

The Senate

Rural and Regional Affairs and
Transport Legislation Committee

Provisions of the Border Protection
Legislation Amendment (Deterrence
of Illegal Foreign Fishing) Bill 2005

May 2005

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Terms of Reference

Referred by the Senate on 9 March 2005 on the adoption of the Selection of Bills Committee Report No. 2 of 2005:

The provisions of the Border Protection Legislation Amendment (Deterrence of Illegal Foreign fishing) Bill 2005 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 10 May 2005.

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Chapter 1

Introduction

Conduct of Inquiry

1.1 The Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005 was introduced into the House of Representatives on 17 February 2005 and passed on 17 March 2005.

1.2 On 9 March 2005 the bill was referred to the Rural and Regional Affairs and Transport Legislation Committee on the recommendation of the Senate Selection of Bills Committee. In referring the bill the Selection of Bills Committee gave two principal issues for consideration –

- The provisions enabling contract employees, rather than State or Commonwealth officers, to confiscate property and to exercise search powers, including strip searches and the associated accountability mechanisms; and
- The appropriateness of the detention regime, including possible length of imprisonment.

1.3 The Committee advertised this inquiry in *The Australian* on 16 March and 30 March 2005. The Committee also approached a number of interested organisations to provide evidence at a public hearing. The hearing took place on 17 March 2005 and witnesses are listed at Appendix 1. The Committee received two written submissions (see Appendix 2).

1.4 The Committee's evidence and submissions are available through the parliament's homepage at <http://www.aph.gov.au>

Acknowledgements

1.5 In view of the brevity of the inquiry, the Committee appreciates the time and work of those who provided oral and written evidence to the inquiry. Their work has assisted the Committee's deliberations on this bill.

The bill

1.6 The principal purpose of the bill is to strengthen the existing legal framework dealing with illegal foreign fishing within the Australian Fisheries Zone (AFZ) and the Torres Strait Protected Zone. The proposed amendments are designed to ensure that

breaches of the fishing rights by illegal foreign fishers in all areas of Australia's maritime jurisdiction are more efficiently managed.¹

1.7 The bill proposes amendments to three existing Acts - the *Fisheries Management Act 1991* (Fisheries Act), the *Torres Strait Fisheries Act 1984* (Torres Strait Act) and the *Migration Act 1958* (Migration Act).²

1.8 Under the Fisheries Act the Australian Fisheries Management Authority (AFMA) has the power to intercept and prosecute suspected illegal foreign fishers in the waters within the AFZ. The Torres Strait Act enforces Australia's international obligations in the Torres Strait Protected Zone, which is a "zone of joint fisheries jurisdiction"³ with Papua New Guinea. The *Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as the Torres Strait, and Related Matters* (Torres Strait Treaty) provides for the joint fisheries jurisdiction. The proposed amendments are consistent with the Torres Strait Treaty.

1.9 Currently, there are some inconsistencies in the provisions for dealing with suspected illegal foreign fishing in the two zones under the Fisheries Act and the Torres Strait Act. Broadly, the amendments proposed in the bill to these two Acts will ensure that the policing of the illegal fishing in the AFZ and the Torres Strait is undertaken by officers with similar powers and responsibilities. The amendments also:

... clarify that an officer controlling a boat, using powers conferred by either of these Acts, is not unlawfully restraining the liberty of any of the people that are on the boat.⁴

1.10 Consistency between the two Acts will be further achieved by the amendments proposed to the Torres Strait Act relating to automatic forfeiture of boats.⁵

1.11 The amendments to each Act also provide for a "fisheries detention regime that is broadly consistent with current immigration detention arrangements."⁶

1 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 3

2 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 3

3 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 3

4 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 3

5 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 4

6 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 3

1.12 One of the aims of the new fisheries detention regime is to facilitate a "seamless transfer of detainees from fisheries to immigration detention."⁷ There are two primary sets of amendments to contribute to this outcome – the provision of a new class of officer to exercise limited powers⁸ and the amendments to enable:

... fisheries officers to exercise the same powers in relation to searches and screening of people to those that currently exist for people detained as unlawful non-citizens in an immigration detention facility.⁹

1.13 The new class of officer are to be appointed by the Minister. The officers can include both employees and contractors employed by either AFMA or the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Currently contractors are employed by DIMIA and preform duties under the Migration Act. Under the proposed amendments these contract employees will be permitted to "perform fisheries detention functions under fisheries legislation."¹⁰ AFMA also have contract employees performing duties under fisheries legislation and these powers will continue.

1.14 The amendments propose the extension of powers to fisheries officers to search and screen people, include the capacity to conduct searches, strip searches and screening of persons.¹¹ The amendments are included in items 13 and 20 of the bill. Searches can be conducted to find a weapon or evidence of certain prescribed offences and no warrant is required. Proposed sections 17 and 18 set out the provisions relating to strip searches with section 18 detailing the rules for conducting a strip search. The Minister for Agriculture, Fisheries and Forestry in his second reading speech indicated that:

These powers will provide the necessary protection to officers and other detainees, as it will allow them to remove any weapons that a person may be concealing.¹²

1.15 In line with the existing provisions of the Migration Act, the bill also proposes that officers have the power to collect personal identity information from detainees. This information can include a number of personal statistics such as height and

