

## QUESTION TAKEN ON NOTICE

### BUDGET ESTIMATES – 26 – 27 MAY 2014

#### IMMIGRATION AND BORDER PROTECTION PORTFOLIO

#### **(BE14/022) PROGRAMME – Australian Customs and Border Protection Service**

Senator Singh (L&CA 82) asked:

Senator SINGH: What kind of compliance measures are required to ensure that this practice of ensuring that no asbestos comes through our borders is monitored appropriately?

Mr Pezzullo: I will refer to Ms Grant on that.

Ms Grant: The service uses a risk managed approach to high-risk goods crossing our border. As part of our normal border controls, we would apply profiles to detect shipments that might possibly contain asbestos. Then we would deal with those matters at the border at the highest end. We have undertaken prosecutions successfully. We will get those numbers for you when we respond to the question on notice.

*Answer:*

#### Compliance and enforcement approach

The Australian Customs and Border Protection Service (ACBPS) applies an intelligence-led, risk-based approach to address the unlawful importation of goods containing asbestos. ACBPS ensures compliance with the *Customs Act 1901* and the *Customs (Prohibited Import) Regulations 1956*, which prohibit without permission importation of all forms of asbestos, through monitoring and intervention activities that are proportionate to the level of risk.

ACBPS may take prosecution action against importers found to have imported goods containing asbestos, with penalties of up to \$170 000 for individuals, \$850 000 for companies, or three times the value of the goods – whichever is greater.

ACBPS does not rely on prosecutions alone to ensure better compliance outcomes. ACBPS works proactively with a range of federal, state and territory agencies to address concerns about the importation of goods containing asbestos, and our multi-layered approach includes education, campaigns, outreach activities and refining our targeting activity to account for high-risk countries of origin and suppliers.

ACBPS also works closely with a range of high-risk industry sectors to ensure that goods are asbestos free before exportation to Australia. Some companies have employed Australian expert hygienists to inspect and certify goods at their place of manufacture, prior to shipment to Australia. Some overseas suppliers have changed their manufacturing practice.

## Prosecutions

Of the five attempted prosecutions for importing asbestos, two have been successful and are detailed below:

- In 2008, Alcan pleaded guilty to seven charges for importing equipment containing asbestos in breach of section 233(1)(b) of the Customs Act. The Court fined Alcan \$70 000 and awarded ACBPS with \$20 000 in costs.
- In 2012, the court found an international engineering company, Clyde Bergemann Senior Thermal Pty Ltd (CBST) guilty of two counts of importing prohibited imports, namely chrysotile asbestos contrary to section 233(1)(b) of the Customs Act. The Court fined CBST \$64 000 including costs.

ACBPS makes decisions on whether or not to prosecute based on the Prosecution Policy of the Commonwealth, whether there is sufficient evidence to prove the offence, and whether there are reasonable prospects of a successful conviction.