Constitution do not impose additional obligations on Australia to those which currently exist, nor do they impose extra costs or require legislative change. The changes to the constitution will strengthen IOM and will reflect Australia's objectives in supporting the ongoing reform and efficiency improvement of the organisation.

Mr WILKIE—These amendments were proposed in 1998. Why has it taken so long for them to start to get acted on?

Mr Hughes—I think it is the natural inertia that goes with getting these constitutional changes, which appear fairly technical in nature, through the system. Initially, the Australian government had some policy concerns about the amendments relating to arrears in fees. We had some concern that that might have deterred countries in the Asia-Pacific region from joining and might have been objectionable to some of the countries in the region. As it happens, over a period of time it became clear that that was not a problem from their perspective so some of our initial reservations about going ahead with the package were alleviated. Apart from that, it has just been a matter of priorities in the system.

Mr WILKIE—We would have been one of the last to ratify?

Mr Hughes—It is still moving fairly slowly through the system. I think 41 states have ratified the amendments at this stage.

CHAIR—There have been no updates since February 2006? Slovenia was the last one?

Mr Hughes—Yes, that is the last one as far as I am aware. Certainly, other states have notified at IOM council meetings that they are pursuing their processes to ratify.

Mr ADAMS—They would still be using the organisation?

Mr Hughes—Indeed.

CHAIR—The new constitution does not come into play until you have two-thirds of members ratifying.

Mr Hughes—Yes, that is right.

Mr ADAMS—How much do we spend with the organisation in a year?

Mr Hughes—The assessed administrative contribution is about 700,000 Swiss francs per year. In 2005 calendar year Australia purchased services to the value of just over \$US42 million.

Mr ADAMS—What do we get for \$US42 million? Does an immigration officer in Sydney get on the telephone and ring up somebody in the organisation and ask for help with something?

Mr Hughes—It is not quite as simple as that. The range of services we purchase from IOM includes the payment of all airfares for offshore humanitarian entrants being resettled under the offshore humanitarian program. We pay for extensive worldwide medical checking services, particularly for the refugee program. IOM has very sophisticated medical services around the world and it is more efficient and cheaper for us to use those services. We have made a contribution to an IOM loan scheme that allows special humanitarian program entrants who are required, with their sponsors in Australia, to pay their own airfares to get cheaper loans to pay for their passage to Australia. Also, in our capacity building activities we assist neighbouring countries with projects like assessing the strengths and weaknesses of their border management systems. In many cases we contract IOM to do that kind of operation on our behalf. We also use IOM to provide services such as the offshore processing centre in Nauru.

Mr ADAMS—Where is the organisation based?

Mr Hughes—In Geneva.

Mr ADAMS—Does it have offices in other parts of the world?

Mr Hughes—It has offices in 220 locations. That is not necessarily in 220 countries, because it has multiple offices. If it were to become involved in intensive operations, for example, with internally displaced people, it would have multiple offices in certain countries.

Mr ADAMS—So one of the changes to its constitution has been to streamline it to make it more entrepreneurial, so it would use more contractors?

Mr Hughes—Looking at the IOM, it is important to understand that it is not a UN organisation. It is an intergovernmental organisation, so the funding basis of the organisation is that it only gets paid for what it does, apart from the administrative contribution. The vast bulk of its income is entirely reliant on governments choosing to purchase its services and therefore efficiency is very important as far as the structure and operation of the organisation are concerned.

Mr ADAMS—I refer to the UN consolidation of the Geneva Migration Group. What is happening with that group?

Mr Hughes—The Geneva Migration Group consists of a small number of UN organisations in Geneva that have an interest in migration matters and also in the IOM. The original idea of the Geneva Migration Group involved the IOM, the UNHCR and, I think, the ILO. Unfortunately, I have forgotten the full list. The original idea was that, since all those agencies do work that potentially involves a strong need for cooperation between them—to make sure that each understands what the other is doing—they should meet regularly to exchange information and discuss how they could better cooperate. There was a report to the UN Secretary-General by the Global Commission on International Migration last year. That report to the Secretary-General recommended that the Geneva Migration Group should be strengthened, by adding more UN member organisations, and be called the Global Migration Group. It was really a kind of coordinating and information sharing role. I think the transition from the Geneva Migration Group to the Global Migration Group is really just now taking place.

Senator CAROL BROWN—Given the length of time—from 1998 until now—can you tell what the IOM does to encourage member states to ratify?