7 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 4

8 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 4

9 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 5

10 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 4

11 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 5

12 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 5

weight, but can also include fingerprints and handprints, an iris scan and anything prescribed by regulation so long as it does not include procedures to intimate areas of the body or blood or saliva (proposed new section 26). The purposes of the identification process are spelt out in the legislation (proposed subsection 26(3)) and the Minister informed the House that the purpose was to identify "repeat offenders" and factor "this into their prosecution."¹³

1.16 To further strengthen the regulatory regime for illegal foreign fishing the bill also proposes amendments to the Fisheries Act and the Torres Strait Act to broaden the class of persons protected by offences arising from behaviour to obstruct an officer in performing his/her duty. The proposal is that such an offence will be committed if those involved in the administration of fisheries legislation are obstructed "in the exercise or performance of any power, authority, function or duty under the Act."¹⁴ This amendment is designed to extend the protection currently afforded to AFMA officers to detention officers, translators and medical staff. The offences include assault, resisting or obstructing such a person or "using abusive or threatening behaviour."¹⁵ The Explanatory Memorandum indicates that the amendments will provide such persons with better protection when carrying out their duty.¹⁶

1.17 Finally, the bill proposes to amend Migration Act to ensure that the enforcement visa regime currently existing under that Act "applies consistently to illegal foreign fishing offences under both"¹⁷ the Fisheries Act and the Torres Strait Act.

Consideration by the Senate Scrutiny of Bills Committee

1.18 The Senate Standing Committee on the Scrutiny of Bills has a standing brief to consider all bills as to whether they trespass unduly on personal rights and related matters, and draws attention to any provision of a bill that has a retrospective impact. In relation to the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005 the Scrutiny Committee notes that a number of provisions may trespass on the personal rights of those who may be detained or subjected to a search. The provisions that are the subject of comment¹⁸ are:

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- 13 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 5
 - 14 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 6
 - 15 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 4
 - 16 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 4
 - 17 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory Memorandum, p 4
 - 18 See Senate Standing Committee on the Scrutiny of Bills, Alert Digest No 2 of 2005, 9 March 2005, pp 16 to 21

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- Items 1 and 2 of Schedule 1 to the bill which insert a new subsection 84(1BA) into the Fisheries Act and a new subsection 42(2AAA) into the Torres Strait Act. These provisions relate to the clarification of the power of an officer to control a boat (paragraph 1.9)
 - Proposed new clause 8 of Schedule 1A of the Fisheries Act to be inserted by item 13 of Schedule 1 and proposed new clause 8 of Schedule 2 to the Torres Strait Act to be inserted by item 20 of Schedule 1 which provide for an officer to detain a suspected illegal foreign fisher to investigate whether an offence has been committed. There are currently similar provisions in the Fisheries Act.
 - Proposed new clause 15 of schedule 1A of the Fisheries Act to be inserted by item 13 of Schedule 1, proposed new paragraph 84(1)(aaa) of the Fisheries Act to be inserted by item 21 of Schedule 1, proposed new subsection 87H(2A) of the Fisheries Act, to be inserted by item 26 of Schedule 1 and proposed new clause 15 of Schedule 2 to the Torres Strait Act to be inserted by item 20 of Schedule 1 and proposed new paragraph 42(1)(aa) of the Torres Strait Act to be inserted by item 28 of Schedule 1. These provisions provide for searches without search warrants (paragraph 1.14).
 - Proposed new clause 17 of Schedule 1A of the Fisheries Act to be inserted by item 13 of Schedule 1 and proposed new clause 17 of schedule 2 to the Torres Strait Act to be inserted by item 20 of Schedule 1. These provisions provide for strip searches without search warrants. (paragraph 1.14).
 - A number of provisions declaring various instruments not to be legislative instruments.

The Committee notes that, having commented, the Scrutiny Committee left the Senate to determine whether rights had been unduly trespassed upon.

Chapter 2

The Legislation

Introduction

2.1 In introducing the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005 the Minister for Agriculture, Fisheries and Forestry spoke of illegal fishing in Australian waters, particularly the northern waters, as a growing problem. The problem is growing not only in terms of the number of illegal foreign vessels apprehended but also the catches those vessels are taking.

2.2 In the past two calendar years, 299 vessels have been apprehended in Australia's northern waters and 18 vessels suspected of illegal fishing had been detained in the first 2 months of 2005¹. The vessels apprehended can be found to have "large freezer storage facilities on board"² and are targeting large quantities of reef fish and shark fins. The three vessels apprehended on 26 February 2005, with a total of 4000 kilograms of fish on board, and a vessel apprehended on 3 March 2005 with 176 shark fins, provide an indication of the growing problem³.

2.3 The illegal foreign fishing vessels originate in Indonesia. Under a 1974 agreement with Indonesia, Australia does permit some Indonesian fishing in the Australian Fisheries Zone (AFZ). The areas are those that have been traditionally fished by the Indonesians and the arrangements provide for the fishing of specific species.⁴ However, the increases in both the number of vessels and the size of the catches may have an impact on the sustainability of Australia's fish stocks.⁵

2.4 The Committee acknowledges that the problem of illegal foreign fishing in Australian waters cannot be ignored and notes that the legislation forms part of a government program which includes other measures, including the provision of

1 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 1

2 Department of Parliamentary Services, Bills Digest no 121, 2004-05, 9 March 2005. Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, p 3

3 Department of Parliamentary Services, Bills Digest no 121, 2004-05, 9 March 2005. Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, p 3

4 Department of Parliamentary Services, Bills Digest no 121, 2004-05, 9 March 2005. Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, p 2

5 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 1

additional resources to both the Australian Fisheries Management Authority (AFMA) and the Australian Quarantine and Inspection Service (AQIS).⁶

2.5 The Committee did not receive any evidence during the inquiry to suggest that there was not general support for the principles of the legislation. However, the inquiry provided an opportunity for the Committee to tease out a number of issues, including the proposed new powers provided under the act and the accountability mechanisms included.

