

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 248

Senator Ludwig asked the following question on 2 December 2004:

In respect of 2 legislative reviews that were conducted during the 2003-04 years can you advise of the outcome in respect of the Proliferation Security Initiative?

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

The Attorney-General's Department continues to monitor the legislation.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 249

Senator Ludwig asked the following question on 2 December 2004:

In respect of a review of port maritime security which is taking place under the direction from the Secretary's committee on national security (SCNSS) which is to identify issues in the maritime security environment that were not covered by the maritime transport security act 2003.

Can you advise of the outcome of that security review and whether in respect to those reviews whether there was any proposed legislation or issues that need to be addressed as a consequence of those reviews?

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

Customs received additional funding to:

- maintain first port boarding of commercial vessels at 75% to 80%;
- increase the operating hours of the Container Examination Facilities;
- extend the Closed Circuit Television network to all ports; and
- examine the development and implementation of a standardised data set for whole of government reporting.

None of these required legislative change.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 250

Senator Ludwig asked the following question on 2 December 2004:

In respect to proceeds of crime legislation, could Customs outline how many investigations they have initiated under the proceeds of crime legislation and what the outcome of each has been in relation to those investigations and to date how much revenue has customs restrained in both assets, cash and private residences and whether any the restrained goods have been forfeited to the Commonwealth and the amount thereof in \$ value?

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

The *Proceeds of Crime Act 2002* came into operation on 1 January 2003. Prior to the *Proceeds of Crime Act 2002* coming into operation, Customs proceeds of crime actions were not specifically identified.

During the period 1 January 2003 to 15 December 2004, Customs initiated 18 *Proceeds of Crime Act* investigations. As at 15 December 2004, three had been terminated and the remaining 15 are under active investigation.

The Commonwealth Director of Public Prosecutions (DPP) maintains a register of restrained and forfeited assets. At the current time the register does not differentiate between the restrained asset classes (cash, private residences and other).

The DPP advises that for Customs, under the *Proceeds of Crime Act 1987* and *Proceeds of Crime Act 2002* as at 15 December 2004:

- The value of restrained assets under both proceeds of crime actions was \$19,128,794;
- The value of assets forfeited and/or subject of Pecuniary Penalty Orders under both proceeds of crime actions was \$3,667,493; and
- The sale of forfeited assets by Insolvency and Trustee Service Australia has realised \$1,938,383.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 251

Senator Ludwig asked the following question on 2 December 2004:

In respect to the Waterfront Taskforce in Melbourne can Customs outline the result of the Taskforce and total cost of the exercise including any consequential prosecutions or infringement notice issued as a consequence of the Waterfront Taskforce?

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

Since the inception of the Customs Waterfront Taskforce more than 15 persons with suspected criminal association have resigned from employment at the waterfront. One person has been charged with state drug offences; two penalty records have been issued; two non-compliance records made and two warning letters issued. Other results include improvements in compliance, State and Federal police and Customs working arrangements and stevedore human resource management.

Customs staffing cost was approximately \$ 92,000.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 252

Senator Ludwig asked the following question on 2 December 2004:

In respect of the equity injection of \$43 million of which the Annual Report on page 8 indicates that \$35 million was utilised, the balanced was that returned to the Commonwealth or was it retained by customs for use and has it subsequently been spent and what was it spent on?

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

Customs utilised \$35.3m of the conditional equity injection referred to on page 8 of the Annual Report. The review of Customs financial position determined that Customs retain the remaining \$7.7m.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 253

Senator Ludwig asked the following question on 2 December 2004:

In respect of the equity injection of \$43 million of which the Annual Report on page 8 indicates that \$35 million was utilised, the balanced was that returned to the Commonwealth or was it retained by customs for use and has it subsequently been spent and what was it spent on?

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

Customs utilised \$35.3m of the conditional equity injection referred to on page 8 of the Annual Report. The review of Customs financial position determined that Customs retain the remaining \$7.7m to be utilised during the 2004-05 year to assist with the funding of the development and implementation of the CMR project."

