

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 183

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Is it correct that the average x-ray time for a container is 15 minutes?

- a) If yes, why is it necessary for Customs to hold a container for 72 hours for such a short scan time?
- b) If not, what is it?

The answer to the honourable senator's question is as follows:

The Australian Customs Service (Customs) does not record the amount of time involved in x-raying containers. The average time involved in checking containers into the Customs systems, scanning the container with the container x-ray system and then analysing the images of the equivalent of three containers on a truck is around 25 to 30 minutes. This does not include the time required for a physical examination

- (a) Customs releases the x-ray hold on containers as soon as they have been inspected and if required, physically examined at the Container Examination Facilities.
- (b) Not applicable.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 184

Senator Ludwig asked the following question at the hearing on 14 February 2005:

If an x-ray is completed before the 72 hour holding period is up, does Customs release the container?

The answer to the honourable senator's question is as follows:

As indicated in the answer to Question on Notice No. 183, the Australian Customs Service releases the x-ray hold on containers as soon as they have been inspected and if required, physically examined at the Container Examination Facilities.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 185

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Did Airbus speak to Customs during their 2003 tour of international airports?

The answer to the honourable senator's question is as follows:

No.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 186

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Was advice was given to Customs by Airbus, and what was the nature of this advice?

The answer to the honourable senator's question is as follows:

No advice was given.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 187

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Was Customs given recommendations as to the changes needed to continue to maintain levels of service after the Airbus rollout?

- a) If so, have Customs implemented any of the recommendations or, if not, what is their timeframe for doing so?

The answer to the honourable senator's question is as follows:

No.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 188

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Was Customs given advice separate to the airports?

The answer to the honourable senator's question is as follows:

N/A. See answer to Question No. 187.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 189

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Has the study on projected passenger flows commenced?

- a) If not, when is it expected to commence?
- b) If yes, who has been invited to participate?
- c) What is the timeframe of the study? When is a final report expected?

The answer to the honourable senator's question is as follows:

Customs is not undertaking a specific study in passenger flows. However, Customs continues to work closely with airport owners and other government agencies to ensure any practical implications of increased passenger numbers, such as staffing requirements and passenger flow throughput, are addressed.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 190

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) How many customs x-ray staff were working at Brisbane airport on Friday 9th October 2004?
- b) How many customs x-ray staff were working at Sydney International airport on Friday 9th October 2004?
- c) How many customs staff were working when customers were checking in for Australian Airlines flight AO7829?
- d) Was all luggage inspected for this outgoing flight in either Brisbane or Sydney?
 - i) If not why not?
- e) Were any Drug Detection Dogs on Duty on Friday 9th October either at Sydney or Brisbane Airports?
 - i) If yes did the sniffer dogs pick up any irregularities for this or any other outgoing flights on this day?
 - i. If yes, please provide details.
- f) How many bags were checked through customs for this flight?
- g) Does customs inspect luggage which is scheduled for outgoing international flights?
 - i) If yes what is the rate of inspection?
- h) Do customs record the inspection areas where x-rays take place?
 - i) If yes does the recording for this date show the body bag belonging to Schapelle Corby passing through the x-ray machine?
 - ii) If yes were any irregularities registered?
- i) Were there any physical checks of passenger luggage for flight AO7829 on the 9th October 2004?
- j) Were drug detection dogs run over any of the luggage from flight AO7829 on the 9th October 2004?
 - i) If yes did the dogs indicate a positive detection?

The answer to the honourable senator's question is as follows:

- a) Customs has no staff at Brisbane Domestic Airport, which is where Ms Corby departed from.
- b) Customs has two x-ray units for inbound overseas passengers at Sydney Kingsford Smith Airport, both of which were operational on Friday 8 October 2004. Enforcement staff use the x-ray units on an "as-needs" basis rather than being specifically deployed to that function.
- c) A total of 155 Customs staff were working at Sydney airport on the morning of 8 October 2004.