Issues

Training Requirements

2.6 During the inquiry the Committee explored the responsibilities and duties of a new class of officers proposed by the legislation.

2.7 The current legislation⁷ provides for AFMA or the Minister to appoint officers, including those who are members of the Australian Federal Police or a state or territory force, the Defence Force or the Customs Service. There is no proposed change to these existing appointment arrangements. Under the amendments proposed in the bill, officers appointed under the *Torres Strait Fisheries Act 1984* (Torres Strait Act) will have their powers extended to include the power to detain. Officers appointed under the *Fisheries Management Act 1991* (Fisheries Act) currently have this power.⁸

2.8 However, there are also two classes of officers defined in the legislation:

- detention officers;
- authorised officers.

2.9 Under the proposed amendments to both the Fisheries Act and the Torres Strait Act, detention officers are appointed by the Minister and may include contract employees.⁹ While detention officers will not have the power to detain a person, they are responsible for the detainees continuing detention, as well as moving the detainees if required.¹⁰

6 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 1

7 either the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*.

8 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 2

9 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 2

10 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 5

2.10 Both detention officers and fisheries officers can be authorised by AMFA. Those that are 'authorised' become authorised officers and, depending on the authorisation, can conduct "searches, screening, identification tests and those sorts of activities."¹¹ Authorisation can be made by employment classification providing the necessary training protocols are met, with the exception of authorisations for strip searches. Authorisations for strip searches are made for individual officers.¹²

2.11 The Committee notes the link made between training and authorisation. It was highlighted by the Minister when introducing the bill:

An important part of the authorisation process, will see any prospective officers receive comprehensive training in the effective and responsible use of these powers under the relevant Acts.¹³

2.12 However, during the hearings, when the Committee sought to establish the legislative provision for the training requirements that would be provided prior to authorisation, the Committee was advised:

There is no requirement in the bill for that [training]. It is part of the discretion of AFMA when authorising those officers.¹⁴

2.13 This evidence would seem at odds with the Minister's advice to the House. In the ensuing discussion it became clear that AFMA's intention was to replicate the training arrangements that already exist under the current immigration regime.¹⁵

2.14 In its submission, the Community and Public Sector Union (CPSU) indicated that it:

...believes that minimum training requirements should be inserted into the bill...¹⁶

2.15 The CPSU argued that the requirement under the Australian Public Service (APS) *Code of Conduct* and Values for sensitivity to the diversity of the Australian public:

11 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 6

12 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 7

13 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second reading speech, p 6

14 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 6

15 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 6

16 Submission 1, CPSU, p 8

should be equally applicable to the conduct of all Commonwealth employees, including private sector contractors, to illegal foreign fishers with regard to language and cultural differences.¹⁷

2.16 The powers that can be exercised by authorised officers are significant. The bill proposes that authorised officers will also be granted the power to carry out identification tests, by force if necessary and if authorised.¹⁸

2.17 Furthermore, searches, including strip searches, can be conducted without a warrant. Strip searches, however, will be subject to the approval of the Managing Director of AFMA, or the Secretary or a Deputy Secretary of Department of Agriculture, Fisheries and Forestry (DAFF).¹⁹ The legislation also provides that the detainee may request an independent person to be present during the strip search, provided that the independent person is readily available.²⁰

2.18 Although the Committee accepts the advice from DAFF that AFMA will largely put in place the training currently required by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), it continues to be concerned that the gravity of the powers provided to authorised officers under the proposed amendments will not be met with commensurate training. The Committee notes the advice provided in the joint submission from DAFF, DIMIA and AFMA; under current Migration Series Instruction 347 Strip Searches of Immigration Detainees, the training is mandatory. It advises that:

The strip search training includes:

Civil rights and liberties

Cultural awareness

The grounds for conducting a strip search

The pre-conditions for a strip search

The role of officers involved in conducting a strip search

The procedure for conducting a strip search

The procedures relating to items retained during a search

17 Submission 1, CPSU, p 8

18 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, Canberra, p 13 and p 19

19 *Transcript of Evidence*, 17 March 2005, Canberra, p 11

20 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, Canberra, p 14

Record keeping

Reporting requirements.²¹

2.19 The Committee is of the view that strip searches are, by their nature an intimidating experience for those that are subject to them. As such, the requirement for training that is linked with these powers in particular, should be explicit in the legislation and subject to parliamentary scrutiny. Given that DIMIA has already detailed the training provisions for those "who are to be authorised to search, screen or strip search a detainee"²² the Committee believes that the legislation would benefit by the inclusion of a specific requirement for training. Accordingly, the Committee makes the following recommendation:

Recommendation 1

2.20 The Committee recommends that the bill be amended to insert a requirement that officers, prior to becoming authorised officers, undertake the training prescribed in a disallowable instrument to be made under the Act.

Contract employees

2.21 The bill provides for the employment of contract staff. These employees are subject to the same authorisation processes as other officers and will therefore undertake the duties of either detention officers or authorised officers. In its submission, the CPSU raised a number of inter-related concerns over the employment of contract staff, particularly given the "serious law enforcement style powers...".²³ These concerns include adherence to the *APS Code of Conduct*; accountability and the protection of employees.

