



Australian Government
**Australian Customs and
Border Protection Service**

ACTING CHIEF EXECUTIVE OFFICER

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Ms Julie Dennett

Committee Secretary
The Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
PO Box 6100
Canberra ACT 2600

Dear Ms Dennett,

Inquiry into the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

On 6 November 2012, the Senate Legal and Constitutional Committee invited Customs and Border Protection to make a submission regarding the Migration Amendment (*Unauthorised Maritime Arrivals and Other Measures*) Bill 2012.

Customs and Border Protection has provided input at all stages of the legislation amendment process, and considers that the proposed legislation will create consistent arrangements for both the mainland and offshore areas. This consistency will reduce the incentive for people to attempt the longer voyage to the mainland.

Our civil maritime security mandate is concerned with any impacts related to on water interception obligations that are executed under sections 245B - 245H of the Migration Act 1958, or the Customs Act equivalents.

Amendments to section 189 do not affect Customs and Border Protection operations intercepting Suspect Illegal Entrant Vessels (SIEVs) under section 245B - 245H of the *Migration Act 1958*, or the Customs Act equivalents.

We are not aware of the exercise of a power by Customs and Border Protection personnel under section 189 in the course of operations; however there may be occasions when this power could be required.

Under the proposed amendment, if there was an occasion for Customs and Border Protection personnel to exercise that power it would be at the discretion of the officer through use of the words 'may detain'. This discretion would not affect the ability of

Customs and Border Protection personnel to discharge their duties in those circumstances.

The consequential amendments to the Migration Act will allow for the future operation of the Maritime Powers Act which will enable Customs and Border Protection to continue with on water operations when that Act is in force.

Once the amendment becomes law, Customs and Border Protection may consider options for including a message in the communications activities it conducts to deter potential Irregular Maritime Arrivals.

Yours sincerely,

Michael Pezzullo
Acting Chief Executive Officer

20 December 2012