



The Hon Scott Morrison MP
Minister for Immigration and Border Protection

Senator Sam Dastyari
Chair
Senate References Committee on Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Senator Dastyari

Public Interest Immunity Claim

I refer to the motion of the Senate of Wednesday 5 March 2014 referring for inquiry the issue of the positioning of Australian vessels operating under Operation Sovereign Borders.

I note that to date the Committee has not made any specific request for documents or information in relation to this particular inquiry. However, the Terms of Reference for the inquiry are such that some information and documents which may be requested are likely to contain information pertaining to on-water and other operational activities, similar in nature to material which was subject to my earlier claims of public interest immunity.

In the event that the Committee seeks such documents or information as part of this inquiry, I may wish to consider making a further public interest immunity claim, in line with the Government's stated position on these matters. Consideration is presently being given to the preparation and publication of a redacted version of the full Joint Review report which, if requested, could be provided to the Committee as soon as practicable.

I remain of the view that the disclosure of information pertaining to on-water activities and certain other operational matters would not be in the public interest where such disclosures:

- could reasonably be expected to cause damage to national security, defence, or international relations;
- would, or could reasonably be expected to:
 - i. Prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance;
 - ii. Disclose, or enable a person to ascertain the existence or identity of a confidential source or information, in relation to the enforcement or administration of the law;
 - iii. Endanger the life or physical safety of any person;
 - iv. Prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - v. Disclose lawful methods or procedures for preventing, detecting, investigation, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or

- vi. Prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- Disclose privileged legal advice.

I also draw to the Committee's attention that there is ongoing consideration of individual accountability within the Australian Customs and Border Protection Service and the Australian Defence Force as a result of the recommendations of the Joint Review. To protect the rights of individuals and to comply with natural justice requirements, it would not be appropriate at this point in time to disclose information which goes to the role of individual officers in the matters under examination.

I trust that this information is of assistance to the Committee.

Yours sincerely

The Hon Scott Morrison MP
Minister for Immigration and Border Protection
20 / 3 / 2014