Customs staff are deployed within the airport environment depending on operational requirements. It is therefore not possible to state exactly how many staff were deployed to outwards processing in the lead up to the departure of AO7829. However, Customs records show that approximately 25 staff were rostered across both departure areas at Sydney international airport for outwards clearance duties between 0900 – 1030 on 8 October 2004.

d) No, Customs has no presence at the Brisbane Domestic Airport

No, Customs does not routinely inspect the baggage of departing passengers. Customs enforcement activities for departing passengers are intelligence led and risk based. Customs primarily focuses its resources on those areas identified as of higher risk for people and goods entering Australia.

e) Customs has no presence at Brisbane Domestic Airport

Drug Detector Dog teams were deployed at Sydney International Airport in the arrivals area on 8 October 2004. No DDU teams were operating in the passenger departures area or baggage make up / basement area on 8 October 2004.

i) N/A

ii) N/A

f) None.

g) Customs does not routinely inspect the baggage of departing passengers. Customs enforcement activities for departing passengers are intelligence led and risk based and it is this that determines whether any baggage on an outgoing flight is examined by Customs. Customs primarily focuses its resources on those areas identified as high risk in relation to people and goods entering Australia.

i) N/A

h) Yes.

i) No.

ii) N/A

i) No.

j) No.

i) N/A.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 191

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) Relating to comments from a spokesman for the Australian Customs Service as saying 'the service is investigating the incident' [Schapelle Corby].
- b) What information has been collated on this matter?
- c) Can you provide an update on how this investigation is progressing?
- d) Has ACS checked the tapes for that day?
- e) Reports that when the Indonesian customs service opened the body bag they found 4.2kg of marijuana leaf and a strong smell was noticeable. Wouldn't dog detection units or customs handlers in Australia be able to smell the same scent?
- f) Why wasn't the smell an indication to customs and baggage handling staff that Ms Corby's bag may contain items other than clothing, toiletries and other general travel items?
- g) Do airport security tapes show Miss Corby passing through the passenger screening section and both Brisbane and Sydney airports?
- h) Was Miss Corby asked to assist customs staff with the detection tests?
 - i) If yes, was there a positive test for a substance of concern detected?
- i) Have any ACS staff members been reprimanded over this incident?
 - i) If yes, what was their position in ACS and what was the form of reprimand?
- j) Has ACS contacted the Indonesian Authorities to discuss the alleged smuggling of 4.2kg of marijuana by Ms Corby?
- k) What was the content of discussions between the two authorities?
- l) Has ACS received any information from the Indonesian authorities relating to Schapelle Corby's case?
 - i) If yes what information was received?
- m) Can you provide the content of any information received?
- n) What was the weight of Schapelle Corby's bag when departing from Brisbane airport?
- o) Is luggage reweighed when transferring onto an international flight?
 - i) If yes what was the weight of her luggage during this transfer?
- p) What was the weight of the bag according to reports from the Indonesian Customs Service/Police?
- q) Has Customs provided any information or released documentation, tapes or any other information pertaining to Miss Corby's case?
If yes please provide details

The answer to the honourable senator's question is as follows:

- a) A Customs spokesman in relation to a question from a journalist on Ms Corby's departure stated that he would "look into the matter further". This was reported by the journalist as, Customs is "investigating the incident". Enquires were made

about the departure of AO7829, which identified the facts outlined in answer to Question on Notice 190.

- b) Enquiries confirmed that the only interaction that Customs had with Ms Corby on 8 October 2004 was to immigration process her out of the country at Sydney airport.
- c) There is no ongoing investigation.
- d) No. Customs no longer holds any CCTV recordings of the outwards passenger processing area at Sydney International Airport for Friday 8 October 2004.
- e) Customs did not inspect any baggage for the departing flight AO7829 on 8 October 2004.
- f) Customs did not inspect any baggage for the departing flight AO7829 on 8 October 2004.
- g) Customs has no presence at either the Brisbane or Sydney domestic terminal. See (d) above in relation to International processing.
- h) No. Customs staff did not inspect any baggage for the departing flight AO7829 on 8 October 2004.
 - i) N/A.
- i) N/A.
 - i) N/A.
- j) No.
- k) N/A.
- l) No.
 - i) N/A.
- m) N/A.
- n) See (g) above.
- o) The weighing of baggage is an airline activity in which Customs has no involvement.
 - i) N/A.
- p) Customs has received no reports from the Indonesian Customs Service/Police regarding the weight of Ms Corby's bag when she arrived in Indonesia.
- q) Customs responded on 13 October 2004 to an email request for certain information from Ms Corby's legal representatives.