APS Code of Conduct

2.22 Employees of the APS are bound by the *Code of Conduct* to a stated high standard of professionalism and ethics. The CPSU "believes that this high standard of professional conduct...has no equivalence in the private sector."²⁴ They argue that:

The flexibility and responsiveness of the modern APS means that there is no arguable reason why these positions cannot be fulfilled by APS employees.²⁵

21 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 5

22 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 4

23 Submission 1, CPSU, p 5

24 Submission 1, CPSU, p 5

25 Submission 1, CPSU, p 5

2.23 The Committee itself has reservations about the use of contract employees to undertake the duties that include the use of significant powers. During the hearings it sought assurances regarding the selection process of these employees. It was informed that the proposal was similar to that which DIMIA operated and that the contract with the employer imposed certain requirements:

The provisions of the contract outline the nature of the employees. That is not just a security clearance: it is also a character assessment. There are some other criteria within the contract which apply to employees. So it goes beyond just the security clearance.

...

There is also a requirement in the contract for the police checks which are done prior to a contract employee being engaged in a centre. There is also a requirement for an annual police check thereafter, so that we have ongoing review of, at least, the criminal aspect.²⁶

2.24 The Committee also sought information about any code of conduct that relates to detention officers. DIMIA informed the Committee that GSL Australia, which is contracted by DIMIA, has such a code:

...it is important to have a code of conduct for detention officers and for that to be adhered to. GSL Australia have a code of conduct for their officers and they very vigorously apply that code of conduct. Our experience is that when an issue arises they pursue that issue.²⁷

2.25 The Committee notes that GSL Australia's code of conduct requires the staff to "perform their duties professionally and ethically, at all times. (14.1.8)."²⁸

2.26 The joint submission provides a comparative analysis of GSL Australia's code of conduct and the APS Code. It identifies 7 of 13 obligations imposed on a public servant under the APS Code of Conduct as being equivalent to those imposed by GSL Australia's code of conduct.²⁹

2.27 The joint submission further identifies the APS Code of Conduct obligations that do not have direct equivalents under the GSL Australia code as the following:

- (a) act with honesty and integrity;

26 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, Canberra, p 4

27 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, Canberra, p 8

28 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, Attachment F

29 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, Attachment G

- (b) act with care and diligence;
- (c) act in accordance with APS values;
- (d) not to make improper use of Commonwealth resources; and
- (e) not to disclose information which could be prejudicial to the effective working of government.³⁰

2.28 The joint submission continues by suggesting that the obligations are either encompassed in another set of obligations (honesty and integrity and care and diligence), dealt with elsewhere (use of resources or disclosure), or not strictly relevant (APS Values).³¹

2.29 The Committee does not accept that the code of conduct operated by DIMIA's contractors sufficiently incorporates all the necessary obligations stated in the APS *Code of Conduct*. The argument put forwarded that those obligations that do not have equivalents in the GSL code of conduct are implied by other obligations is not substantiated. While obligations 1, 3, 4, 12 and 14 in the GSL code, for example, are important obligations relating to how the contract employees conduct their duties and present themselves, these obligations do not require honesty.

2.30 The Committee regards honesty and integrity and a requirement to conduct duties with care and diligence as essential in the environment that these contractors will be employed in. Although it could be argued that these values are so fundamental anyone meeting the other obligations would also have those characteristics, the Committee is of the view that these values should be required by an explicit statement, just as the GSL code of conduct places a requirement on the staff to act professionally and ethically at all times.

2.31 In this context the Committee notes AFMA's stated intention to "as closely as possible, replicate the system that DIMIA are using."³² The Committee is of the view that AFMA need to improve on that system in relation to obligations required in the code of conduct developed by any contractor. It therefore makes the following recommendation.

Recommendation 2

2.32 The Committee recommends that AFMA, in negotiating a contract relating to services to be provided in fisheries detention centres, require that a code of conduct be developed for contract staff that includes the values of

30 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, Attachment G

31 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, Attachment G

32 Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 4

honesty and integrity and to act with care and diligence, in addition to those obligations that already exist in GSL's code of conduct.

Accountability

2.33 In its submission, the CPSU also raised the question of the accountability of contract officers in comparison with that of an APS officer. It argues that AFMA would be required "to sue the contractor for breach of contract in the courts"³³ if it wished to act upon breaches of the GSL Australia code of conduct by officers. The expense and time involved in taking matters to court would result in only the "most significant breaches"³⁴ being pursued.

2.34 It counters that any breaches of the APS *Code of Conduct* could be pursued by AFMA in the first instance or the Public Service Commissioner or the Merit Protection Commissioner without recourse to the courts.³⁵

2.35 In response to the Committee's questions, DAFF indicated that suing the contractor for breach of contract was indeed one option for ensuring that contract employees are accountable for their actions. However, the Committee was also informed that "a complaint could be made through the Ombudsman or to HREOC",³⁶ or "civil or criminal proceedings against them if they [the contractors] have operated beyond their powers."³⁷

2.36 In evidence, DIMIA provided the Committee with a snapshot of how it manages accountability with its contract employees. Its management focuses on monitoring the work performed by contracted staff on a day to day basis by on-site DIMIA staff and also through regular visits by Canberra based staff. Also, experts are engaged to "look at particular aspects of service delivery."³⁸ A further role is played by the Ombudsman and HEROC who make regular visits to the DIMIA facilities. Finally, DIMIA's policy on suggestions or allegations of a criminal nature is to refer the matter to the police immediately.³⁹

