

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES – 26 – 27 MAY 2014

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE14/019) PROGRAMME – Australian Customs and Border Protection Service

Senator Singh (L&CA 81) asked:

Senator SINGH: That is right. That is why it is concerning that there is still asbestos getting through our borders and into our country. What I want to know is, in relation to some of the examples or some of the real cases that Ms Grant has provided, how were they discovered? How many reported cases have there been? And obviously you need to look at that over certain time periods, which you can determine are best available to provide to the committee. And how many prosecutions have commenced? If this legislation is taken seriously, then we need to actually prosecute those importers who are breaking the law.

Mr Pezzullo: Absolutely, and we will get you as much information on the public record as we are able to provide.

Answer:

The Australian Customs and Border Protection Service (ACBPS) applies an intelligence-led, risk-based approach to address the unlawful importation of goods containing asbestos. We ensure compliance with the *Customs Act 1901* and the *Customs (Prohibited Import) Regulations 1956*, which prohibit without permission importation of all forms of asbestos, through monitoring and intervention activities that are proportionate to the level of risk.

Between June 2010 and May 2014, ACBPS managed 34 cases involving the unlawful importation of goods containing asbestos.

ACBPS ran Operation XYLEAN from June 2010 to July 2011 focusing on the importation of asbestos contaminated goods in the mining and energy sectors. Since then, the rate of asbestos detections in imported goods connected to those industry sectors has declined significantly.

The Operation and subsequent ACBPS activity has resulted in the prevention of the importation of a wide range of contaminated goods including for example gaskets within vessels and heavy industrial equipment, vehicle spare parts, drilling fluid, fire wallets, brake lining and pads, major project infrastructure and exhaust shields.

ACBPS continues to review its approach to asbestos importation to ensure better compliance outcomes. Recent risk assessment activities have resulted in the Service turning its attention to other sectors including the automobile industry. This work has resulted in the detection at the border of asbestos in imported vehicle spare parts, which subsequently led to recalls of passenger vehicles from China that were already in the Australian market. The compliance programme includes education campaigns and refining targeting activity to account for specific countries of origin and suppliers. ACBPS continues to work closely with a range of high-risk industry sectors including mining and energy to ensure that goods are, in fact, asbestos-free before exportation to Australia. Some companies have employed Australian expert hygienists to inspect and certify goods at their place of manufacture, prior to shipment to Australia. Some overseas suppliers have changed their manufacturing practice.

Experience to date indicates that companies are generally keen to ensure that the goods they import are asbestos free, as asbestos contamination can have significant implications for corporate image, workplace health and safety, their ability to retain employees, and to continuity of operations.

Where appropriate, ACBPS pursues prosecutions. There has been one successful prosecution for importing asbestos since June 2010. In 2012, the court found an international engineering company, Clyde Bergemann Senior Thermal Pty Ltd (CBST) guilty of two counts of importing prohibited imports, namely chrysotile asbestos contrary to section 233(1)(b) of the *Customs Act*. The Court fined CBST \$64,000 including costs. ACBPS makes decisions on whether or not to prosecute based on the Prosecution Policy of the Commonwealth, whether there is sufficient evidence to prove the offence, and whether there are reasonable prospects of a successful conviction.

There are no matters currently before the courts for the importation of asbestos in breach of the *Customs Act*.