In response to questions Customs advised that:

- it did not have responsibility for the security screening of baggage departing Australia;
- it had no presence at domestic airports;
- it did not routinely examine the baggage of departing passengers;
- the only interaction it had with Ms Corby on 8 October was to immigration process her out of the country at Sydney international airport; and that
- Customs could not provide advice on airline processes for through-checked baggage.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 192

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) When did Customs last consider the US CSI proposal?
- b) What was the outcome?
- c) Do Customs plan to conduct further investigations at a later date?
- d) To what extent is our current system compatible with CSI?
- e) Does Customs have any estimations of the cost of converting to CSI?
- f) Has Customs commissioned any reports on CSI? If so, please provide.
- g) To which global standards do our current systems adhere?
- h) Does Customs have any officers posted to international ports, and vice versa?
 - i) If so, how many (for both first Q and vice versa)?
- i) Does Customs have any officers posted overseas?
- j) If there were a terrorist attack in the US (resulting in the closure of US ports to non-CSI ports), would our non-CSI system be satisfactory to continue trade?
 - i) If not, has Customs contacted US Customs to ensure the continuation of trade?
 - ii) Has Customs had any other correspondence with US Customs on this issue?
- k) Has Australian Customs been approached by US Customs to implement CSI?
 - i) If so, when was it, who approached and what was the reply?

The answers to the honourable senator's questions is as follows:

- a. The Australian Customs Service (Customs) has been monitoring the US Container Security Initiative (CSI) strategy since its introduction.
- b. Customs is monitoring the development, uptake and success of security-related programs of which CSI is just one. The World Customs Organisation (WCO) is also currently preparing a framework of standards to secure and facilitate global trade. The WCO aims to finalise these standards by June this year. Australian Customs considers that it is preferable to await the finalisation of the international standards, before moving to introduce any program at a national level.
- c. See (b).
- d. The primary objective of CSI is to identify shipments considered as high risk before the cargo is loaded onto the vessel. Australian Customs electronic profiling systems and risk identification systems are similar and consistent with those systems used by the US Customs and Border Protection agency (CBP). The main differences relate to the physical presence of Customs staff in overseas ports (as part of CSI, but not the Australian response) and the timing of the information required.
- e. No.
- f. No. Customs monitors CSI developments through its Australian Customs representatives in Washington, media monitoring and regular research of literature relating to cargo security.

g. Apart from the WCO standards currently under development (referred to above) the only other relevant global standards in this area of sea cargo at present are those relating to the International Shipping and Port Security Code. Australia's response to this Code was seen in the introduction of the International Maritime Transport Security Act 2003 which introduced similar requirements.

h. No.

i. Yes – two in Washington; one in Brussels; one in Bangkok; one in Beijing; one in Tokyo; and one in Jakarta from late April 2005.

j. Australia's cargo is overall, low risk given the controls in place. US CBP are aware of our controls and have indicated support for what we are doing. That said though, no guarantees have been provided to us (or to any other country to our knowledge) that trade would continue uninterrupted.

i) N/A.

ii) Australian Customs has not had any correspondence from US Customs specifically on the subject of trade continuing under such circumstances.

k. No.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 193

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) Is image compression technology going to be used anywhere in the Smartgate facial recognition system?
 - i) Will the image data on the biometric passport be compressed?
 - ii) Will the image data on the central database be compressed?
 - iii) Will there be any other stage at which the image data is stored in a compressed format?
- b) Will the image data be stored on the biometric passport and the central database in the same format?
- c) What image compression technology is going to be used in the Smartgate system?
- d) Were any components of this technology developed in-house, or is it an entirely existing image compression technology?
- e) Is this technology lossless?
- f) What formal documentation and procedure manuals does Customs have regarding the compression technology?
- g) Has Customs received legal advice specifically relating to the use of image compression technology?
- h) How many uses has the Smartgate system recorded so far?
 - i) Is there an estimate as to how many will occur before the end of the trial?
- i) What steps have been taken to ensure that a wide range of races, ethnicities, complexions, and other facial distinctions have been used in the trial?
- j) Who were the 11 companies who submitted proposals?
- k) Who was on the evaluation committee?
- l) Why was SAGEM chosen over other tenders?
- m) Has the trial of Smartgate been extended to a second airport (i.e. Other than Sydney International Airport)? If so, which one?
- n) When will the trial be concluded?
- o) What training is needed to repair Smartgate?
- p) Is it correct that standard Customs processing time is 40 seconds per arrival? If not, what is it?
 - i) What will be the processing time when Smartgate is completely operational?
 - ii) Is a processing time recorded for the trial? If so, what is it? If not, why not?
 - iii) What will be the processing time if Smartgate fails when it is the primary system?
- q) How many failures and breakdowns have so far occurred in the trial?
- r) If a failure were to take place, how long would it take to revert to the existing manual systems?

