Aviation and space law

International civil aviation. Australia's bilateral arrangements

In October 1977 the Minister for Transport directed that a review be undertaken to determine whether the economic regulation in Australia of international civil aviation remained appropriate to existing circumstances of the international civil aviation industry, and to the development of lowest cost air travel and air freighting arrangements between Australia and other countries. The review was undertaken by officers of the Department of Transport, and the report[34] was tabled in Parliament by the Minister on 11 October 1978.

The report noted that current policy reflected not only Australian attitudes towards international air service arrangements but also of necessity multilateral agreements on international civil aviation and the attitudes of other States with which Australia has negotiated bilateral air service agreements. It set out the background of the multilateral agreements, and then presented an account of Australia's bilateral arrangements. This latter account is as follows (PP No 318/1978, 9–12):

> **Section 3. Bilateral Arrangements**
>
> 1.3.1 The results of failure to achieve multi-national accord at Chicago meant that it has been left to bilateral negotiation to find agreed practical working rules for the operation of air services between countries. There is, therefore, as one writer has said, "a vast cobweb of bilateral international agreements linking individual pairs of States".[36] A recent estimate is that these number approximately 1400.
>
> *Air Service Agreements with Other States*
>
> 1.3.2 Australia has air service agreements or arrangements relating to both scheduled passenger and freight services with 27 countries. These are listed at Annex D2. The full text of most of the Agreements is available in the Treaty Series published by the Australian Government Publishing Service.
>
> 1.3.3 The principal basis for determining whether an air service agreement should be entered into with another State has been that there should be sufficient volume of true origin and destination (TOD) traffic available between Australia and the other State to support the provision of a service on at least a once weekly basis by the carrier of each State. TOD means, for example, traffic which has its origin in Australia and final destination in, say, London, or alternatively, travels from

34. *Australia's International Civil Aviation Policy,* Report of Review Committee, 1978, 2 Vols; PP Nos 318, 319/1978.
35. HR Deb 1978, Vol 111, 1696. The Minister also presented a comprehensive statement of policy decided upon after Government consideration of the report: ibid 1696–1702.
36. Cheng, *The Law of International Air Transport,* as quoted by Pyman "Australia and International Air Law" in O'Connell (ed), *International Law in Australia,* 147.

Australia to London and returns to Australia. In this case the traffic is described as "true origin Australia/true destination UK". In obtaining total TOD figures traffic from London to Australia should obviously also be considered.

1.3.4 This definition is applied irrespective of the final routing taken by the traffic. For example, the passenger may travel Sydney/Singapore and stop over; Singapore/Greece and stop over; Greece/London and return from London to stopover in, say, Rome. Australian practice has been to collect origin and destination statistics based on information taken from passenger tickets.

1.3.5 Practical problems with this approach, which have been touched upon above when describing the sixth freedom, are discussed in more detail in later Chapters. Statistical collection problems are addressed in Annex B8.

1.3.6 A standard draft from which Australian delegations work when negotiating air service agreements with other States is attached at Annex D3. In any bilateral agreement, adjustments have to be made during the negotiation to take account of the interests of the other party. Essentially, the matters usually covered in the articles of a bilateral agreement are:

- Definitions
- An acknowledgement of the importance to both parties of the Chicago Convention when it is in force between them
- Grant of Rights
- Designation of Airlines
- Description of Rights
- Customs Article
- Revocation or Suspension of Rights
- Capacity to be Operated
- Tariffs
- Exchange of Statistics
- Registration of the Agreement with ICAO, where applicable
- Provision for Consultation
- Disputes
- Termination of Agreement
- Date of Entry into Force
- A route Schedule or Annex setting out the routes to be operated.

1.3.7 Obviously the clauses relating to designation, grant of rights, capacity and tariff determination are of particular commercial importance.

1.3.8 Most Australian agreements, either within the agreement or by an exchange of memoranda between governments, have endeavoured to reach some understanding on capacity to be offered on the route in a pre-determined way. With some countries this has not proved possible. In these cases it is usually agreed that capacity should be reviewed in an ex post facto situation, although very real difficulties in reaching agreement about what this means have been encountered, a situation not unique to Australia. Difficulties also have arisen under some

Agreements in determining how much capacity the airline of another State should have in relation to TOD traffic.