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 254

Senator Ludwig asked the following question on 2 December 2004:

Customs will provide a total of \$114.4 million to be transferred from the Department of Immigration, Multicultural and Indigenous Affairs for Coastwatch. Can you outline the agreement that provides for that payment? Can you advise what it is used for?

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

The 2004-05 Portfolio Budget Statement refers to the transfer of funding of \$114.4m over 4 years from the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) to Customs. This follows agreement between Ministers to transfer to Customs funding previously provided to DIMIA for surveillance services performed by Customs.

The effect of this transfer is that now the funding is directly appropriated to Customs rather than being appropriated to DIMIA and then on-paid to Customs through a Section 31 agreement as was the previous arrangement. This transfer reflects a change in administrative arrangement and does not alter the level of funding received by Customs for these activities.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 255

Senator Ludwig asked the following question on 2 December 2004:

- a) How many foreign illegal fishing vessels were sighted in Australian waters by the ACS between 1st March and 1st December 2004?
- b) Of these vessels, how many were positively identified as illegal fishers?
- c) Of these vessels, how many were apprehended by customs?
- d) Of these, how many crew members were detained?
- e) How many such crew were subsequently released by authorities?
- f) How many such vessels were subsequently released by authorities?

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

- a) There were 5271 reported sightings of Foreign Fishing Vessels (FFVs) within the Australian Exclusive Economic Zone (AEEZ) between 1st March 2004 and 1st December 2004. As the majority of these vessels carry no distinguishing markings, this figure includes multiple sightings of the same vessel by various Coastwatch aircraft. It will also include traditional vessels fishing legally and vessels transiting legally through the AEEZ.
- b) 271
- c) 64 FFVs were apprehended by Customs National Marine Unit (NMU). In addition, the NMU undertook 46 legislative forfeitures of catch and equipment and issued 21 cautions.
- d) Customs does not keep this figure. This question would be better directed to the Minister for the Department of Agriculture, Fisheries and Forestry - Australia
- e) Customs does not keep this figure. This question would be better directed to the Minister for the Department of Agriculture, Fisheries and Forestry - Australia
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SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 256

Senator Ludwig asked the following questions on 2 December 2004:

- a) On what date did the ACS launch an inquiry into an application by Australian olive growers for an offsetting duty to be imposed on imported olive oil from the European Union?
- b) On what date was the ACS due to report the findings of this inquiry to the Federal Minister for Customs?
- c) On what date did the ACS discontinue or otherwise cease this inquiry?
- d) For what reason(s) did the ACS discontinue or otherwise cease this inquiry?

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

- a) The investigations into olive oil allegedly dumped and or subsidised, and exported from Italy Greece and Spain were initiated on 12 and 17 November 2003 following applications made by Inglewood Olive Processors Ltd (Inglewood) on behalf of Australian industry producing like goods.
- b) The CEO of Customs was due to report to the Minister on 25 May 2004. This followed approved from the Minister to an extension of time to place the statement of essential facts on the public record.
- c) The investigations were terminated on 24 May 2004, after Customs considered the submissions in response to the statement of essential facts.
- d) Customs examined exports of olive oil during the period 1 October 2002 to 30 September 2003 (the investigation period) to determine whether dumping and/or countervailable (actionable) subsidy or subsidies were extant. Customs examined data for the period 1 July 1999 to 30 September 2003 (the injury period) to determine the extent of any injury to the Australian industry.

Customs investigations found that:

- there is an Australian industry producing like goods to the goods under consideration;
- the Australian industry has suffered injury;
- in respect of Greece Italy and Spain, there was a subsidy paid to olive growers in respect of olive oil - known as production aid;
- a quantity of olive oil exported from Greece, Italy and Spain to Australia over the investigation period was sourced from outside of the European Union (EU). It did not qualify for production aid and is not countervailable;
- the production aid paid to olive growers does not confer a benefit in respect of the olive oil exported to Australia;
- there was dumping in respect of olive oil Italy and Spain; but
- there no causal link between the goods sold at dumped prices and injury to the Australian industry.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 257

Senator Ludwig asked the following question on 2 December 2004:

Did the ACS require an additional \$43 million in funding from the Commonwealth Government during the 2002-03 financial year?