The answer to the honourable senator's question is as follows:

- (a) The SmartGate trial facial recognition system uses image compression technology to process and store images.
 - i) Yes.
 - ii) Yes.
 - iii) Yes. The image data is compressed during all stages.

- (b) Yes.
- (c) JPEG image compression technology is being used in the current SmartGate trial.
- (d) No components of the compression technology were developed in-house. The JPEG image compression technology is an existing image compression technology.
- (e) The JPEG image compression technology is not lossless.
- (f) Customs has procedure manuals for the SmartGate facial recognition system and the ISO/IEC (International Organization for Standardization/ International Electrotechnical Committee) draft international standard for Information Technology –Biometrics - Biometric Data Interchange Formats – Part 5: Face Image Data document relating to the use of image compression technology.
- (g) No.
- (h) SmartGate facial recognition system has processed 200,000 transactions so far.
 - i) It is estimated that 240,000 SmartGate transactions will have occurred by 30 June 2005.
- (i) Customs has included passengers as well as Qantas aircrew to ensure that a wide range of races, ethnicities, complexions and other facial distinctions have been used in the trial.
- (j) Proposals were received from:
 - Kaz Technology Services Pty Ltd
 - SITA Inc
 - SAGEM Australasia Pty Ltd
 - ADI Security and Services
 - Unisys Australia Limited
 - LogicaCMG Pty Ltd
 - NEC Australia Pty Ltd
 - Damovo Australia
 - Ball Solutions Group Pty Ltd
 - Intercard Wireless Limited
 - Elite Industries Group Pty Ltd
- (k) The evaluation committee consisted of:
 - Fiona Fraser, Director Traveller Strategies, Australian Customs Service (Customs)
 - Eamonn Rooney, Director Passenger Information Technology, Customs
 - Fatime Shyqyr, Director Technical Strategies, Customs
 - Daniel Lai, Director Information Technology Security, Customs
 - Kate Walker, Director Border Technologies, Customs
- (l) SAGEM Australasia was chosen as the preferred provider as it was able to demonstrate the strongest experience and expertise with biometric applications.
- (m) The SmartGate trial was extended to Melbourne International Airport in September 2004.
- (n) The SmartGate trial is funded by the Government until 30 June 2005.
- (o) Maintenance and support of the system is provided by Customs information technology provider EDS. EDS are specifically trained to undertake this work.
- (p) Customs processing time varies depending on airport. Average processing cycle time is 45 seconds.
 - i) Processing time for SmartGate is likely to be similar to the average of 17 seconds achieved in the trial.
 - ii) Average processing time recorded for the trial is 17 seconds. This includes time taken to approach the kiosk and the passage through the gates once a successful transaction has taken place.
 - iii) In the event of any failure of the system, Customs will revert to manual processing, which averages 45 seconds per passenger.

- (q) SmartGate has been under constant development for over two years. In the course of that development Customs has not recorded systems failures separately from other issues as SmartGate is an R&D trial, not a production system.
- (r) In the event of a system outage, passengers are referred immediately to the existing manual processing system.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN INSTITUTE OF CRIMINOLOGY

Question No. 194

Senator Ludwig asked the following question at the hearing on 14 February 2005:

In relation to QoN 352 of 2 December: Which three organisations were invited to tender?

The answer to the honourable senator's question is as follows:

The three organisations that were invited to tender for the Australian Institute of Criminology conference coordination role were:

- Conference Logistics
- Conference Solutions
- Conference Coordinators

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN INSTITUTE OF CRIMINOLOGY

Question No. 195

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Identity theft kits: Did PriceWaterhouseCoopers approach the AIC in relation to research serious fraud for the kits – or did AIC approach PWC?

The answer to the honourable senator's question is as follows:

The AIC approached PriceWaterhouseCoopers with a research proposal to undertake work on serious fraud in 2000. The main report from the project was produced in 2003.

The preparation and production of the identity theft prevention kits in 2004 was undertaken by the Attorney-Generals Department not the AIC.

The AIC provided advice on the content of the kit which drew on all of its research on fraud and identity-related crime.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

Question No. 196

Senator Greig asked the following question at the hearing on 15 February 2005:

When were Australian authorities notified that Mr Habib was taken into custody in Pakistan?