1.3.9 Route determination is also a critical consideration. As Bin Cheng put it "the specified routes in air services agreements constitute the core of the bargain between the contracting parties and the various points on the specified routes are the counters in the game,"[37] adding that "parties to a bilateral agreement enjoy control over a specified route, not only in respect of those points which are in their respective Territories, but also over single points along that route whether or not within their own territories."[38] The States concerned must then, of course, obtain rights from the State in whose territory the intermediate point falls in order to exercise traffic rights at that point. The simplest form of route determination is that involved in operating terminating services without stops to embark or disembark traffic en route. Australia is usually faced with a more complicated problem in that it has had to negotiate for a route pattern which includes traffic stops at intermediate points on long distance routes. Allowance has had to be made in these negotiations for changes in the nature of traffic flows and for the possibility of international crises which may necessitate re-arrangements of routes at short notice.

1.3.10 Most Australian agreements require the carriers to endeavour to reach agreement on tariffs through the International Air Transport Association (IATA) rate-fixing machinery. This arrangement is discussed further below. If agreement in that forum is not possible the designated carriers of the two countries should endeavour to reach agreement between themselves. In either case tariffs must be approved by both governments. If both methods fail, the aeronautical authorities of each country shall try to determine the tariff by agreement between themselves, failing which it shall go to arbitration. The clause is not precisely similar in all agreements, reflecting different approaches by different governments. All agreements, however, provide that in the final instance the agreement of the Australian Government and the Government of the other country is required before fares or freight rates may be sold by the carrier to the public.

1.3.11 Australia has never terminated an air service agreement with another State, although with the passage of time and changes in technology which have permitted aircraft to fly very much longer stage lengths, several current agreements are inactive. In some cases services have never been operated under the Agreement. Agreements have, on occasions, been required in order to secure overflight arrangements for the Australian carrier.

Crimes against aircraft. Anti-hijacking procedures. International airlines

In answer to the following question:

(1) What is the nature of anti-hijack procedures followed by (a)

37. Op cit, 387.
38. Ibid.

domestic airlines and (b) international airlines at Australian airports.

(2) What is the legislative authority under which airline operators are required to carry out anti-hijack procedures.

(3) Will he detail the specific provisions of the relevant legislative authority.

the Minister for Transport, Mr Nixon, wrote on 25 May 1978 (HR Deb 1978, Vol 109, 2568–9):

(1) (a) Domestic airlines are required to:

(i) prevent or deter the unauthorised carriage on their aircraft of any firearm, weapon, ammunition, explosive or incendiary device, in baggage or on the person of a passenger;

(ii) prevent or deter unauthorised access to their aircraft;

(iii) ensure that baggage, cargo and mail are loaded only in accordance with the company's specified security procedures;

(iv) ensure that adequate inspections of aircraft are conducted in the event of bomb or other threats being received.

(b) International airlines are required to observe the same procedures as the domestic airlines both in Australian territory and at least at ports from which aircraft last depart for Australia.

(2) The Air Navigation Act and the Air Navigation Regulations made under that Act.

(3) Air Navigation Regulations No 82(2) and 89(2) are applicable in the case of all airlines. Air Navigation Regulation No 82(2) provides that aerodromes and air route and airway facilities established or provided in pursuance of this Regulation shall be under the control and management of the Secretary to the Department of Transport who may, subject to these Regulations, determine the conditions of the use thereof. Air Navigation Regulation No 89(2) provides that the Secretary to the Department of Transport may, in relation to any aerodrome, air route or airway facility, air route or airway licensed, authorised, established or designated under this Part, issue such directions as he considers necessary to ensure the safety of aircraft and compliance with the standards, recommended practices and procedures adopted from time to time in pursuance of the Convention. The Secretary has exercised powers conferred on him by these Regulations to require the domestic airlines to observe security procedures at airports.

Part XVIA of the Air Navigation Regulations is specifically applicable to international airlines. It provides that an operator of an international airline service to or from Australia shall not cause or permit an aircraft used in that service to fly over Australian territory or land at or take off from an Australian airport unless an aviation security program prepared and submitted by the operator has been approved by the Secretary and that approval is in force.

The Minister was further asked to whom the Secretary to the Department of Transport had issued a direction that passengers shall submit themselves

and their hand baggage to a search if required, and what the text of the direction was and when it had been issued.[39] On 21 February 1979 he wrote (Sen Deb 1979, Vol 80, 148–9):

(1) To the passengers through the airlines. In this regard notices are displayed in terminal buildings informing passengers that they and their carry-on baggage may be subject to search.