Mr Hughes—I would simply say that, amongst the many activities they do in dealing with member states, they take opportunities to remind states that these are in train and that we should all move along to ratify them.

Senator CAROL BROWN—So how many opportunities have they taken to speak to Australia?

Mr Hughes—I could not say offhand how many occasions they have taken that opportunity over that period of time. They would not have all been to me, so I am sorry but I cannot help you with that, Senator.

Mr ADAMS—What? Over cocktails with the minister?

Mr Hughes—It would be through the various meetings that take place throughout the year—the annual council meetings, the special council meetings, the budget committee meeting. It is a message that they keep before states that these things should continue to move through the system and that they should move to ratification.

Senator CAROL BROWN—It does seem, as you say here, that it primarily affects the governance structure of the IOM. Whilst it might not be of critical importance to its operation it obviously is important and I suppose we are looking at seven years.

Mr Hughes—Sometimes the wheels grind slowly, but we hope they grind surely and that we get to the destination.

CHAIR—You mentioned the offshore processing centre at Nauru. Could you give the committee an outline of the activities in which the IOM are involved in our immediate region? I also notice, from a brief we have from them, that they were involved in assisting refugee populations in Kosovo and also in Timor.

Mr Hughes—I cannot give you a detailed rundown on every aspect of what they do in the regions.

CHAIR—Just give us an idea.

Mr Hughes—It is actually quite extensive. In terms of the work they do for Australia, certainly the transport of the refugee component of the humanitarian—

CHAIR—A division has been called. We will suspend proceedings during the division and come back after that.

Proceedings suspended from 8.26 pm to 8.45 pm

CHAIR—The committee will reconvene.

Senator McGAURAN—I feel the group is nebulous, and I am sure it is not.

Mr Hughes—It is not.

Senator McGAURAN—Can you give me a practical example of what you do. You just mentioned that you helped with transport. What do you mean by that? Do you mean by boat or plane?

Mr Hughes—Let's talk about, say, refugees who we currently resettle from Africa. They usually come from extremely remote camps in places like north-western Kenya, parts of Tanzania and very difficult to access places in west Africa. Under the process that has been followed for many years, UNHCR would refer them to us for resettlement. We and other resettlement countries would consider them and issue them with a visa to come to Australia, and then, of course, they have to get here. For example, we contract the International Organisation for Migration to arrange all the internal transfers from those remote locations. Let's say it is a refugee from Kakuma camp in north-western Kenya. They would arrange the transport from that very inaccessible camp to Nairobi and arrange the flight, pay for the tickets and arrange the flights, in cooperation with us, to deliver them to their destination in Australia. An example of that very practical transport role, if we go back many years, is the Indochinese refugee outflow that was resettled in the United States in the millions. The United States government people approved the entry of people to the United States, and all the physical transport of the people from camps to airports—the ticketing and arranging of the movement of millions of people to the United States—would have been done by the International Organisation for Migration. When any migration related service has to be performed for internally or externally displaced people, they are able to do it. They have a wide range of expertise.

Senator McGAURAN—But they are not the United Nations.

Mr Hughes—No.

CHAIR—Would the camps in these examples be run by the UNHCR?

Mr Hughes—Normally.

CHAIR—In terms of the humanitarian resettlement program that we run, do we take people on the advice of the UNHCR as well?

Mr Hughes—Yes. The refugee component of the humanitarian program depends on referrals by UNHCR. Other components might depend on people in a humanitarian situation, who are short of being a refugee but are proposed by some community organisation or individual in Australia.

Senator WORTLEY—You say that the constitutional amendments have not yet been accepted by the required two-thirds majority of the states, which is 78 of the 116 members. To date, 41 states have accepted it, and Australia is one of those 78 that have not accepted it. Are there any reasons for the amendments not having been accepted yet?

Mr Hughes—I do not think there really are any apart from inertia. I think that is perhaps the best way I could describe it. In my involvement in recent years with the organisation, I am not aware of hearing from other states that there is an objection to going ahead with the amendments. I think it is just inertia.

Senator WORTLEY—So there are no objections or sticking points with the amendments?

Mr Hughes—Not that I am hearing.

Senator WORTLEY—How long do you think it will be before the required two-thirds majority—counting Australia, there are another 38 states that have to accept the amendments—

Mr Hughes—I think it will be another few years. New member states are required to accept the amendments as part of joining the organisation, so new member states will affect the proportion.

Senator CAROL BROWN—But that does not affect the 78, does it?

Mr Hughes—The numbers move as the organisation expands.

Senator WORTLEY—So the two-thirds majority moves?

