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Opening Statement to Legal and Constitutional Affairs Legislation Committee

Estimates Hearing

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OPERATION SOVEREIGN BORDERS

I should like to begin with an overview of the situation regarding Operation Sovereign Borders in light of the decision last week (3rd February 2016) of the High Court of Australia in the case known as M68.

During my tenure as Secretary (since October 2014), we have maintained the integrity of our maritime borders, with no illegal maritime ventures having reached our shores during that time. The High Court of Australia has over that period upheld the legal foundations for 'turn back' and 'take back' maritime operations (*CPCF v Minister*, January 2015) and regional processing (*M68*, February 2016).

People smugglers and those seeking to employ their services should be in no doubt whatsoever that the Government means what it says regarding how this nation deals with illegal maritime arrivals – if you attempt to come to Australia by illegal maritime means, you will be turned around or taken back; if you are rescued at sea, you will be safely turned around; and the most that you might hope for is to be taken to Papua New Guinea or Nauru for the purposes of being assessed and processed for potential settlement outside of Australia, or return to your country of origin. **You will never settle in Australia.** To those waiting in Indonesia, Sri Lanka, Vietnam, Pakistan, Afghanistan, Iraq, Syria and elsewhere, seeking to come to Australia by

illegal maritime means – and who listen very carefully to what is said by Ministers and senior officials – let me be very clear: **the path is shut, with no exceptions.**

Regrettably, some think that if they wait, this state of affairs will change. The Government has instructed me clearly in this matter – the policy will not change and the Department has to gear its efforts and allocate its resources accordingly.

The Department is well seized of the need to find durable solutions for all who are the victims of exploitative people smugglers – those on Manus Island and Nauru, and those in Australia who, having arrived by illegal maritime means, are not eligible for permanent settlement, and further in some cases may not be owed protection.

No amount of moral lecturing by those who seem not to comprehend the negative consequences of an ‘open borders’ policy, will bring forth those solutions. There is no compassion in giving people false hope. All that can be done is being done – I speak of quiet diplomacy in relation to developing options for possible third country resettlement; and the quiet persuasion of those not owed protection to go home.

With regards to transferees and refugees in regional processing centres, the Department will continue to ensure that adequate medical services are provided to those who require it. For those transferees and refugees temporarily in Australia for medical treatment, or accompanying those in need of treatment, they will be returned to Nauru and Papua New Guinea at the conclusion of their treatment, noting that determinations will be made on a case-by-case basis. As the Prime Minister, the Minister and others have said, we will exercise appropriate discretion and indeed compassion, but will do so quietly.

Avoidance of fanfare and gesture is crucial – lest others be encouraged to ‘game’ opportunities to get to Australia, or to remain here. I cannot stress strongly enough to this Committee the imperative that I and my officers face in measuring everything that we say, such that our words cannot be twisted by those people smugglers who would seek to convince their so-called ‘clients’ that Australian policy is becoming more accommodative. Yielding to emotional gestures in this area of public

administration simply reduces the margin for discretionary action which is able to be employed by those who are actually charged with dealing with the problem.

DETENTION ASSURANCE

Let me now turn to immigration detention assurance. The Commissioner will speak in more detail about reforms to detention operations that he has set in train. My role as Secretary is to support him in those endeavours and to ensure that the Department maintains an independent internal assurance function in relation to detention operations. As I have previously advised this Committee, we have in place a separate, independent team, which is headed by a Senior Executive Service officer, which provides advice on the management and performance of the immigration detention function. This team also supports an independent Child Protection Panel which advises me on issues pertaining to the well-being and protection of children in our care.

Acknowledging the value of external and independent feedback in critically examining our operations, we have continued to build positive relationships with external oversight bodies to improve the way in which we deliver our services. We have received valuable advice from the Australian Human Rights Commission, the Commonwealth Ombudsman, the Australian Information Commissioner, the Australian Red Cross and others.