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

The \$43m referred to in this question appears to be the capital injection that was provided to Customs in the 2003-04 financial year. No such additional funding was provided in the 2002-03 financial year.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 258

Senator Ludwig asked the following question on 2 December 2004:

- a) Did the ACS require any additional funding from the Commonwealth Government during the 2003-04 financial year?
- b) If so, what was the magnitude of this additional funding?

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

No, other than the \$35m referred to in question 253.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 259

Senator Ludwig asked the following question on 2 December 2004:

- a) Has any funding to any service, program, operation or other activity within the ACS been affected by any shortfall in funding in the 2002-03 and 2003-04 financial years?
- b) If so, which such services, programs, operations or activities were so adversely affected?
- c) What was the magnitude of any such funding shortfall for those particular services, programs, operations or activities?
- d) Has there been any investigation or report concerning the finances of the ACS?
- e) If so, what are the results of any such investigation or report?

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

- a) Customs reported operating surpluses in 2002-03 and 2003-04. Consequently Customs has been receiving sufficient funding to carry out its day-to-day activities without compromising operational performance.
- b) N/A
- c) N/A
- d) Customs underwent a Department of Finance and Administration led review of its financial position.
- e) The report recommended Customs be provided an additional \$75.1m in ordinary appropriation over four years (\$24.8m in 2004-05, \$19.5m in 2005-06, \$17.2m in 2006-07 and \$13.6m in 2007-08), along with an additional \$18.8m in equity injections (\$18.5m in 2004-05 and \$0.3m in 2005-06). These recommendations have been agreed to by government and the additional funding will be reflected in Customs Portfolio Additional Estimates Statements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 260

Senator Ludwig asked the following question on 2 December 2004:

How many positions within Coastwatch were properly filled on 1st December 2004?

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

All Customs Coastwatch positions are filled in accordance with Australian Public Service legislation and guidelines. As at 1 December 2004, 65 positions were occupied. Three of these positions were occupied by staff on higher duties pending the outcome of selection processes.

A number of the vacancies exist as a result of promotions and transfers arising from recent whole of Customs recruitment and selection activity. Vacant Coastwatch positions were advertised on 11 November 2004.

The Prime Minister's announcement on 15 December on the formation of a Joint Offshore Protection Command provided funding for further positions. A number of these new positions will be filled from the November selection process.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 261

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How many positions within Coastwatch were properly filled on 1st December 2004?

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

All Customs Coastwatch positions are filled in accordance with Australian Public Service legislation and guidelines. As at 1 December 2004, 65 positions were occupied. Three of these positions were occupied by staff on higher duties pending the outcome of selection processes.

A number of the vacancies exist as a result of promotions and transfers arising from recent whole of Customs recruitment and selection activity. Vacant Coastwatch positions were advertised on 11 November 2004.

The Prime Minister's announcement on 15 December on the formation of a Joint Offshore Protection Command provided funding for further positions. A number of these new positions will be filled from the November selection process.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN FEDERAL POLICE

Question No. 262

Senator Greig asked the following question on 2 December 2004:

I refer to the Australian Federal Police (AFP) investigation in relation to an allegation of electoral bribery made by the Member for New England, Mr Tony Windsor MP. Please provide the standard operating procedures or guidelines which governed the conduct of that investigation.

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

AFP investigations are conducted within a corporate governance and investigation methodology framework. This framework includes national operations policy, national guidelines, practical guidelines, Commissioner's orders and management of serious crime methodology. The framework also includes the AFP case management system and advisory guidelines from the Commonwealth Director of Public Prosecutions. The investigation of the electoral bribery allegation was conducted within this framework.