

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE

**Question No. 211**

**Senator Ludwig asked the following question on 2 December 2004:**

- a) Does the ACS maintain a record of all foreign flagged vessels that have been detected in Australia's Territorial Sea who have not sought appropriate authorisation from Australian authorities?
- b) If not why does ACS not maintain such a record?

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

See the answer to Question No. 210.

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**Question No. 212**

**Senator Ludwig asked the following question on 2 December 2004:**

If so have any foreign flagged vessels been detected in Australia's Territorial Sea without seeking appropriate authorisation, been detected more than once since 1996?

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

See the answer to Question No. 210.

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**Question No. 213**

**Senator Ludwig asked the following question on 2 December 2004:**

Please supply a list of foreign flagged vessels that have been detected in Australia's Territorial Sea without seeking appropriate authorisation more than once since 1996, the name of that vessel, the date it was detected, any action initiated by the ACS in relation to the vessels presence in the Australian Territorial Sea.

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

See the answer to Question No. 210.

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**Question No. 214**

**Senator Ludwig asked the following question on 2 December 2004:**

Do the crew on the Bay class Customs launches receive training specifically directed at boarding vessels with the consent of those vessels?

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

This question was previously asked as Parliamentary Question on Notice 2642 on 2 March 2004 and was answered on 24 March 2004. The answer is unchanged.

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**Question No. 215**

**Senator Ludwig asked the following question on 2 December 2004:**

Is this training given by Customs? Was the training package for this role designed by Customs? If not, who designed the training package?

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

This question was previously asked as Parliamentary Question on Notice 2642 on 2 March 2004 and was answered on 24 March 2004. The answer is unchanged.

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**Question No. 216**

**Senator Ludwig asked the following question on 2 December 2004:**

Do the crew on these launches receive training specifically directed at boarding vessels without the consent of those vessels?

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

This question was previously asked as Parliamentary Question on Notice 2642 on 2 March 2004 and was answered on 24 March 2004. The answer is unchanged.

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**Question No. 217**

**Senator Ludwig asked the following question on 2 December 2004:**

Is this training given by Customs? Was the training package for this role designed by Customs? If not, who designed the training package?

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

This question was previously asked as Parliamentary Question on Notice 2642 on 2 March 2004 and was answered on 24 March 2004. The answer is unchanged.

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**Question No. 218**

**Senator Ludwig asked the following question on 2 December 2004:**

- a) How many crew do each of the Bay class Customs launches carry?
- b) Are these crew individually armed?
- c) If so, what armament do they carry?
- d) Are the Customs launches armed?
- e) If so, what armament is this?
- f) Is the supply of ammunition for these weapons contracted out to agencies or companies outside Customs?
- g) Is the maintenance of these weapons contracted out to agencies or companies outside Customs?
- h) If not, what is the annual cost of arming and maintaining the armament upon these Customs launches?

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

This question was previously asked as Parliamentary Question on Notice 2642 on 2 March 2004 and was answered on 24 March 2004. The answer is unchanged.



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**Question No. 219**

**Senator Ludwig asked the following question on 2 December 2004:**

How many Container Examination Facilities are now operational around Australia?

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

There are four container examination facilities currently operational around Australia. More detail is provided in the response to Question on Notice No. 145.

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**Question No. 220**

**Senator Ludwig asked the following question on 2 December 2004:**

I refer the Minister to his answer to Question on Notice Number 2642 where he stated:

“Customs National Marine Unit (NMU) seagoing crewmembers onboard Bay Class Australian Customs Vessels (ACVs) receive initial and annual Use of Force training which prepares them to conduct vessel boardings. This training prepares them to undertake ‘compliant’ (consensual) and ‘unco-operative’ boardings only. Current policy does not allow NMU seagoing crewmembers to board vessels considered ‘hostile’. Hostile boardings are those that surpass both compliant and unco-operative boardings where a target vessel’s crew or others onboard are acting in an overtly hostile manner. In essence a hostile boarding can be described as one where the use of force, including lethal force, in order to secure control of a vessel during a boarding may be expected. NMU Use of Force policy and training is designed so that officers are prepared to deliver Use of Force options in self-defence situations, where they may be called upon to defend themselves or others they are protecting.”

- a) Who makes the final decision regarding the status (compliant/unco-operative/hostile) of a vessel of interest to the ACS?
- b) If a hostile vessel is a vessel carrying crew that is acting in a hostile manner what sought of behaviour or actions or activities are characterised as “hostile”?
- c) What are examples of behaviour that has been judged to be “hostile” for the purpose of the determining the status of a vessel of interest to the ACS?
- d) If a “hostile” boarding is characterised as a boarding where the use of force may be expected what actions, behaviour, activity, constitute “use of force.”
- e) Is the suspected presence of weapons of any description necessary for a decision that the use of force may be expected?
- f) What are examples of indicators, activity, behaviour or action that has lead to the ACS to decide the use of force may be expected in the boarding of a vessel?
- g) Is it necessary for “lethal force,” to be expected for a vessel to be declared “hostile” or is an expectation of the “use of force,” sufficient?
- h) How many “unco-operative,” vessels have been boarded by seagoing crew members of the NMU of the ACS for each of the reporting years since 1996?
- i) How many vessels have been declared as “hostile,” by the ACS for each of the reporting years since 1996?
- j) What was the date, location, and suspected unlawful activity of all “hostile” vessels identified by the ACS since 1996?
- k) What is the protocol followed by the ACS if a vessel of interest is declared a “hostile” vessel?

