



Australian Government
Attorney-General's Department

11/11002

20 July 2011

Ms Julie Dennett
Committee Secretary
Senate Standing Committee on
Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Ms Dennett

Clarifications and corrections to Hansard

I write concerning evidence provided by officers from the Attorney-General's Portfolio to the Senate Standing Committee on Legal and Constitutional Affairs at the Budget Estimates hearing of 25-26 May 2011.

Following the hearing, officers from the Attorney-General's Portfolio who provided evidence to the Committee reviewed the proof copies of Hansard. Consequently, I wish to submit the attached corrections to Hansard and the following clarifications on behalf of the Attorney-General's Portfolio.

Wednesday 25 May 2011

Evidence of Mr Irvine

In an exchange with Senator Ludlam regarding the referral of complex security checks, on page 75 of the transcript Mr Irvine stated "The first was that ASIO would refer to us for complex security checking..."

The Australian Security and Intelligence Office (ASIO) wishes to clarify that Mr Irvine meant to say that the Department of Immigration and Citizenship (DIAC) refers to ASIO for complex security checking.

Evidence of Mr Govey

In an exchange with Senator Pratt regarding pro bono work by the Australian Government Solicitor (AGS), on page 107 of the transcript Mr Govey stated that the national manager of the AGS pro bono program is based in Melbourne.

The AGS wish to clarify that the national manager is based in Brisbane.

Evidence of Mr Wilkins

In an exchange with Senator Fielding regarding security checks for Attorney-General's Department staff, on page 110 Mr Wilkins referred to the Document Verification Service (DVS) initiative and gave examples of its use by stating:

It gives the possibility, for example, where if you were a bank, and you were looking at the name and identity of a person opening a bank account, to check with the RTA or maybe foreign affairs and ask, 'Is there such a person for whom you have issued a passport? Is there such a person for whom you have issued a registration certificate for a car?' It does not mean drilling down into their privacy, but it is a means of verification.

The Attorney-General's Department wishes to clarify that the DVS does not verify registration certificates for cars.

Thursday 26 May 2011

Evidence of Mr Negus

In an exchange with Senator Brandis regarding the \$500,000 worth of free community messaging with Channel Nine, on page 37 of the transcript Mr Negus stated that the draw on the \$500,000 had not commenced at the time of the hearing.

The AFP wishes to clarify that the draw on the \$500,000 had commenced at the time of the hearing, with a total of \$23,170 having been spent in May 2011.

Evidence of Mr Negus

In an exchange with Senator Brandis regarding Australian Federal Police (AFP) project funding, on page 66 of the transcript Mr Negus stated that the Australian Illicit Drug Data Centre is funded entirely out of the confiscated assets trust fund.

The AFP wishes to clarify that the Australian Illicit Drug Data Centre is largely funded from AFP base funding, however it operates two major projects which are funded under the Proceeds of Crime Act Confiscated Assets Scheme (POCA):

- the Enhanced National Intelligence Picture on Illicit Drugs; and
- the National Drug Precursor Risk Assessment Capability.

The total POCA funding for these two projects for the 2011-2012 financial year is \$1,718,558. In addition, the Australian Illicit Drug Data Centre will receive approximately \$2,780,000 for its operating costs in the 2011-2012 financial year from the AFP's base budget.

Please refer to the response to Question on Notice number 49 for further information on this matter.

Evidence of Ms Kelley

In an exchange with Senator Barnett regarding square nautical mile coverage for aerial surveillance, on page 93 of the transcript Ms Kelley stated, 'This year it was 145 square nautical miles and next year it will be 140 square nautical miles.'

Customs and Border Protection wishes to clarify that aerial surveillance coverage in 2010-11 for all aircraft, including the RAAF AP3-C, was forecast at 145 *million* square nautical miles, reducing to 140 *million* square nautical miles in 2011-12.

On page 94 of the transcript, Senator Barnett stated 'So 445 square nautical miles is going down to 140.' Ms Kelley responded 'Yes.'

Customs and Border Protection wishes to clarify that forecast aerial surveillance coverage is reducing from 145 *million* square nautical miles to 140 *million* square nautical miles.

Evidence of Mr Mann

In an exchange with Senator Barnett regarding staffing numbers for the Trade Measures Branch for the 2010-11 financial year, on page 100 of the transcript Mr Mann stated, "...at the beginning of this financial year, 2010-11, the funded level was 29 FTE."

Customs and Border Protection wishes to clarify that at the beginning of the financial year 2010-11, the number of staff in Trade Measures Branch was 29.

In an exchange with Senator Trood regarding Tariff Concession Orders (TCOs), on page 106 of the transcript Mr Mann stated, "I am aware, though I do not have the details here tonight, of some instances where we have found revoked TCOs still being accessed." Mr Mann then offered to provide the Committee with further particulars on this matter.

Customs and Border Protection wishes to advise that once the CEO makes a decision to revoke a TCO, the Integrated Cargo System is updated immediately. Once updated, it is not possible for an importer to claim duty concessions under that TCO, except where in-transit provisions apply (that is, the importer can demonstrate that their goods were already on their way to Australia).

Compliance checks on the use of TCOs occur through post transaction audits and sampling of import declarations. Customs and Border Protection may also detect incorrect use of TCOs through reviews of past TCO decisions and information provided by industry.

In 2010-11, Customs and Border Protection undertook additional compliance activity in respect of TCOs. This activity targeted incorrect use of in-transit provisions for revoked TCOs, or use of TCOs in the period between commencement of a revocation process, which the Agency notifies in the *Commonwealth of Australia Gazette*, and the decision to revoke the TCO. In many cases, revocation will take effect from the date that the process commenced. In these cases, importers who claimed duty concessions during that period become liable for the duty.

As at 30 June 2011, Customs and Border Protection had recovered over \$660,000 in revenue from these additional compliance activities.

Evidence of Mr Johannes

In an exchange with Senator Trood regarding industry consultation for TCOs, on pages 107-108 of the transcript Mr Johannes stated, "There is a 30-day period and then if the application is justified a decision to grant the TCO is made and people then have a prescribed period by which they can lodge an objection."

Customs and Border Protection wishes to clarify that the *Customs Act 1901* provides that, within 28 days of receiving a TCO application, the CEO must decide whether to accept the application as valid. If the CEO accepts the application, Customs and Border Protection will publish a notice in the *Commonwealth of Australia Gazette* to that effect, informing potential Australian manufacturers of substitutable goods of the application and providing them with 50 days to object to the application. The CEO has 150 days from the date of gazettal of the notice of intention to make a TCO to decide if the application meets the legislated criteria governing the making of a TCO.

The action officer for this matter is Anna Gordon who can be contacted on (02) 6141 2559.

Yours sincerely

Simon Kelly
A/g Director
Legislation and Parliamentary Liaison Section