

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

Question No. 113

Senator Xenophon asked the following question at the hearing on 24 May 2012:

‘A previous QoN (No 41) from Estimates on 14 Feb 2012 asked “Is there a legal and or policy distinction between an international flight sector and a domestic flight sector? Are they mutually exclusive?” The answer in part said: “Where a flight is engaged in an international journey, all sectors of that flight including the domestic sectors are considered to be part of the international flight.” When asked in Estimates on 24 May 12: “How do Customs distinguish between international and domestic flights?”, the response was:

Mr Buckpitt: The key determinant for Customs is whether or not the aircraft is departing or arriving at an international airport.

When one considers that Jetstar flights JQ61, 73 and 81 leave the domestic terminals at Melbourne, Sydney and Brisbane respectively to transit Darwin for various South-East Asian destinations, both responses appear to have some inconsistencies.

- a) Under what circumstances can an aircraft be released from an International flight to conduct a domestic flight?
- b) Under what (unexceptional) circumstances can an aircraft in Australia intentionally depart from an International terminal for a domestic destination?
- c) Under what circumstances can an aircraft depart from a domestic airport to arrive at an international terminal prior to leaving Australia?
- d) What is the legislative basis that prevents a partially Customs-cleared aircraft from departing a ‘first point of entry’ with the intention of landing at a domestic rather than an International airport?
- e) Can ACBPS confirm that that all Australian holders of AOCs that permit scheduled international operations have adequate safeguards in place to prevent an uncleared or partially-cleared aircraft from operating to other than an international airport?
- f) How does ACBPS monitor compliance with the entry requirements?

The answer to the honourable senator’s questions is as follows:

- a) An aircraft can be released from an international flight to conduct a domestic flight when all border clearance functions have been completed and approval is granted by the Department of Infrastructure to conduct a domestic flight.
- b) As outlined under a), it is possible for an aircraft to depart from an Australian international terminal for a domestic destination, provided that the aircraft, travellers and goods carried onboard are fully cleared under Customs, Quarantine and Immigration legislation and approval is granted by the Department of Infrastructure to conduct a domestic flight.
- c) Aircraft at a domestic airport completing a domestic journey must attend an international airport to commence an international journey.

- d) Sections 58 and 60 of the Customs Act 1901 require aircraft carrying international travellers to arrive at or depart from Australian international airports. The Air Navigation Act 1920 also restricts civil aircraft departing from or arriving into Australian territory to those airports that are designated by the Minister for Infrastructure and Transport as international airports.
- e) All international aircraft are required to operate at international terminals in accordance with the Customs Act 1901. An international aircraft may land at a domestic terminal in an exceptional circumstance due to an emergency, and in this event notification is provided to border agencies by Air Services Australia. Where there is non-compliance with legislation, prosecution action may be taken by Customs and Border Protection.
- f) Customs and Border Protection monitors compliance with entry requirements by investigating instances of possible non-compliant activity and working with the parties involved to ensure Customs and Border Protection clearance processes are adhered to.