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

- a) The Commanding Officer onboard the ACV at the scene, makes the final decision regarding the classification, for boarding purposes, of a vessel of interest.
- b) Behaviour, actions or activities characterised as hostile may include but are not limited to the brandishing or use of weapons or other items that may present a serious level of threat of injury to members of a Customs boarding party or any other person.
- c) Examples have included dangerous evasive manoeuvring by a vessel of interest, attempts at scuttling a vessel of interest by crew onboard and the brandishing of weapons (machetes) by crewmembers onboard vessels of interest.
- d) Force is defined as any verbal command or physical application to gain subject control. Actions, behaviour or activities that can constitute Use of Force include officer presence, cordon and containment (of a scene) and a variety of less than lethal options such as use of batons, sprays, hard and soft empty hand techniques and finally, use of lethal force – firearms.
- e) No, the suspected presence of weapons does not necessarily lead to a decision that use of force may be expected. For example, weapons could be secured in containers and are only being transported.
- f) The demonstration of anger by personnel onboard when given instructions, dangerous evasive manoeuvring by a vessel of interest and the brandishing of weapons (machetes) by crewmembers onboard vessels of interest.
- g) An expectation of 'Use of Force' can be sufficient.
- h) No unco-operative boardings were reported during the period 1996 to 2002. Three unco-operative boardings occurred in 2003 and five unco-operative boardings in 2004.
- i) Since 1996, only one vessel has been declared as 'hostile' and this occurred in 2004.
- j) On 19 November 2004, the ACV *Holdfast Bay* intercepted a Foreign Fishing Vessel (FFV), East of Ashmore Islands, approximately two nautical miles (nm) North of the Provisional Fisheries Surveillance Enforcement Line and 38 nm South of the Australian Exclusive Economic Zone boundary. The FFV was suspected of involvement in an illegal fishing activity.
- k) If an ACV Commanding Officer declares a vessel of interest as 'hostile', this is reported to the relevant mainland authorities and the ACV monitors the vessel of interest until direction from higher authority ashore is provided. If the decision is taken to board a hostile vessel, support from Federal or State Police Special Operations/Tactical Response Teams or specialised Australian Defence Force personnel is required.

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**Question No. 221**

**Senator Ludwig asked the following question on 2 December 2004:**

In respect of current customs projects can you outline the current position in respect of the CMSO4 project?

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

The CMSO4 Request for Tender closed on 11 November 2004. Tenderer responses are now being evaluated.

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**Question No. 222**

**Senator Ludwig asked the following question on 2 December 2004:**

Could you provide an update and costing of the trade modernisation legislation specifically looking at the cargo management re-engineering or CMR and whether there is any alteration to the roll out dates or implementation phases?

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

The cost of the Cargo Management Reengineering (CMR) project to 30 June 2004 was \$149m. Further costs will be incurred in 2004-05 in relation to the development and transition activity. The total development and implementation costs to the point of the imports cutover is expected to be close to \$188m. This represents approximately \$133m relating to a range of activities including Integrated Cargo System (ICS) development, CMR project management, implementation & training costs, system/functionality specification, development of the Trade Modernisation legislation, communication, etc. These costs include contract payments, staff costs, industry training, publications, and infrastructure support). In addition, the Customs Connect Facility (CCF) development and contract costs are expected to total approximately \$55m.

A further \$12m is budgeted to be spent in 2004-05 in relation to the operation and support of the new systems and a further \$4m is budgeted to be spent in maintaining and operating legacy systems.

Release 2 (exports) of the CMR project took place on 6 October 2004. The imports component (Release 3) is built and has been undergoing industry testing since November 2004. The cutover to imports is planned for the first half of 2005, but not before 01 April 2005.

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**Question No. 223**

**Senator Ludwig asked the following question on 2 December 2004:**

For the cost overruns on the development of the Integrated Cargo System, what is total value of the overrun?

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

The principal contract in relation to the development of the Integrated Cargo System is with Computer Associates. In February 2002, a \$29.7 million contract was signed with Computer Associates for the ICS component of the project. In February 2003 there was a contract variation of \$15.4 million for the ICS component, a reflection of the immense complexity of the project.

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**Question No. 224**

**Senator Ludwig asked the following question on 2 December 2004:**

Has the department performed an analysis on the makeup of this figure? If so, can the Department provide the analysis? Can Customs please provide a) details of each component of the overrun, b) the dollar value of that component and c) what percentage of the total cost overrun that component comprises?

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

See answer to Question 222.