REFORM OF THE DEPARTMENT

As Senators would be aware, from 1st July 2015, our mission changed fundamentally, with the amalgamation of the nation's immigration, citizenship, customs, border protection and maritime security functions and the establishment of the new integrated Department and the Australian Border Force. Today, our new departmental mission is to protect Australia's border and manage the movement of people and goods across it. Our role is to manage our nation's border processes by which we oversee the *flow* of people and goods, to and from our nation. In other words, we are Australia's gateway to the world, and the world's gateway to Australia. On occasions, we will need to act as the gatekeepers and as necessary protect our

borders by all lawful means. However, the daily operating mode of the Department will be to act as the open conduit of Australia's engagement with the world around us, for the purposes of trade, travel or migration.

The amalgamation of Immigration and Customs has been successfully accomplished while the Department has continued to manage growing volumes in terms of trade, travel and migration. To take one example, in January 2016, we assessed more than 100,000 visitor visa applications ahead of Chinese New Year celebrations—an increase of 17 per cent on the same month in 2015 - 83 per cent of these applications were processed within 5 working days. This and other praiseworthy accomplishments are a testament to the men and women of the Department and the ABF. I should like to pay tribute to our staff, who every day successfully deliver immigration and customs functions for the nation, while keeping us safe through their work at the border.

Reform and integration activities are ongoing. We are committed to building one culture and one organisation – an objective which includes continuing to consolidate and streamline functions across the portfolio. Our integration reforms are large and complex. They affect around 14,000 staff across the portfolio as well as our financial, legal, infrastructure, technology and organisational policies and processes. The Department continues to improve its internal service delivery by developing a range of initiatives designed to improve the efficiency of back-of-house services. Integration has enabled efficiencies to be made through the removal of duplication and improved business practices. Savings over the Forward Estimates period will be \$270 million, comprising a return to Government of \$200 million and departmental reinvestment of \$70 million for ongoing reform.

By the end of this financial year, it is our expectation that the bulk of the integration effort would have been completed—with the exception of some core elements such as IT integration and property consolidation which, due to inherent complexities, will necessarily require additional time and investment. We are also scoping out our major reforms into the future. To this end, I have dedicated senior resources to defining, managing and communicating our future operating model over the next 10 years. This will support our investment decisions and guide our capabilities to ensure

that we can respond quickly to the volatile external environment in which we work. I will report on this effort in future appearances before this Committee.

In the meantime, I might briefly lay out the reform task for the Committee. In a highly-connected global environment, we will need to encourage increasingly 'seamless' cross-border movement. A new 'flow' model of the Australian border is already emerging, in the form of our increasing capacity to deal with rapidly growing volumes of visitors, migrants and goods - trend lines which will only continue to increase, as the world 'shrinks', and as Australia's global linkages broaden and deepen. Our ability to achieve this in the future will be critically dependent on our best asset – our people – being supported by ever improving capabilities such as real-time data fusion, information-sharing with intelligence and law enforcement partners, biometrics, intelligence-based targeting of high-risk border movements, and quick-response interdiction. Such capabilities will increasingly allow us to minimise our interventions in relation to lower-risk border movements, and concentrate our efforts where they can make the most difference in terms of enforcing our laws, protecting our community and helping to ensure our nation's security.

ENTERPRISE AGREEMENT

We are keen to develop an Enterprise Agreement that delivers the greatest benefits to the largest number of employees; and one which also recognises the challenging nature of our reform and integration environment, our increasing operational demands and our budgetary constraints. The previous offer, which was rejected last year, was developed with a view to keeping employee reductions to a minimum over the life of the agreement to ensure we had sufficient resources to carry out our duties set by government. To make the previous offer affordable, a reduction of 184 employees would have been required over the life of the agreement. The unavoidable reality is that a larger pay increase will now require more employee reductions. I am keen to ensure that these are kept to an absolute minimum. Bargaining has re-commenced and I trust that we can bring this matter to a prompt resolution.

Ends