Mr Hughes—Yes. New members will have a beneficial effect. I also think that in the last couple of years there has been much heightened international interest in migration. This year the UN was having a high-level dialogue in New York. States in the last couple of years are much more active in discussing migration issues internationally. I think that is going to provide a focus for member states of the IOM in moving on to ratifying.

Senator WORTLEY—To clarify that, you think it will be another few years before the required two-thirds majority—whatever that may be at the time—is achieved?

Mr Hughes—I think so.

Senator CAROL BROWN—Do you have a list of the 41 states that have accepted the constitution amendments?

Mr Hughes—Yes, we do. It is attached to the national interest statement.

CHAIR—It is about halfway through the papers.

Senator CAROL BROWN—Sierra Leone has been a lot quicker off the mark than we have been.

CHAIR—Did you want to follow up on that?

Senator CAROL BROWN—No.

CHAIR—There has been some talk about a UN body for migration. Is there much support for that internationally?

Mr Hughes—At the moment I do not believe there is. There was some discussion about it. There has been discussion on the issue of whether the IOM should seek to become a UN specialist agency. In my view at the moment the current debate is more about whether there should just be some ongoing dialogue between states as a result of the high-level dialogue this year. There is no longer any active talk of a new institution or organisation.

Mr ADAMS—On policy activities, there are a lot of issues with refugees and forced migration. I understand that the organisation does a fair bit of research on those issues. I think I just heard you mention that there are some international conferences being lined up. What do you think the outcomes of those will be? There is a lot of pressure. For the UK there are a lot of people coming through from the east wanting to get through the tunnel et cetera. What sort of pressure do you think is on some of the conventions that presently exist?

Mr Hughes—It is very hard to give a short answer to that question.

Mr ADAMS—Then make it a long one.

Mr Hughes—In a sense, that is the future of world migration. The International Organisation for Migration has in recent years developed a policy discussion function in response to the demands of member states, who are saying 'We want a forum to discuss migration policy issues and also to develop models of how migration policy should be run.' Sometimes in Australia we forget that after 50 years of planned migration and humanitarian migration we have a very sophisticated infrastructure by international standards. There are not many countries, apart from the USA and Canada, that have a comprehensive integrated migration system.

There are some labour exporting countries, such as the Philippines, that have quite sophisticated administration and policies but many other countries have very weak mechanisms and are looking for advice and support to build up their capacity to better manage migration, given that the flow of people around the world is increasing dramatically all the time.

The high-level dialogue that is going to take place in New York in September this year has a focus towards migration and development, so it will be looking at issues such as to what extent migration can make a contribution to the development needs of the world. It will also be looking at issues such as the extent to which, by having comprehensive managed migration policies, you can get the greatest benefit out of migration and limit irregular migration and the trafficking and abuses that go with migration. It will be looking at what avenues there are for capacity building

for states that simply do not have the systems or administration to manage the movement of people. It will be looking at the effect of remittances—which I think these days are claimed to be greater than the combined total of world aid budgets—on development. That is a sample of the kinds of issues that will come up.

Mr ADAMS—I understand that there are 20 million people in refugee camps in the world. Would we deal with some of that at that sort of conference?

Mr Hughes—The figures change every year and I am pleased to say that they go down. I think there are about 17 million people of concern to UNHCR, of which about 8.3 million are formally refugees, so the number of people in camps as such would be a subset of the eight million. So I am pleased to say that there are not 20 million.

Senator CAROL BROWN—Are there other relevant figures?

Mr Hughes—Again, there is a very long answer to that question, but let me give you the short one. Because of the way that UNHCR counts ‘people of concern’ for example, they might include people who have actually been resettled in another country; they are allowed a couple of years to be of concern to the organisation before the organisation regards them as being entirely off their books. It might also include stateless people who are not necessarily in camps; UNHCR has a mandate for stateless people, so they might be listed as being of concern. There is a UNHCR publication that I could give you a copy of that categorises people who are refugees assisted by UNHCR, and other people who are of concern, in whose welfare—although UNHCR is not directly involved in assisting them and they are not necessarily in camps—UNHCR has some interest. It might also include internally displaced people, who UNHCR is occasionally asked by the UN to look after. I think there might be something like four million internally displaced people that UNHCR regards as of concern to them. So quite a range of—

Senator CAROL BROWN—We appreciate that.

Mr ADAMS—What would be the figure for women and children at risk?