The answer to the honourable senator's question is as follows:

ASIO received notification on 6 October 2001 that an Australian man had been taken into custody by Pakistani authorities. On 8 October 2001 it was confirmed that the man was Mamdouh Habib.

SENATE LEGAL AND CONSTITUTIONAL COMMITTEE
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

Question No. 197

Senator Ludwig asked the following question on 15 February 2005.

Has ASIO been asked for, or has it provided, an assessment of the threat facing commuter rail services in various states?

The answer to the honourable senator's question is as follows:

Yes. ASIO has provided such an assessment. Details are not made publicly available for reasons of national security.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 198

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Regarding the AML e-learning application:

- a) What was the name of the company involved?
- b) Was it an external consultancy arrangement or a contract that was let?
- c) Was the process a tender or an internal contract?

The answer to the honourable senator's question is as follows:

- a) The company that developed AUSTRAC's anti-money laundering e-learning application is Knowledge Platform.
- b) The arrangement between AUSTRAC and Knowledge Platform was on a contract basis.
- c) Knowledge Platform was chosen through a tender process from a group of four IT businesses/entities offering web development services.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 199

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How many compliance inspections have occurred in the last 12 months?

The answer to the honourable senator's question is as follows:

AUSTRAC carried out 86 compliance inspections between 1 February, 2004 and 31 January, 2005. There was a further 46 education visits to cash dealers during that period.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 200

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Is there an implementation date for the regulatory risk analysis system?

The answer to the honourable senator's question is as follows:

The implementation date for the AUSTRAC regulatory risk analysis system is approximately December 2005.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 201

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How much of the \$36 million allocated to AUSTRAC over four years, in last year's budget, has been expended on upgrades to the TRAQ system?

The answer to the honourable senator's question is as follows:

Of the \$36 million allocated to AUSTRAC over four years, \$8.7 million has been allocated for the 2004-05 financial year. A total of \$673,000 has been spent to 31 January 2005 on upgrades to the TRAQ system.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 202

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Do the revised FATF 40 requirements extend beyond cash dealers? Do they extend to:

- (a) Real Estate Agents
- (b) Jewellers
- (c) Lawyers and Accountants
- (d) Banking and financial services including all financial products: managed investments, superannuation, general and life insurance.

The answer to the honourable senator's question is as follows:

- (a) Yes. The FATF 40 requirements extend to real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate.
- (b) Yes
- (c) Yes. The FATF 40 requirements extend to lawyers and accountants when they prepare for or carry out transactions for their client concerning the following activities:
 - Buying and selling of real estate
 - Managing of client money, securities or other assets
 - Management of bank, savings or securities accounts;
 - Organisation of contributions for the creation, operation or management of companies;
 - Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
- (d) The Forty Recommendations extend to the following financial services:
 - Acceptance of deposits and other repayable funds from the public.
 - Lending.
 - Financial leasing.
 - The transfer of money or value.
 - Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money).

- Financial guarantees and commitments.
- Trading in:
 - (a) money market instruments (cheques, bills, CDs, derivatives etc.);
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments;
 - (d) transferable securities;
 - (e) commodity futures trading.
- Participation in securities issues and the provision of financial services related to such issues.
- Individual and collective portfolio management.
- Safekeeping and administration of cash or liquid securities on behalf of other persons.
- Otherwise investing, administering or managing funds or money on behalf of other persons.
- Underwriting and placement of life insurance and other investment related insurance.
- Money and currency changing.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 203

Senator Ludwig asked the following question at the hearing on 14 February 2005:

To date, haven't the cash reporting requirements been restricted largely to the banks that have systems in place to identify customers through a 100 point check?

The answer to the honourable senator's question is as follows:

Under the *Financial Transaction Reports Act 1988*, a range of cash dealers including providers of money transfer services, foreign exchange dealers and bullion dealers have customer due diligence and reporting obligations.

The *Financial Transaction Reports Act 1988* requires cash dealers to report suspicious transactions; significant cash transactions of \$10,000 or more or the foreign currency equivalent; and international funds transfer instructions. Solicitors are required to report to AUSTRAC cash transactions of \$10,000 or more, which are entered into by or on behalf of the solicitor in the course of his/her practising as a solicitor.