2.37 AFMA confirmed that a monitoring program would be set in place, in addition to a continuation of the existing complaints mechanism. This complaints

33 Submission 1, CPSU, pp 5 and 6

34 Submission 1, CPSU, p 6

35 Submission 1, CPSU, p 6

36 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, p 8

37 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, p 8

38 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, p 8

39 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, p 8

mechanism is open to anyone who is detained, complaints are investigated and AFMA "follow through on it and remedy the cause".⁴⁰

2.38 Furthermore, the Committee was informed that:

The power to detain and continue to detain as well as the powers and the manner in which searches, screens, strip searches and identification tests are conducted pursuant to the Bill, are all subject to review under the *Administrative Decisions (Judicial Review) Act 1997*. Decisions made by officers are also reviewable in some cases under section 75(v) of the Constitution or section 39B of the *Judiciary Act 1903*.⁴¹

2.39 The Committee accepts that the Government would be required to take a breach of contract through the courts. However, it is of the view that other action and processes would forestall such action. It notes that the monitoring process operated by DIMIA is regarded as successful and that DIMIA considers the contractors to be diligent in pursuing any matters arising out of the code of conduct.⁴²

2.40 AFMA proposes to apply a similar process, together with a complaints process.

Protection of employees

2.41 Finally, concerns were raised as to the protection afforded to contracted employees if they are called upon to perform duties which are outside the terms prescribed by the legislation.

2.42 The CPSU's submission argued that for contract employees there will "be no culture of protection to an individual who is under pressure to misuse his or her powers." It continued by inferring that such workers may worry about maintaining future employment contracts with the employers should they resist the pressure.⁴³

2.43 The Committee explored another aspect of this concern, which is the protection afforded to those who are "whistleblowers". It was advised that the provisions of the *Public Service Act 1999* which provide protection to staff of the APS who act as "whistleblowers" do not apply to contract officers. Instead:

If a detention officer who was a contractor had his or her appointment or authorisation revoked because he or she had acted as a whistleblower,

40 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 8

41 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 8

42 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, Canberra, p 8

43 Submission 1, CPSU, pp 6 and 7

review of that decision may be possible under the *Administrative Decisions (Judicial Review) Act 1997*.⁴⁴

2.44 The Committee notes that approval from senior officers within DAFF or AFMA is required prior to any authorised officer exercising a strip search. Authorisation from a senior authorising officer is also required prior to the use of force to conduct an identification test. The Committee believes that these requirements, together with the well developed monitoring program and complaints procedure (outlined in paragraph 2.36) will act to inhibit any demands for contract officers to inappropriately exercise any of the powers provided under the legislation.

2.45 However, the Committee remains concerned over the lack of consideration that appears to be given to the protection of any contract employee who may act as a "whistleblower". It urges the Government to give further consideration to this issue before the passage of the legislation.

Staff consultation

2.46 In its submission, the CPSU noted the lack of consultation that AFMA and DAFF had undertaken with current staff in relation to the changes proposed by the Bill. It called on these organisations "to engage in appropriate consultation with staff with regards to these issues".⁴⁵

2.47 In giving evidence to the Committee, AFMA admitted that consultation with its own officers had not been extensive. AFMA argued that, while the fisheries officers located in Canberra tended to be familiar with the provisions of the bill, those located outside Canberra were not. The reason for this was that most officers were state based and "work with state based agencies".⁴⁶

2.48 AFMA also informed the Committee that a training program was being developed:

... which will be released to the state based fisheries officers once we know exactly what the powers will be after the passage of the bill through parliament.⁴⁷

2.49 The Committee welcomes the attempt to properly inform officers about significant changes that will be made to the work they perform and the way in which they do it. However, it does not believe that informing the workers in the field after the passage of the legislation is the best way to manage the changes. The bill may well

44 Submission 2, Joint Submission From Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority, p 6

45 Submission 1, CPSU, pp 8 and 9

46 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 8

47 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 8

have benefited from a consultation process with those officers undertaking the affected duties. The Committee considers it regrettable that no such consultation took place.

Detention

2.50 The Committee also considered the matter of the appropriateness and length of the detention of those suspected to be illegal foreign fishers.

2.51 At the outset of the hearing DAFF acknowledged that the current arrangements for the detention of illegal foreign fishers had originated on an ad hoc basis and were based on a small number of detainees. Officers also admitted that the arrangements are presently less than satisfactory. This, together with an increased number of foreigners detained for suspected illegal fishing, required the existing arrangements to be made "more modern".⁴⁸

2.52 Under existing arrangements, detainees can be held on their boats within a quarantine zone in the middle of Darwin Harbour. This practice has attracted some criticism, notably in the 1998 report by the Ombudsman,⁴⁹ and more recently in the Coroner's report on the death of Mansur La ibu. The Coroner, while noting that fisherman preferred to remain with their boats and there were few complaints, also stated:

Furthermore, the standard of such detention in the case of the deceased is also to be deprecated; to keep seven men on a vessel such as the 'Yamdena' for some weeks where their only shelter (and sleeping accommodation) is a small box...is unacceptable.⁵⁰

2.53 The Committee notes that under the new proposals there will still be some "boat based detention at Broome and Gove".⁵¹ Temporary accommodation facilities will be located at Horn Island. Detainees from the three locations will be transported to facilities in Darwin in "a matter of days; it is about getting an aircraft lined up to transport people".⁵² Coonawarra, the facility at Darwin, will predominately house

