



Australian Government
Attorney-General's Department

5 November 2018

Response to Questions on Notice

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Issuing of a Certificate under section 37 of the Auditor-General's Act 1997 - Inquiry based on Auditor-General's Report No. 6 (2018-19)

Attorney-General's Department

SPECIFIC QUESTIONS ON NOTICE

Question 1 (page 3 of Hansard)

Senator Patrick asked the following questions at the hearing on 19 October 2018:

So I take it that the Attorney may well provide us a bit more information. Just before we proceed, I want to make the Committee aware that there may be more documentation that would lead to further questions that has not been provided to us. That's the point I wanted to make. Perhaps a way of resolving it is to, on notice, provide us those documents, and you can make whatever claims that you wish to make.

Response:

The Attorney-General's Department provided relevant redacted correspondence from the Attorney-General and the Auditor-General to various parties in two supplementary submissions to the Committee. Since the hearing commenced on 19 October 2018, Thales consented to redacted correspondence being provided, which the Committee has now received. There was one item of correspondence from the former Minister for Defence and the former Minister for Defence Industry Department of Defence received by the Attorney outlined in the original submission dated 17 April 2018. The Defence Ministers' offices have not consented to the release of the letter dated 17 April 2018 from the Minister for Defence and the Minister for Defence Industry to the Attorney-General, and have advised that if the JCPAA's request still stands, then Defence will recommence engagement with the Ministers' offices accordingly.

Question 2 (page 11 of Hansard)

Mr Hill MP asked the following questions at the hearing on 19 October 2018:

Did the Attorney-General receive legal advice on the view of the matter of statutory interpretation?

Response:

The Attorney-General received legal advice on the *Auditor-General Act 1997*.

Question 3 (page 15 of Hansard)

Mr Hill MP asked the following questions at the hearing on 19 October 2018:

The time line from the Attorney-General's Department talks, at four points, about legal advice on the operation of section 37: on 18 January, 15 February, 7 May, 9 May and 14 June-that's five points. Can this be provided to the Committee?

Response:

The Attorney-General will be making a public interest immunity claim over the legal advice. The Attorney-General's letter to the Chair of the Committee outlining the grounds for the claim will be forwarded in due course.

Question 4 (page 20 of Hansard)

Mr Hill MP asked the following questions at the hearing on 19 October 2018:

Could the Department of Defence and the Attorney-General's Department provide any further guidance or explanation as to whether in relation to the security, defence and international relations application it was security, defence or international relations? It doesn't seem to have been security or defence matters, given the Department of Defence hadn't raised them, so is it international relations, just in terms of trying to understand and having a learning moment?

Mr Anderson responded: There were certainly considerations of both security and defence nature put before the Attorney-General. I'd need to take on notice whether there are also considerations in relation to international relations.

Response:

Considerations raising each element of security, defence and international relations were put before the Attorney-General.

Question 5 (page 23 of Hansard)

Senator Patrick asked the following questions at the hearing on 19 October 2018:

The report of the competing vehicle makes some claims. I will table this, with leave of the committee. This is available on the web. For example it says:

The combat payload is expected to exceed 3,500 for the HGC and CCWC mission packages, which will result in the rear axle of the JLTV to be overloaded.

There are a number of statements in this particular DOTE report that one would imagine would cause harm commercially but that the Director of Operational Test and Evaluation nonetheless reports to Congress. With the agreement of the committee, if I were to table this particular report, could each of the departments make a comment-without revealing the nature of the unfair prejudice that might be in the information we haven't seen-on how that compares to the sorts of remarks that have been made in this particular report so that we can get a feeling for this. You might say, 'it's actually totally irrelevant,' or you might say that they are the similar sorts of adverse remarks that were going to be published by, for example, the Auditor. I'd like to table that and ask each of the departments to take that on notice.

Response:

It is not possible to make a comment in this regard. The US Department of Defence Inspector-General's report contains a large number of redactions, where the redacted content is not known to the Attorney-General's Department; the Department also has very limited information about the JTLV programme and is not able to assess the possible nature of the comments made in that report. It would also not be appropriate to disclose the nature of the comments subject to the certificate issued by the Attorney-General, given that the effect of the certificate is that those comments cannot be published.