

Ref No:

5 February 2007

The Chair
The Senate Standing Committee on Legal and Constitutional Affairs
Senate
Parliament House
CANBERRA ACT 2600

Dear Sir / Madam

Re: Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006

Reference is made to the Senate Standing Committee on Legal and Constitutional Affairs (the Committee) hearing of 22 January 2007 on the Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006 (the Bill) and the Proof Committee Hansard¹ and comments provided by the Australian Customs Service (Customs) in relation to certain parts of the Customs Brokers & Forwarders Council of Australia Inc. (CBFCA)'s submission to the Committee.

While not privy as to the Customs submission (including the referenced Attachment A) to the Committee as to licensed customs broker nominee issues there was an understanding of the CBFCA (as to its letter of 8 August 2006) that Customs would initiate discussions on the issue by way discussion or otherwise as the CBFCA noted:

"... Customs has sought to amend legislation that restricts the nominee to be employed by one brokerage at a time."

To this end Customs had advised that it was in the process of amending legislation and as such it would have been anticipated as the instigator of same that the issue be driven by Customs.

The issues that were raised in the CBFCA submission to the Committee were as the result of correspondence of 8 November 2006, received from Customs, when the Exposure Draft was provided *In Confidence* to the CBFCA and the licensed customs broker nominee issue referenced.

The position espoused by Customs in terms of the legislative change:

"... that it put in place a request of the CBFCA as a result of continuing representation over many years."

is not agreed by the CBFCA.

¹ Proof Committee Hansard L&CA P 8/9

The CBFCA, from a review of its files relating to customs brokers licensing arrangements, has not requested from Customs this process change as it relates to nominee licensed individual customs brokers.

Perhaps in relation to the question posed by Senator Ludwig, the response may have reflected some other entities request.

As to the Customs response to Questions posed by Senator Ludwig the following comments are provided as to the Questions on Notice.

Question 11: Senator Ludwig

As to the consultation in relation to updated broker licensing arrangements while the CBFCA acknowledges that correspondence and meetings have occurred with Customs over fifteen (15) years on a variety of matters relating to individual and corporate customs brokerage arrangements no record is held on CBFCA files as to a meeting between the parties in 2004 to specifically address licensed customs brokers locum issues.

The CBFCA has not, as part of its policy on this issue, sought a change in locum arrangements as referenced in the answer to the Question where it is stated:

"...the change will remove the existing cumbersome arrangement and has been requested by industry for several years."

As to what may constitute "*industry*" appears an issue in question however as the peak industry association representing customs brokers, at both individual and corporate level, and providing the industry representative to the National Customs Brokers Licensing Advisory Committee (NCBLAC) it would have been assumed that consultation with the CBFCA on the issue may have been appropriate.

Should you wish to further discuss this issue, please do not hesitate to contact me.

Kind regards

STEPHEN J MORRIS
Executive Director