

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES – 26 – 27 MAY 2014

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE14/383) PROGRAMME – Australian Customs and Border Protection Service

Senator Conroy (Written) asked:

Further, paragraph 170 states that QUOTE “Where vessels are contracted for use by the Australian Government specifically in this case the ACBPS has a duty of care to ensure that they have the requisite knowledge to conduct contracted services.”

Paragraph 171 goes on QUOTE “The Masters of ACBPS assets and the embarked Enforcement Commanders are not appropriately trained to make an assessment as to the veracity of a position with respect to international Maritime Boundaries.”

- a. Who within the command of Operation Sovereign Borders has taken responsibility for the failure to ensure that the Masters of ACBPS assets and the embarked Enforcement Commanders were appropriately trained?
- b. Has any disciplinary action been taken against those in command of Operation Sovereign Borders for this failure?
- c. Why was the training regarding international Maritime Boundaries not provided to the Masters of ACBPS assets and the Enforcement Commanders?
- d. Why was this operational failure not detected until the incursions into Indonesian territorial waters by customs vessels took place, four and a half months after Operation Sovereign Borders started?
- e. Who was responsible for failing to detect this operational shortcoming?
- f. Has any disciplinary action been taken against the person who was responsible for failing to detect this operational shortcoming?
- g. Has there been a systematic evaluation to ensure that no other tasks are being carried out as part of OSB by personnel that are not trained to carry them out safely and within the guidelines set by the Australian Government and domestic and international laws?
- h. Has any disciplinary action been taken against the custom officer or officers who were responsible for the incursions into Indonesian territorial waters?

Answer:

(a, b, d-f, h)

The Joint Review of Positioning of Vessels Engaged in Operation Sovereign Borders findings are contained on Page 4 of the Executive Summary which was tabled in the Senate on 3 March 2014. The Review found that each incursion was inadvertent and occurred as a result of miscalculation of Indonesian Maritime Boundaries by Australian Crews. Crews intended to remain outside Indonesian waters.

As indicated on Page 11 of the *Australian Government response to the Foreign Affairs, Defence and Trade Reference Committee report: Breach of Indonesian Territorial Waters* formally tabled in the Senate on 7 July 2014, the former Chief of Joint Operations, Lieutenant General Ash Power, and Deputy CEO Border Enforcement, Roman Quaedvlieg accepted the findings of professional conduct reviews that none of the headquarters officers involved deliberately contravened orders not to enter Indonesian waters. However, both authorities determined that there were individual lapses in professional conduct that warranted further action.

As a result of the reviews, administrative action has been taken against three Defence and one ACBPS personnel attached to headquarter elements. Relevant administrative action includes administrative sanctions and formal counselling.

(c)

ACBPS officers are provided training in the UNCLOS maritime boundaries and are aware of the operational implications of UNCLOS. Previously, the majority of ACBPS operations have taken place within the Australian Economic Exclusive Zone (AEEZ), or between areas of the AEEZ, and there was no requirement for broad training in this area. Commanding Officers of ACPBS vessels receive this training while qualifying for the earlier Master Class Four qualification or under the current Master Less Than 500 Gross Tonnes qualification. This training was not provided to Enforcement Commanders on contracted vessels where the marine crew is provided by contracted mariners. The calculation of international baselines, particularly archipelagic baselines is complex and prone to error and maritime boundaries claimed by coastal states such as Indonesia change regularly, so ACBPS officers are not provided detailed training in these calculations. To avoid infringing the claimed maritime boundaries, navigational overlays are sourced from the Coastal State and provided to ACBPS vessels.

(g)

A comprehensive review of operational training was undertaken and measures are now in place. Restrictions on entering foreign territorial waters are articulated in current operational documents and will be re-iterated in future operational documents. Commanding Officers and Enforcement Commanders have also been appropriately briefed. Further information on this can be found in the *Australian Government response to the Foreign Affairs, Defence and Trade Reference Committee report: Breach of Indonesian Territorial Waters*, formally tabled in the Senate on 7 July 2014.