48 Department of Agriculture, Fisheries and Forestry, *Transcript of Evidence*, 17 March 2005, p 1

49 Administrative arrangements for Indonesian Fisherman detained in Australian Waters, Report under s35A of the Ombudsman Act 1976, July 1998
http://www.comb.gov.au/publications_information/Special_Reports/Indo.html accessed 16 March 2005

50 Inquest into the Death of Mansur La ibu [2004] NTMC 020
<http://www.nt.gov.au/justice/docs/courts/coroner/findings/2004/mansur.pdf> accessed 26 April 2005

51 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 3

52 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 3

detainees suspected of illegal fishing but may also include "a small number of air arrivals and compliance cases".⁵³

2.54 The Committee notes the concerns expressed about the accommodation of suspected illegal foreign fishers on their boats. It shares the Coroner's view that such accommodation is unacceptable, particularly for an extended period of time. The Committee is of the view that the proposal for a permanent accommodation facility in Darwin is a more satisfactory arrangement.

2.55 The Committee also examined the likely length of stay that a suspected illegal foreign fisher would have in Australia. The Explanatory Memorandum to the Bill indicates that the proposed regime will "facilitate the rapid repatriation of detainees to their home countries".⁵⁴ In his second reading speech the Minister indicated that an enforcement visa (under the Migration Act) is automatically issued to foreigners when detained by fisheries officers.

2.56 The enforcement visa enables fisheries officers to bring those suspected of illegal fishing into Australia's migration zone so that the suspected offence can be investigated. It ceases on the expiration of the fisheries detention and the fisher becomes a non-citizen. DIMIA has a responsibility to repatriate non citizens "as soon as reasonably practical",⁵⁵ which in the case of foreign fishers is a short period after their apprehension and prosecution.⁵⁶

2.57 During the hearing, the General Manager Operations of AFMA informed the Committee that:

... people are only in fisheries detention for a maximum of seven days, and often it is a lot less than that.⁵⁷

2.58 The Committee contrasts this statement with the figures provided in the 1998 Ombudsman's report that indicates the 1997 figures for the average number of days in detention were 26.58 for Broome and 26.86 for Darwin.⁵⁸ It acknowledges that, in addition to the maximum of 7 days described by AFMA, there are further days in

53 Department of Immigration and Multicultural and Indigenous Affairs, *Transcript of Evidence*, 17 March 2005, p 7

54 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Explanatory memorandum, p 3

55 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second Reading Speech, p 4

56 Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005, Second Reading Speech, p 4

57 Australian Fisheries Management Authority, *Transcript of Evidence*, 17 March 2005, p 7

58 Administrative arrangements for Indonesian Fisherman detained in Australian Waters, Report under s35A of the Ombudsman Act 1976, July 1998
http://www.comb.gov.au/publications_information/Special_Reports/Indo.html accessed 16 March 2005

detention pending repatriation. The Committee understands the argument that the 1997 figures for days in detention should be reduced under the proposed new regime and looks forward to evidence of this.

Conclusion

2.59 The Committee has considered the provisions of the bill. It notes that the legislative bases for many of the provisions exist in other statutes, and the bill largely proposes the extension of many current practices. Nonetheless, the Committee is of the view that the bill could be improved and makes a recommendation that a requirement for appropriate training be inserted in the legislation.

2.60 The Committee has also made a recommendation relating to the terms of a code of conduct to be developed with any contractor working in fisheries detention centres. The Committee argues that such fundamental requirements as honesty and integrity and the need to act with care and diligence should be explicitly stated.

2.61 Subject to these recommendations the Committee makes the following recommendation.

Recommendation 3

2.62 The Committee recommends that, subject to recommendation 1, the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005 be passed.

**Senator the Hon. Bill Heffernan
Chair**

ADDITIONAL COMMENTS

LABOR SENATORS

Summary

Labor Senators endorse the stated rationale of the bill – the creation of an effective fisheries detention regime to strengthen Australia’s capacity to combat suspected illegal fishing by non-citizens in the Australian Fishing Zone and the Torres Strait Protected Zone, including greater capacity for on shore detention.

However, Labor Senators share the concerns expressed in the majority report about the move to authorise private contractors to undertake certain fisheries detention tasks without adequate provision for staff training, or protection of detainee welfare or the public interest.

Labor Senators strongly endorse the majority recommendation that the bill not be passed without amendment providing that all officers, prior to appointment as authorised officers, undertake training prescribed in a disallowable instrument to be made under the Act.

Labor Senators also endorse the recommendation that a code of conduct containing an explicit reference to honesty and integrity, and the obligation to act with care and diligence, be mandated for any contractor engaged to provide staff to perform fisheries detention tasks.

Notwithstanding our decision to endorse the recommendations contained in the majority report, thereby offering conditional support for the bill, Labor Senators hold deep misgivings about measures related to the engagement of private contractors.

We urge the government to reconsider its decision to privatise our national fisheries detention regime – a crucial component of Australia’s border protection system.

Training

Labor Senators note with concern the wide range of powers available to contractors appointed as authorised officers under the provisions of the bill.

These powers include the power to move, screen, identify, search and strip search persons in fisheries detention.