(2) The following is the text of the direction made by the Secretary to the Department of Transport in relation to Adelaide, Brisbane, Cairns, Hobart, Melbourne, Perth and Sydney aerodromes. A separate direction, containing the same text, relates to joint-user aerodromes, namely Canberra, Townsville and Darwin:

> 'Every person proposing to board an aircraft departing from any of these aerodromes shall submit himself and his carry-on baggage to be searched by an employee of the operator of the aircraft on which he proposes to travel, a person authorised for that purpose by that operator, an officer of the Department of Transport, or a member of the Commonwealth Police or a police force of a State, in any case in which an employee of the operator or an officer of the Department of Transport requires in the interests of the safety of air navigation that all or any of the passengers proposing to travel on a particular aircraft departing from the aerodrome or their carry-on baggage should be searched, provided that a female shall not be searched except by a female.'

(3) 21 January 1974.

Hijacking and piracy. Australian participation in international agreements

On 30 May 1978 in answer to a question asking (1) whether Australia was a party to any international agreements on hijacking and piracy and (2) whether there were any circumstances under which the Government considered hijacking and acts of piracy to be justifiable, the Minister for Foreign Affairs, Mr Peacock, wrote (HR Deb 1978, Vol 109, 2789):

(1) The term 'hijacking' has no particular meaning in international law, although it is generally used to refer to unlawful interference with aircraft (as distinct from ships). Australia is a party to the following international conventions which deal, among other things, with 'hijacking':

(a) the 1963 Tokyo Convention on Offences and Certain other Acts committed on board Aircraft;

(b) the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft;

(c) the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Australia is also a party to the 1958 Convention on the High Seas. Article 14 of that Convention requires States party to the Convention to co-operate to the fullest possible extent in the repression

39. For the position of diplomatic and consular persons at Australian airports, see below p

of piracy on the high seas or in any other place outside the jurisdiction of any State. The expression 'piracy' is defined in Article 15 and it covers both ships and aircraft.

(2) No.

Hijacking of aircraft. Bonn Declaration on Terrorism

On 26 September 1978 the Prime Minister, Mr Fraser, said in the House of Representatives (HR Deb 1978, Vol 111, 1360):

> Honourable members will be aware that the seven heads of state and heads of government who attended the Economic Summit Meeting in Bonn in July issued a statement on terrorism on 17 July 1978. The English version of that statements reads as follows:
>
> > The Heads of State and Government, concerned about terrorism and the taking of hostages, declare that their Governments will intensify their joint efforts to combat international terrorism. To this end, in cases where a country refuses extradition or prosecution of those who have hijacked an aircraft and/or do not return such aircraft, the Heads of State and Governments shall take immediate action to cease all flights to that country. At the same time, their Governments will initiate action to halt all incoming flights from that country, or from any country by the airlines of the country concerned.
> >
> > They urge other Governments to join them in this commitment.
>
> The Federal Republic of Germany has approached the Australian Government, on behalf of the seven states that participated in the Bonn Summit, seeking its support for the declaration. Similar approaches are being made to other countries on behalf of the 'Bonn Seven'. The Commonwealth Government strongly supports this constructive action against the threat of terrorism and agrees completely with the objectives of the declaration . . .
>
> Australian support of the Bonn declaration means that we consider ourselves committed to its objectives.
>
> There is no intention to create a specific convention or treaty to which governments will accede; rather, each supporting government reserves its freedom of action in regard to the implementation of the measures proposed by the declaration . . .

The Leader of the Opposition, Mr Hayden, in response stated that the Opposition supported "the action of the Government in endorsing the Bonn Summit statement on terrorism" (ibid).

Hijacking of aircraft. Sentence of offender in Queensland

On 17 June 1980 the Queensland Court of Criminal Appeal handed down its judgment in *R* v *Sillery* (30 ALR 653). The facts of the case appear from the following extract from the judgment of Lucas SPJ (at 653–4), with whose reasons Douglas and Sheahan JJ agreed:

> The applicant was, on 8 January 1980, convicted of an offence against s 8 of the Crimes (Hijacking of Aircraft) Act 1972–1973 (the Act),

namely that on 8 June 1979 in the State of Queensland he did commit hijacking on board a Commonwealth aircraft to wit aircraft VH-TJJ. He was sentenced to imprisonment with hard labour for life, the learned judge being of the opinion that having regard to s 8(3) of the Act that was a mandatory and not a maximum sentence.