Mr Hughes—I could not give you that answer. I think a bit over 50 per cent of the world’s refugees are women. The profile of refugees is young because there are often very large families. But I could not give you a precise figure on women and children at risk.

Mr WILKIE—This question might have been asked before. We contribute to the Refugee Travel Loan Fund. How much have we put into that?

Mr Hughes—The IOM has various travel loan funds around the world. They had a small fund in Australia that had been operating for some years. We are interested in making the conditions more beneficial if possible, so a one-off payment of \$2.5 million was paid into the loan fund in 2004-05.

Mr WILKIE—So there have not been any other payments?

Mr Hughes—Not into that loan fund.

Mr WILKIE—Do we know how much of that money has been spent?

Mr Hughes—We do have figures on the number of loans made and of course they expect a repayment, so there is a repayment system. But I would have to take it on notice to get that for you.

Mr WILKIE—I would be curious to know how much has been allocated. I would also be interested to know how much has come back. I would have thought that it would be very hard for a refugee to actually repay loans. Is there a process of writing those loans off if they are not paid after a certain period?

Mr Hughes—Worldwide, the IOM is probably the most experienced organisation in running these kinds of loan schemes because they do it in one form or another for all resettlement countries, although I must say that I am not an expert on this aspect. They do have processes that they have developed over the years that take account of the fact of the likely low incomes that people will have after resettlement. They do have formulas that they have set up that, by and large, do guarantee them a reasonable return on the loans. They do find that since the people receiving them are grateful to get them they are committed to repaying them.

Mr WILKIE—Do they do an assessment to determine whether people could be in a position to repay them?

Mr Hughes—They do. The people repaying them are not usually the entrants themselves. The loans are usually to some people in the destination country who are offering support to the entrants.

Mr WILKIE—Would someone's inability or possible inability to repay the loan affect their chances of getting one?

Mr Hughes—Yes. My understanding is that there has to be an assessment because there is a contribution that has to be made by the party. In other words, normally they would not give a 100 per cent loan to someone. They would require the person receiving the loan to pay, say, 40 or 50 per cent—I am not sure of the exact figure—so the person seeking the loan would have to come up with part of the airfare. I think it is common in Australia that, if someone is proposing a person from overseas, they might get assistance from a community organisation that would help them come up with what might be called the deposit or the share of the loan.

Senator WORTLEY—So would that organisation be responsible for the repayment of the loan or would the individual be responsible?

Mr Hughes—I think the individual would have to repay it. Again, I am not an expert on the detail of the mechanisms.

Senator WORTLEY—Would it be an individual nominated by the person taking out the loan?

Mr Hughes—I believe the loan is, in the legal sense, to the person supporting the entry of the person from offshore.

Senator WORTLEY—And that is an individual, as opposed to an organisation?

Mr Hughes—It might be an organisation in some circumstances, but I would have to check that.

Mr WILKIE—I am sorry to put you on the spot on that.

Mr Hughes—That is all right. It is an area of detail that I am not—

Mr WILKIE—I was just curious.

Senator WORTLEY—Perhaps you could take that on notice and provide us with that information.

Mr Hughes—Yes, I will.

Mr WILKIE—Could you tell us if there is a fund—one that can be accessed by people who have absolutely no show of repaying anything—to help them, given their state? If they are fully qualified as a refugee and have got nothing, how would they cope?

Mr Hughes—Australia's humanitarian program has two components. The refugee component is 100 per cent funded, so people referred by the UNHCR have all of their expenses paid by the Australian government. The other component, the special humanitarian component, relies on someone in the Australian community saying, 'I would like to see that person come to Australia if they meet the humanitarian criteria.' The government pays for the medical processing costs but the person proposing them and the people helping the person proposing them undertake to pay the airfare.

Senator WORTLEY—Does that apply to any of the special visas for migrants coming to short-term or long-term work in Australia?

Mr Hughes—No, I do not believe so. They are not involved.

Senator CAROL BROWN—I see that you consulted with the Department of Foreign Affairs and Trade, the Attorney-General's Department and the Department of the Prime Minister and Cabinet. I was wondering when those consultations started. Was that back in 1998?

Mr Hughes—I think it might have been a little bit later than that. I would have to check precisely when it was.

Senator CAROL BROWN—Would you also check when they indicated that they were supportive of the amendments and what were the dates?

Mr Hughes—I will do that.

CHAIR—Thank you very much, Mr Hughes, for coming here and for your evidence tonight.

Resolved (on motion by Mr Wilkie, seconded by Senator McGauran):

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

Committee adjourned at 9.05 pm