The bill provides that all detention officers, including contractors, can be appointed as authorised officers subject only to “authorisation as provided by AFMA.”¹

Labor Senators are concerned that the bill contains no training provisions despite an undertaking from the Minister during his second reading speech that “[a]n important

¹ RRA&T 6, 17 March 2005

part of the authorisation process will see any prospective officers receive comprehensive training in the effective and responsible use of these powers under the relevant acts.”²

Indeed, according to evidence to the committee, training is discretionary:

Senator O’BRIEN—The minister said in his second reading speech that ‘prospective officers will receive comprehensive training in the effective and responsible use of their powers’ and he describes this training as ‘an important part of the authorisation process’.

Where in the bill can I find the detailed requirement for training?

Mrs Palfreyman—There is not a requirement in the bill for that. It is part of the discretion of AFMA when authorising those officers.³

It is of further concern to Labor Senators that, despite the provision of detailed information about the protocols that apply in the operation of the immigration detention regime, no guidelines for fisheries detention were provided to the committee.

The committee was told in evidence that:

“Guidelines for AFMA’s purposes here may not have been developed as yet.”⁴

The committee was told that Australian Fisheries Management Authority (AFMA) intends to replicate the immigration detention system, including the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) contract and protocols⁵, and was provided with documents outlining DIMIA’s relationship with its contract service provider GSL Australia.

The joint departmental submission to the committee’s inquiry heavily relied on the existing immigration detention regime to explain the operation of the government’s proposed fisheries detention regime.

However, Labor Senators note that no decision has been made about the contract management of the new fisheries detention facility in Darwin,⁶ and believe evidence about the management of the immigration detention regime, including GSL Australia’s internal procedures, needs to be weighted accordingly.

² House of Representatives, *Hansard*, 17 February 2005

³ RRA&T 8, 17 March 2005

⁴ RRA&T 6, 17 March 2005

⁵ RRA&T 6, 17 March 2005

⁶ RRA&T 4, 17 March 2005

A rigorous and effective training regime, particularly for authorised officers, is critical for detainees and staff and the maintenance of public confidence in the fisheries detention regime.

Whistleblower protection

Labor Senators note with concern that the bill provides contract staff with no ‘whistleblower’ protection.⁷

We endorse the call in the majority report for the government to give this matter urgent consideration before passage of the bill.

Commonwealth liability

Labor Senators are also concerned about the lack of clarity with respect to Commonwealth liability for injuries sustained by a contractor in the course of his or her duties. During its hearing on 17 March 2005 the committee was advised:

Mr Moroney—...In relation to any injury suffered by a detention officer, it would depend upon the terms of the contract between the Commonwealth and that contractor. There might be circumstances of the injury itself where, under the laws of negligence, an ongoing employee of the Commonwealth might be liable as a matter of negligence—and therefore there might be some vicarious liability on the part of the Commonwealth. But I would not put down a general proposition, at least from Immigration’s perspective and the way things work in our portfolio, that there would be an automatic right for a detention officer to take action against the Commonwealth for any injury.⁸

The joint departmental submission lodged subsequent to the hearing contained this advice:

“Depending on the circumstances, if an officer or detention officer were harmed during the course of their lawful duties, it is possible they would be covered by the scheme established by the *Safety, Rehabilitation and Compensation Act 1988*.”⁹

The uncertain nature of oral evidence and highly qualified language used in the joint departmental submission give Labor Senators no comfort with respect to the intent to protect the rights of workers engaged to perform fisheries detention tasks under contract.

On a related matter, Labor Senators are concerned that the discretionary application of provisions designed to protect the interests of detainees subject to strip searches provide detainees and staff with inadequate protection.

⁷ Joint submission from DAFF, DIMIA & AFMA, pg.6

⁸ RRA&T 19, 17 March 2005

⁹ Joint submission from DAFF, DIMIA & AFMA, pg.6

The bill provides that authorisation of a strip search must be recorded in writing but explicitly provides that failure to do so does not affect the validity of the search.¹⁰

In the interests of detainees and staff, Labor Senators urge the government to reconsider its decision to grant de facto discretionary status to the requirement that authorisation of strip searches be recorded in writing.

Accountability

Labor Senators do not accept the validity of the claim by the Department of Agriculture, Fisheries and Forestry (AFFA), AFMA and DIMIA that the code of conduct employed by current DIMIA contractor GSL Australia with respect to immigration detention is “broadly equivalent” to the Australian Public Service (APS) Code of Conduct.¹¹

Labor Senators prefer the view put in the Community and Public Sector Union (CPSU) submission that the APS Code of Conduct “binds APS employees to the highest standards of professional and ethical conduct” that has no direct equivalent in the private sector.¹²

We note the CPSU’s contention, not rebutted by AFFA, AFMA or DIMIA, that:

“Any attempts by the Australian Fisheries Management Authority (AFMA) to upholding the GSL Code of Conduct for contract detention officers would require AFMA to sue the contractor for breach of contract in the courts. This would be expensive and time consuming, creating a significant disincentive from upholding the APC Code of Conduct from all but the most significant breaches.”

Indeed, joint departmental evidence served to confirm the contention of CPSU submission related to accountability:

Senator O’BRIEN—...How will detention officers, including those appointed as authorised officers, be held accountable for their actions?