The Act was enacted as the result of the accession by the Commonwealth to the "Convention for the Suppression of Unlawful Seizure of Aircraft", a copy of which is set out in the Schedule to the Act. By Art 2 of the Convention each contracting State undertook to make the offence of hijacking punishable by severe penalties.

The only ground argued in support of the application was that the learned trial judge was in error in holding that life imprisonment was a mandatory penalty for the offence of hijacking. That offence is defined in s 7 of the Act in terms which leave no doubt that the applicant's activities on the day in question came within them. Put briefly, he attempted by the use of force to gain control of the aircraft, which was at the time being operated by Trans Australia Airlines to which it belonged, on a flight between Coolangatta and Brisbane.

Section 8(1) of the Act provides as follows:—

"A person who commits hijacking is guilty of an offence against this section if the circumstances referred to in a paragraph of the next succeeding sub-section are applicable, whether or not another of those paragraphs is applicable."

Section 8(2) provides, as far as material:—

"The circumstances in which the last preceding sub-section applies are—

(a) . . .

(b) . . .

(c) Where the hijacking is committed on board a Commonwealth aircraft.

(d) . . .

(e) . . ."

Trans Australia Airlines is a corporation operated under the direction of the Australian National Airlines Commission, and no question arose but that the aircraft was a "Commonwealth aircraft" as defined in s 3 of the Act.

Section 8(3) is in the following terms: "The punishment for an offence against this section is imprisonment for life." It is not necessary to set out s 8(4).

The reason why the learned trial judge concluded that he had no option but to impose a sentence of life imprisonment was that the provisions of s 41 of the Acts Interpretation Act (Cth) 1901–1973 did not apply so as to make the punishment provided by s 8(3) of the Act a maximum punishment, and that there was no other provision in the law of the Commonwealth which had the effect of giving him any discretion in the matter of sentence. Despite the able argument to the contrary of Mr O'Regan, who appeared for the applicant. I am of the opinion that the learned trial judge's conclusion was clearly right . . .

> . . . We are all of the opinion that leave to appeal should be granted but that the appeal should be dismissed, and that is the order of the court.

On 23 June 1981 the High Court of Australia allowed an appeal against the judgment (35 ALR 227). The Queensland Supreme Court subsequently reduced Sillery's sentence to a period of ten years' imprisonment.

Convention on the International Recognition of Rights in Aircraft. Reasons for non-ratification by Australia

On 23 November 1979 the Minister for Transport, Mr Hunt, provided the following answer to a question asking why Australia had signed but not ratified the Convention on the International Recognition of Rights in Aircraft (Sen Deb 1979, Vol 83, 3010):

> Australia signed the Convention on the International Recognition of Rights in Aircraft (Geneva Convention or 'Mortgage Convention') on 9 June 1950 but has not ratified it. Approval in principle was given to ratification in 1961 but the proposal was not proceeded with. Considerable constitutional and legal difficulties were involved in giving effect to the Convention in Australia, particularly in creating a paramount Commonwealth register of interests in aircraft and in relation to existing requirements for registration of mortgages or chattels generally in each State and Territory. The practical advantages to Australia in becoming a party to the Convention, mainly by way of assisting financing the purchase of large aircraft, were not considered sufficient to outweigh the difficulties involved in preparing the necessary legislation. The fact that a relatively small number of States (41) have ratified the Convention was also a factor in this decision.
>
> State and Territory law require the registration of mortgages and other interests in aircraft to ensure their validity as against third parties such as judgment creditors and liquidators in the case of companies.

Space law. Australian participation in outer space treaties. Liability for damage caused by space objects. Crash of "Skylab" over Western Australia

On 28 February 1979 the Leader of the Government in the Senate and Minister representing the Minister for Foreign Affairs, Senator Carrick, said in answer to a question (Sen Deb 1979, Vol 80, 328–9):

> . . . under the 1972 Convention on Liability for Damage Caused by Space Objects a launching State is absolutely liable to pay compensation for damage caused by its space object or its component parts on the surface of the earth. Provision is also made in the Convention for the presentation of claims for compensation for such damage. Australia acceded to the Convention on 20 January 1975. No special domestic procedures have been adopted so far to deal with the possibility of the crash of space debris affecting the Australian community. Existing procedures for dealing with such incidents have been considered adequate, but should some unusual situation arise with the serious risk of harm to the Australian community then the Government, of course,

would adopt all such special procedures as would be necessary to cope with it.

