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STANDING COMMITTEE ON TRANSPORT AND GOVERNMENT OPERATIONS

LE COMITÉ PERMANENT DES TRANSPORTS ET DES OPÉRATIONS GOUVERNEMENTALES

EVIDENCE

[Recorded by Electronic Apparatus]

Thursday, November 29, 2001

• 1532

[English]

The Chair (Mr. Ovid Jackson (Bruce—Grey—Owen Sound, Lib.)): Colleagues, I'd like to start the meeting. I know most of you have other things you would like to do, but it's a relatively short bill. It's Bill S-33, An Act to amend the Carriage by Air Act.

I want to welcome our witnesses from Transport Canada. I'll ask them to introduce themselves and to just give us a short presentation.

Mr. Vayzel Lee (Policy Adviser, Domestic Air Policy, Department of Transport): Thank you, Mr. Chair.

I'm Vayzel Lee, and I'm with Transport Canada. With me are Elizabeth MacNab, legal counsel; and Louis Gautier, also legal counsel.

As you indicated, Mr. Chair, this bill is a short bill referring to amendments to the Carriage by Air Act. The bill will amend this act to enable Canada to ratify and adopt as law the Montreal Convention that was developed by member states of the International Civil Aviation Organization.

The Montreal Convention consolidates and modernizes the global regime of carrier liability for international air transportation that is currently in force. At present, the regime that is currently in force is the 1929 Warsaw Convention and its amending legal instruments. Very simply, the Montreal Convention takes that original 1929 convention, plus all of its amending instruments and all of its redeeming features, and puts them into a single convention.

We note two things as key features of the Montreal Convention. It would establish a regime of unlimited—as opposed to limited—carrier liability for the carriage of international passengers. In the event of an incident, the Montreal Convention would also permit these passengers to choose their own local system of law when making claims.

As I indicated just a moment ago, the Montreal Convention is an effort by nation-states to consolidate and modernize a 72-year-old regime. It's not considered contentious in the aviation community, and it has no financial implication beyond what is already practised by the industry. To date, over 67 nations, including the United States and Canada's other major trading partners, have already signed the convention. Of those nations, 11 have also since ratified it. Ratification of this Montreal Convention would kick in when there is a quorum of 30 states. Once that quorum is reached, the Montreal Convention will have international force and effect.

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That concludes my short remarks about the Montreal Convention and the amendments to the Carriage by Air Act. Simply, the amendments would annex the convention to the act. It would not replace the older regime until such time as other member countries have subscribed to it.

We're ready to take questions.

The Chair: Thank you very much.

James.

Mr. James Moore (Port Moody—Coquitlam—Port Coquitlam, Canadian Alliance): I have no questions, Mr. Chair.

The Chair: Val.

Ms. Val Meredith (South Surrey—White Rock—Langley, PC/DR): How many other member states are required to sign on to this to ratify it?

Mr. Vayzel Lee: A quorum of 30 states is required, Ms. Meredith.

Ms. Val Meredith: That's 30 states out of the participating members.

Mr. Vayzel Lee: That's right, and 11 have done so.

Ms. Val Meredith: Do you foresee a problem with others ratifying this? My understanding is that the ICAO meets every three years—

Mr. Vayzel Lee: That's correct.

Ms. Val Meredith: —and that this is the result of the 1999 meeting. They would like this ratified, but that meeting was two and a half years ago. Do you foresee a reason why other countries wouldn't sign on?

Mr. Vayzel Lee: The most recent triennial general assembly of ICAO member states just occurred in Montreal a couple of months back, in September. The proceedings started on September 25. At that time, member states, including Canada, were obliged to report on the status of their ratification of this Montreal Convention. As you know, some rather tragic events preceded that triennial general assembly, so the world was unfortunately focused on those, as opposed to reporting on their status with this. But absent that development, no, Ms. Meredith, I don't foresee any problems with it. It is regarded as a housekeeping issue, mostly because what is being proposed formally is already in practice today.