Mrs Palfreyman—Through the normal means. If they are a contractor a complaint could be made through the Ombudsman or to HREOC. They could be sued for a breach of contract. People could take civil or criminal proceedings against them if they have acted beyond their powers.¹³

¹⁰ *Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005*, cl.17(5)(b), cl.17(7), pg.19 & cl.17(5)(b), cl.17(7), pg.65

¹¹ Joint submission from DAFF, DIMIA & AFMA, pg.3

¹² CPSU submission, pp.4-5

¹³ RRA&T 8, 17 March 2005

It is of particular concern that the Commonwealth had to seek “GSL authorisation” before providing the committee with a copy of the code of conduct in force with respect to the performance of contracted immigration detention duties.¹⁴

Labor Senators are concerned that any sub-contracting of staff positions by the appointed contractor would serve to further erode the capacity of the Commonwealth to maintain appropriate standards of conduct.¹⁵

Labor Senators share the fear expressed in the CPSU submission that the proposed arrangements present a “serious gap in accountability for the exercise of law enforcement powers.”¹⁶

We note departmental evidence that under the proposed arrangements the Commonwealth will not have the power to dismiss a contracted officer. The Commonwealth will merely possess the right to remove authorisation granted to a contracted officer under the Act and, in some circumstances, have the right to prevent individuals from working in a detention centre.¹⁷

Finally, Labor Senators note that the committee was not presented with a proposed code of conduct for fisheries detention staff due to the failure to yet develop AFMA guidelines.¹⁸

Other issues

Staff consultation

Labor Senators regret the government’s failure to consult with existing fisheries officers on the provisions of this bill.¹⁹

In our view, the bill would have benefited from the experience and knowledge of AFMA officers currently engaged in fisheries detention duties.

We also believe the committee’s inquiry would have benefited from the appearance of fisheries officers engaged in fisheries detention and sufficiently briefed on the provisions of the bill.

Complexity

Labor Senators question the administrative efficacy of the proposed fisheries detention regime involving the appointment of three tiers of officers engaged in fisheries detention duties – officers, detention officers and authorised officers.

¹⁴ RRA&T 8, 17 March 2005

¹⁵ CPSU submission, pg.7

¹⁶ CPSU submission, pg.7

¹⁷ RRA&T 14, 17 March 2005

¹⁸ RRA&T 6, 17 March 2005

¹⁹ RRA&T 8, 17 March 2005

We note the inaccurate advice provided to the committee about search powers possessed by nurses working in immigration detention centres²⁰ (corrected in the subsequent joint departmental submission to the inquiry²¹).

It is a matter of concern that DIMIA was unable to explain the operation of the current DIMIA regime without significant error, especially when the proposed fisheries detention regime is based on DIMIA arrangements.

Rationale

The CPSU submission to the committee states:

“The flexibility and responsiveness of the modern APS means that there is no arguable reason why these positions [officers, detention officers, authorised officers] cannot be fulfilled by APS employees.”²²

While noting the government’s intention to align the fisheries detention regime with the immigration detention regime, it is the view of Labor Senators that the government has not convincingly made the case for the adoption of the immigration detention regime for the purpose of fisheries detention, especially when on shore detention at Darwin will overwhelmingly concern fisheries detention matters.²³

Conclusion

Labor Senators endorse the majority report and its qualified support for passage of the *Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005* but have deep reservations about the impact of engaging private contractors to perform fisheries detention tasks.

Senator Geoff Buckland (Deputy Chair) (ALP, South Australia)
Senator Ursula Stephens (ALP, New South Wales)
Senator Kerry O’Brien (ALP, Tasmania)

²⁰ RRA&T 7, 17 March 2005

²¹ Joint submission from DAFF, DIMIA & AFMA, pg.4

²² CPSU submission, pg.5

²³ RRA&T 7, 17 March 2005

Dissenting report by Andrew Bartlett, Senator for Queensland

I support the general principle of ensuring uniformity in the laws and practices surrounding fisheries and immigration detention.

I am also supportive of the concerns raised in the Committee's main report surrounding contract employees and of consequential amendments along the lines of those proposed.

The Committee's Inquiry did not examine in any depth the issue of the appropriateness of the detention regime, but recent publicity about a range of incidents surrounding immigration detention raises very large questions about both its appropriateness and its adequacy.

As one example, the 5th May judgement by Finn J in *S v Secretary DIMIA* and *M v Secretary DIMIA* contained some scathing findings of failings in duty of care of detainees. Some of these findings go to the heart of the contracting (and sub-contracting) arrangements surrounding detention.

In such circumstances, I believe it is unwise to further expand the reach of detention laws until such time as a proper review of the whole regime has occurred.

Recommendation:

Consideration of the Bill by the Senate be deferred until such time as a comprehensive review has been undertaken into the adequacy and appropriateness of the entire immigration and fisheries detention regimes.

**Senator Andrew Bartlett
Australian Democrat**

Appendix 1

Witnesses who appeared before the Committee at the Public Hearings

*Thursday, 17 March 2005
Parliament House, Canberra*

Department of Agriculture, Fisheries and Forestry

Mr Daryl Quinlivan, Executive Manager, Fisheries and Forestry Division

Department of Immigration and Multicultural and Indigenous Affairs

Mr Stephen Davis, First Assistant Secretary, Unauthorised Arrivals and Detention Division

Mr Mark Duncanson, Assistant Director, Unauthorised Arrivals and Detention

Mr Matthew Moroney, Principal Legal Officer and Director, Detention Policy Section

Australian Fisheries Management Authority

Mr Paul Murphy, General Manager Operations

Mr Rohan Wilson, Senior Manger, Compliance Policy

Appendix 2

List of Submissions

1. CPSU
2. Joint submission from Department of Agriculture Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs, and Australian Fisheries Management Authority.
3. Confidential