On 12 July 1979, following the crash of the United States spacecraft "Skylab" over Western Australia, President Carter of the United States sent to the Prime Minister, Mr Fraser, the following telegram:

Dear Malcolm:

I was concerned to learn that fragments of Skylab may have landed in Australia. I am relieved to hear your Government's preliminary assessment that no injuries have resulted. Nevertheless, I have instructed the Department of State to be in touch with your Government immediately and to offer any assistance you may need.

Sincerely,

/s/

Jimmy Carter.

On 22 November 1979 the Minister for Foreign Affairs, Mr Peacock, wrote in answer to a question as to liability for damage caused by space objects (HR Deb 1979, Vol 116, 3462):

(1) Australia is not a party to the Convention on Registration of Objects Launched into Outer Space. The matter, however, is under consideration.

(2) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies was ratifed by Australia on 10 October 1967 and it entered into force on that date.

(3) Article VI of the Treaty obliges States Parties to the Treaty to bear international responsibility for national activities in outer space including the moon and the other celestial bodies. The Treaty refers to the State on whose registry an object launched into space is carried, principally in Article VIII.

(4) Australia acceded to the Convention on International Liability for Damage Caused by Space Objects on 20 January 1975.

. . .

(6) The effectiveness of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and the Convention on International Liability for Damage Caused by Space Objects is not entirely dependent on the establishment of a central register of objects launched into outer space as referred to in the 'Convention on Registration of Objects Launched into Outer Space' but it has been felt that as the number of space objects would progressively increase, it would become more necessary to have an adequate means of identifying different objects, such as a State Register and a central register maintained by the Secretary-General of the United Nations, and that a mandatory system of registering objects would contribute to the application and development of international law governing the exploration and use of outer space.

Outer space. Remote sensing of earth resources by satellite

On 22 February 1978 the Australian representative, Mr Goleby, spoke in the Scientific and Technical Sub-Committee of the Committee on the Peaceful Uses of Outer Space on questions relating to the remote sensing of the earth by satellites. Part of his speech is reported as follows (A/AC. 105/C. 1/SR. 196, 6–7):

> 26. He reaffirmed his delegation's support for making information from remote-sensing systems more freely available to all nations. Access to such information was essential if its full potential benefits were to be realized, particularly by those countries which did not possess their own receiving and processing systems. An imbalance in the distribution of data would be increasingly disadvantageous to the developing countries. Transfer of remote-sensing information was an essential precursor to the transfer of space technology to those countries . . .
>
> 28. There was no optimum spatial resolution which would satisfy all requirements. In oceanography, for example, a resolution of several hundred metres was sufficient, whereas for land resources the optimum was 20 to 25 metres, and for mineral resources 80 metres. His delegation therefore believed that it would not be appropriate to limit dissemination of data on the basis of spatial resolution, since that would seriously inhibit the use of remote-sensing technology for important resource-management and monitoring tasks.

On 17 March 1978 the Australian representative, Ms Freeman, spoke in the Legal Sub-committee of the Committee on the Peaceful Uses of Outer Space. Part of her speech is reported as follows (A/AC. 105/C. 2/SR. 289, 11):

> 39. In regard to remote sensing, Australia maintained the view that the extension of the concept of permanent sovereignty over natural resources to cover all information relating to a country's natural resources was an unwelcome departure from the accepted principles of international law. Nevertheless, when formulating principles for remote-sensing activities, it was necessary to protect essential national interests. Australia therefore favoured a policy which would promote the greatest degree of dissemination of data obtained from remote sensing.

On 18 October 1978 the Australian Representative, Mr Jackson, spoke in the Special Political Committee of the United Nations General Assembly and is reported as having said (A/SPC/33/SR.9, 10–11):

> Remote sensing for scientific purposes was compatible with the provisions of the 1967 outer space treaty and his Government favoured a policy of the most open dissemination of primary data consistent with the need to safeguard the legitimate interests of the sensed State.

On 16 March 1979 the Australian representative, Mr Burdekin, spoke in the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space, and part of his speech is reported as follows (A/AC.105/C.2/SR.306, 2–3):

> Australia felt that remote sensing for scientific purposes was compatible with the provisions of the Treaty on Principles Governing the Activities

of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. The principle of a State's permanent sovereignty over its natural resources did not and should not extend to primary data or analysed information about those resources derived by remote sensing. Australia favoured a policy of the most open dissemination of primary data consistent with the need to safeguard the legitimate economic and security interests of the sensed State against the risk of misuse by other States and foreign non-governmental entities of the information processed from primary data. The safeguards adopted should not be so restrictive as to impede the further development of remote-sensing technology or limit the undoubted benefits which the global community might derive therefrom.

