

Senate Legal and Constitutional Legislation Committee

Inquiry into the provisions of the Customs Amendment Legislation (Border Compliance and Other Measures) Bill 2006

PUBLIC HEARING

WEDNESDAY, 27 APRIL 2006

Questions on Notice

Question 1 (Mr Peter Howell – Australian Federal Police - p.32, *Proof Hansard*)

CHAIR—Can you tell the committee whether the protections that are conferred by schedule 6 on Customs officers are similar to protections provided to AFP officers?

Mr Howell—My understanding is that, in these sorts of circumstances, the AFP has a different role in the first instance, and the protections that are provided within the Criminal Code offences seem to be ones that suit the AFP role.

CHAIR—I see. I suspect, having told us what you have about the process, that it is not a question you can answer but let me just ask: in terms of a joint AFP-Customs operation that may involve the handling of serious narcotics and the sorts of things that are envisaged to be dealt with under schedule 6, does the AFP have a view as to whether these protections are necessary to facilitate a joint operation of that nature?

Mr Howell—My understanding is that this amendment was really, as was pointed out in the explanatory memorandum, to do with drug detection dogs. I am not sure if my colleagues from Customs can clarify that any further—

CHAIR—That is fine. I have read that.

Mr Howell—In terms of joint operations, I am happy to take it on notice to give you a bit more of a definitive answer, but our joint operations with the Customs organisation is governed by a memorandum of understanding. From my limited understanding, that would really fall within the area of control operations, and the AFP would be operating under a controlled operations certificate.

Answer

The AFP and Customs have established a number of memorandums of understanding to govern their working relationships. These are designed to provide a structure that recognises the different roles of each agency, the range of situations in which they will need to work together including formalised joint operations led by either the AFP or Customs.

The AFP understands that the amendment proposed in Schedule 6 of *the Customs Amendment Legislation (Border Compliance and Other Measures) Bill 2006* is not required to facilitate joint AFP-Customs operation for either AFP or Customs officers.

For joint AFP –Customs operations that involved the interception of prohibited items at the barrier, the AFP would seek a controlled operations certificate where one was required. The controlled operations certificate would protect Customs officers whose role was more than allowing the suspect goods to pass through the Customs barrier without inspection.