

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

**Question No. 121**

**Senator Fierravanti-Wells asked the following question at the hearing on 19 October 2009:**

Further to the suggestion made by me during the hearing, can the department provide a document which outlines the procedures and protocols to be followed by Australian authorities and relevant agencies in the event of a location of an unauthorised vessel either in international waters or in Australian waters including surveillance, apprehension, and escort to port procedures?

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

The Australian Customs and Border Protection Service has well developed protocols for boarding vessels at sea. Much of this covers sensitive operational information and it would be inappropriate to publicly disclose the actual Standard Operating Procedures (SOPs). These SOPs contain information which, if disclosed, could allow people involved in illegal or irregular activity to take steps to circumvent the protocols, however the following broad details can be provided.

Border Protection Command (BPC) uses an intelligence-based risk-led surveillance programme to detect and intercept Suspected Irregular Entry Vessels (SIEVs).

BPC does not have the authority to intercept or board vessels in international waters for migration purposes. Vessels detected in international waters may be subject to surveillance to determine whether they pose a threat to maritime security should they enter Australian waters. Once inside Australian waters, vessels may be boarded using powers granted under domestic legislation. BPC's authority to act is dependent on the location of the unauthorised vessel and the nature of activities the vessel is suspected of engaging in. For example, fishing vessels can be boarded in the Australian Exclusive Economic Zone under the *Fisheries Management Act 1991*. It is important to note however, the power to board under the *Migration Act 1958* only applies when vessels enter the Australian Contiguous Zone.

At the time a SIEV is boarded, the boarding party will:

- secure the bridge and engine room of the vessel to bring the vessel under control and determine the seaworthiness of the vessel;
- assemble the people to a safe location on the vessel and provide humanitarian assistance as required;
- secure evidence associated with the vessel and its voyage; and
- inform the people onboard of the future intentions.

The boarding party may then detain the SIEV. In detaining the SIEV, the boarding party may also detain the people onboard. The boarding party will provide advice to the people on the SIEV regarding their detention and processing.

In regard to vessels they are subjected to very stringent quarantine checks, vessels which present unacceptable risks may be destroyed at sea. Although destruction of these vessels is not an automatic choice, vessels may be destroyed under legislation because they pose quarantine risks, are unseaworthy or they are in such poor condition that custody or maintenance would involve an expense to the Commonwealth likely to be greater than the value of the vessel.

If a vessel is not destroyed at sea, it may be automatically forfeited to the Commonwealth and will be brought to an approved mooring location. The Australian Quarantine and Inspection Service (AQIS) conduct mandatory inspections and treatments on arrival to manage the biosecurity risks posed by such vessels. In cases vessels are in such poor condition that they are destroyed. This occurs at an approved destruction site and by an approved method under AQIS supervision.