On 31 October 1979 the Australian representative, Mr Jenkins, spoke in the Special Political Committee of the United Nations General Assembly, and part of his speech is reported as follows (A/SPC/34/SR.17, 2):

> His delegation was somewhat disappointed at the progress made on the difficult and sensitive question of remote sensing of the earth by satellites. That subject was particularly important to Australia in view of its decision to establish a LANDSAT ground station, which was to become operational in early 1980. His delegation thought that remote sensing for scientific purposes was compatible with the provisions of the 1967 Outer Space Treaty and it favoured a policy of allowing the freest dissemination of primary data that was consistent with the need to safeguard the legitimate economic and security interests of the sensed State. While such safeguards were essential, they should not be so restrictive as to impede the further development of remote sensing technology or to limit the recognised benefits that the world community derived from the remote sensing of the earth's resources.

Outer space. Geostationary orbit. Status of claims of sovereignty

On 24 February 1978 the Australian representative, Mr Goleby, spoke in the Scientific and Technical Sub-committee of the Committee on the Peaceful Uses of Outer Space, and part of his speech is reported as follows (A/AC.105/C.1/SR.199, 8):

> . . . His delegation understood the concern of the equatorial States, which claimed to possess sovereignty over the geostationary orbit. Their claim was based on the concept that States had sovereignty over all areas lying within their borders as extended from the centre of the earth radially out into space. At the meeting of the Legal Sub-Committee and at the World Administrative Radio Conference (WARC) in January-February 1977, the Australian delegation had expressed the view that scientific fact was difficult to reconcile with the descriptions of the nature of the geostationary orbit upon which that claim rested. The claim was inconsistent with the provisions of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, with ITU regulations and with WARC agreements. The geocentric view had been

accepted for control over air space, but his delegation did not accept the extra-terrestrial extension of that view for control of outer space. The Treaty on Outer Space prevented application of sovereignty to outer space, which was regarded as the common heritage of mankind. The geostationary orbit was clearly in outer space.

On 4 April 1978 the Australian representative, Mr Landale, spoke in the Legal Sub-committee on the subject of the geostationary orbit, and is reported to have said in part (A/AC.105/C.2/SR.297, 2):

> . . . the description of the geostationary orbit upon which the claim to sovereignty of some equatorial States rested was difficult to reconcile with scientific fact. In his delegation's view, that claim was in conflict with the provisions of the 1967 Treaty and inconsistent with the regulations of the International Telecommunication Union (ITU).

On 31 October 1979 the Australian representative, Mr Jenkins, spoke in the Special Political Committee, and part of his speech is reported as follows (A/SPC/34/SR.17, 2):

> The advantages of the geostationary orbit were well known, and countries that were becoming increasingly dependent on satellite communications and sensing, such as Australia, viewed the use of that orbit as particularly important. His country hesitated to recognise any claims of sovereignty over the orbit, since such a claim did not, in its view, have any scientific or legal foundation and would conflict with the provisions of the Outer Space Treaty. However, States should co-operate on that question, and rational and equitable consideration must be given to the need to ensure that no country was excluded from the benefits derived from the geostationary orbit.

Outer Space. Definition and delimitation

The Australian representative, Mr Jenkins, is reported to have said in part on 31 October 1979 in the Special Political Committee (A/SPC/34/SR.17, 2):

> With regard to the question of the definition and/or delimitation of outer space, his delegation believed that, first and foremost, careful consideration must be given to the scientific, legal, technical and political factors involved. Perhaps the most important question was whether or not it was currently necessary to delimit outer space; if not, the imposition of an unnecessary legal regime could be avoided.

Outer space. Use of nuclear power sources

On 28 October 1980 the Australian representative, Mr Nolan, spoke in the Special Political Committee on the Report of the Committee on the Peaceful Uses of Outer Space. Part of his speech is reported as follows (A/SPC/35/SR.17, 8):

> With regard to the launching and operation of satellites, existing international law required that adequate precautions should be taken to prevent harm to human beings and the environment as well as damage to States. However, there were no minimum standards for the safe use of

nuclear power sources or other high-risk space objects in outer space. The Working Group on the Use of Nuclear Power Sources in Outer Space currently had a good basis on which to pursue its study of the areas identified, and he expressed the hope that it could make constructive progress on that subject during the coming year.