The FTR Act also requires cash dealers to verify the identity of persons who are signatories to accounts, and prohibits accounts being opened or operated in a false name. Cash dealers may identify account signatories through either an approved identification reference provided by an 'acceptable referee' or the 100 point check. Regulations provide for identification procedures for special categories of account signatories such as children or residents of remote communities.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 204

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Won't the proposed requirements impose significant new obligations and costs on a large number of persons and entities that will now come into an extended anti-money laundering regime?

The answer to the honourable senator's question is as follows:

The proposed anti-money laundering reforms will extend to an expanded range of businesses and professions. An extensive consultation process is continuing with industry representatives to design a cost effective anti-money laundering system that will meet international standards while responding to the needs of Australian industry. Three key principles will guide the implementation process:

- 1) Effective regulation must be balanced by a sensible approach to the impact on industry, including small business, and on customers;
- 2) Regulation should apply consistently across industry sectors, while acknowledging differing business practices and risk factors; and
- 3) Australia's systems and procedures should enhance our contribution to international cooperative networks and complement international measures.

Extensive consultations with a range of industry sectors including the small business sector are informing the design of anti-money laundering reforms. The Government is exploring with industry options for standardised reporting and record-keeping formats that meet the needs of law enforcement while remaining cost effective for business.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 205

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Does AUSTRAC have an estimate of new transactions the expanded FATF rules will be likely to cover in Australia?

- a) Has AUSTRAC been allocated additional funding to deal with the new transactions?
- b) If yes, how much and please provide a breakdown.
- c) If not, why not

The answer to the honourable senator's question is as follows:

The new rules will require reporting on an expanded range of transactions including the buying and selling of real estate and certain transactions with casinos, lawyers, accountants, trust and company service providers and dealers in precious metals and precious stones.

No estimates of the volume of those transactions have yet been developed. Estimates will be considered once the legislation has been settled to sufficiently define the transactions which would be covered.

- a) Not for 2004-05.
- b) Not applicable.
- c) The new legislation is not expected to come into operation in 2004-05.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 206

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Are forms of customer identification other than the 100 point check being considered?

The answer to the honourable senator's question is as follows:

As part of the Government's commitment to the FATF 40 Recommendations, the Government is considering options for customer identification.

Consultations with a wide range of industry sectors have confirmed that any new customer verification procedures should recognise both the commercial environment in which they operate and the expectations of their customers. Meeting these objectives requires considering alternatives to the 100 Point test and Acceptable Referee method.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 207

Senator Ludwig asked the following question at the hearing on 14 February 2005:

The UK is currently considering a single form of identification. Mr John Tiner, Chief Executive of the UK Financial Services Authority, who has responsibility for the UK anti money laundering laws was recently in Australia (February 2005). Did AUSTRAC have discussions with Mr Tiner and, if so, what advice did he provide in relation to customer identification?

The answer to the honourable senator's question is as follows:

AUSTRAC did not have any discussions with Mr Tiner during his recent visit to Australia.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 208

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Is customer identification going to be retrospective?

If so, has a cost benefit analysis been undertaken and how far back will the identification go?

The answer to the honourable senator's question is as follows:

FATF Recommendation 5 recommends that customer due diligence obligations apply to new customers and to existing customers on the basis of materiality and risk. The Government is considering options for applying this recommendation in the Australian context.

The objective of new customer due diligence obligations will be to ensure that customers engaging in certain activities are identified to an appropriate standard which reflects the type of customer, business relationship or transaction, while minimising the compliance burden on industry and the impact on legitimate customers.

Release of a draft exposure anti-money laundering Bill will provide an opportunity to work with industry to ensure that customer due diligence obligations are targeted and effective.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 209

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Will certain types of activity or financial products be excluded from the regime?

The answer to the honourable senator's question is as follows:

The release of the draft exposure bill will provide an opportunity to explore with industry the relative risks of different areas of activity.

The FATF 40 Recommendations contemplate the application of risk management principles and techniques to the development of effective anti-money laundering systems.

This process will identify any possible exclusions from the legislative regime.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 210

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Will the *Financial Transaction Reports Act 1988* be repealed and replaced by the proposed new legislation? Has a regulatory impact statement been prepared?

The answer to the honourable senator's question is as follows:

The Government has not yet considered the form of the exposure draft anti-money laundering bill. It would be possible to have one comprehensive bill by putting any parts of the *Financial Transaction Reports Act 1988* which are to continue into the new bill repealing the *Financial Transaction Reports Act 1988* with appropriate savings and transitional provisions.

A regulatory impact statement is in preparation.