Ms. Val Meredith: This bill does deal with the liability factor of air carriers, does it not? My understanding—and I may have misunderstood what was in the bill—is that it opens up the ability for liability. Is it still applicable after the events that you alluded to, the events of September 11? Is it appropriate to have a wide-open liability factor for the airline carriers?


Mr. Vayzel Lee: Mr. Chair, Ms. Meredith, I believe I heard two questions in there.

Ms. Val Meredith: That does happen.

Mr. Vayzel Lee: Let me try to give you a thought on that.

The regime that is currently in place today, the Warsaw system—that is, the older regime based in 1929, as amended by legal instruments since then—sets a legal minimum. Countries that have adopted that as part of their national law and impart it, are obliging carriers to abide by it. It does not mean carriers have to meet that standard as their maximum. Rather, that's a floor.

On your ticket, you'll see that air carriers must abide by the terms of the Warsaw system for international travel. But as I indicated before, through contract, by way of having it in their business tariff, they actually have in place a higher standard, one that actually matches what is being formally proposed in the Montreal Convention today. Would those standards still apply even after the Montreal Convention takes international force and effect? At this time, there's no reason to expect that the situation would change, because carriers are prepared to practise the higher standard today to avoid extremely costly litigation if they were to fall back to a lower standard.

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Ms. Val Meredith: What I'm implying is that the insurers refused to cover for terrorists activities after September 11, so if a liability factor were brought into the scenario of New York City and Washington, D.C., the liability could be astronomical. The domestic carriers or the private companies carrying the insurance have refused to carry that. So I go back to whether or not this is applicable. Or should other changes be made to ensure that the carriers can get insurance?

Mr. Vayzel Lee: In that instance, like other nations of the world, Canada has agreed to indemnify its carrier industry for war risk and terrorism events, but only for that part. As a result, carriers can remain operating, can remain in business. Otherwise, if carriers were not insurable, we wouldn't have an industry. So I would say with confidence going forward that, as countries resolve this situation and carriers work their way through and find a solution to how to handle that particular aspect—war risk and terrorism—I fully believe this regime, standing apart from that special circumstance, would still carry on.

Ms. Val Meredith: So you see this regime as separate for the accidents we used to see with airplanes, basically. Although I understood it to be a temporary measure until it could be addressed through the private insurance companies, do you see the government continuing that insurance protection in the long term?

Ms. Elizabeth MacNab (Counsel, Legal Services, Department of Transport): If I could just add to what Mr. Lee has said, insurance will actually be discussed at a meeting of the International Civil Aviation Organization in Montreal next week.

Right now, the insurance companies are in fact insuring war risks for passengers. The real problem—and what the Canadian undertaking covers at the moment—is the risk of injury to third parties—in other words, the costs of the World Trade Center. The insurance companies, as I understand it, very quickly arranged to again cover passengers in hull for war risks.

But as I say, an international meeting will be held next week to discuss methods of covering war risk insurance, both generally and specifically, for third parties.

Thank you.

Ms. Val Meredith: I want some confidence that this legislation is still current and still provides a degree of harmonization, if you will, with the world community, and that it will look after the issue of things like insurance and liability in the future. Is this act still applicable?

Mr. Vayzel Lee: To the extent that the provisions being proposed under this convention are already in practice today, the answer is yes.

Ms. Val Meredith: Thank you.

The Chair: Mario, any questions?

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): No.

Mr. Marcel Proulx (Hull—Aylmer, Lib.): I move that we do the clause-by-clause, Mr. Chair.

Ms. Val Meredith: Can we get copies of this?

The Chair: Do you want copies of the act? Sure.

(Clauses 1 to 6 inclusive agreed to)


(Schedule agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

• 1545 

The Chair: Shall I report the bill to the House, without amendments?

Some hon. members: Agreed.

The Chair: The bill is carried.

Thank you for your cooperation, ladies and gentlemen.

An hon. member: Can we do all meetings like this?

Some hon. members: Oh, oh!

The Chair: We are adjourned.



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