

## QUESTION TAKEN ON NOTICE

### SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

#### IMMIGRATION AND BORDER PROTECTION PORTFOLIO

#### **(SE16/143) - Importation of asbestos - Programme 1.1: Border Enforcement**

Senator Carr, Kim (L&CA) written:

In relation to the importation of asbestos:

Has the DIBP provided a responded to the non-confirming building products inquiry draft report and can you provide a copy of the submission?

DIBP provided evidence to the Non-Conforming Building Products Inquiry that Russia, China, India, Brazil, Kazakhstan and Canada have been identified as high-risk countries. Countries with expanding manufacturing bases and increased trade with Australia, such as Vietnam and Zimbabwe are closely scrutinized. DIBP also mentioned Thailand and Singapore in the verbal evidence.

Does this list include Indonesia given they still use asbestos in building products?

How does DIBP manage this issue when negotiating free trade agreements?

Is DIBP involved in those negotiations?

DIBP provided evidence at that same inquiry in November last year, stating that:

“In instances of asbestos we have a number of profiles in our systems—as of last month we have about 31 profiles,—targeting certain high-risk origins, suppliers and various intelligence on products like children's toys and all the things we have known of previously. We target those and if they are suspected of containing asbestos we actually get the importer to get it tested through a NATA authorized laboratory. If asbestos is present we will get a removals to handle the asbestos. That is the process...” and “It is based on the information provided by the importer.”

Has DIBP seen any evidence of importers miss-declaring the origin, or tariff codes of the goods, trans-shipping them etc. in to avoid being picked up by these risk profiles? Please provide details of each instance.

Is DIBP aware of goods containing asbestos that have not been stopped by Border Force simply because they haven't matched the risk profile in operation at the time? If so, how did they fall through the cracks and what actions were taken?

If a contaminated product is imported from a particular country or supplier (and assuming it is discovered), does it automatically trigger a consignment about that country or supplier being classified as high risk, or does it inform your existing risk profiles?

What is the process?

Commander Erin Dale visited China in May 2016 to discuss issues around asbestos imports with government agencies. Can you provide details of this trip and its results?

What is an “asbestos-free certificates” and how are they issued?

Peter McRae, the CEO of customs broker Platinum Freight, said in an article from Fairfax that “Until recently, authorities had accepted asbestos-free certificates that were several years old and potentially out of date”

Is this true?

And if so, were Chinese government agencies and/or manufacturers told that this would no longer be acceptable when Commander Dale visited China in May?

How does a supplier obtain an “asbestos-free” certificate? What's the process?

Does it require goods to be tested within Australia by an accredited laboratory?

Mr Tighe from the Asbestos Eradication Agency stated that: “importers of goods/materials that are at risk of containing asbestos...should be required to demonstrate they have put in place a robust testing regime to ensure their goods/materials are asbestos-free”. He also recommended that the testing of goods and materials should be undertaken in Australia, by an accredited laboratory, because certification provided to importers from overseas manufacturers has sometimes been proved to be incorrect or unreliable.

Does DIBP agree that the testing regime needs to be improved?

What is DIBPs position on the proposal that the testing of goods and materials should be undertaken in Australia by an accredited laboratory?

Is ABF briefing DFAT ahead of the next High Level Dialogue on Technical Barriers to Trade between Australia and the Chinese Government (which is a dialogue formalised under the Australia China Free Trade Agreement) about what is required to assess positive evidence of conformance with Australian standards, in regards to products with a high risk of containing asbestos? If not, why not

*Answer:*

*Has the DIBP provided a responded to the non-confirming building products inquiry draft report and can you provide a copy of the submission?*

Yes. The Department’s submission can be found on the inquiry website:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Non-conforming\\_products/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Non-conforming_products/Submissions)

*DIBP provided evidence to the Non-Conforming Building Products Inquiry that Russia, China, India, Brazil, Kazakhstan and Canada have been identified as high-risk countries. Countries with expanding manufacturing bases and increased trade with Australia, such as Vietnam and Zimbabwe are closely scrutinized. DIBP also mentioned Thailand and Singapore in the verbal evidence. Does this list include Indonesia given they still use asbestos in building products?*

Yes.

*How does DIBP manage this issue when negotiating free trade agreements?*

Australia’s asbestos border protection policies are not part of FTA negotiations.

*Is DIBP involved in those negotiations?*

This is not applicable noting the answer to the preceding question.

*DIBP provided evidence at that same inquiry in November last year, stating that: “In instances of asbestos we have a number of profiles in our systems—as of last month we have about 31 profiles,—targeting certain high-risk origins, suppliers and various intelligence on products like children's toys and all the things we have known of previously. We target those and if they are suspected of containing asbestos we actually get the importer to get it tested through a NATA authorized laboratory. If asbestos is present we will get a removals to handle the asbestos. That is the process...” and “It is based on the information provided by the importer.” Has DIBP seen any evidence of importers miss-declaring the origin, or tariff codes of the goods, trans-shipping them etc. in to avoid being picked up by these risk profiles? Please provide details of each instance.*

The Australian Border Force (ABF) has confirmed one instance to date of a container originally intended for import being re-reported as transshipment container when asbestos was detected in similar goods. This matter is part of a current investigation and, as such, the ABF is unable to provide further details at this stage.

To date, there are no confirmed instances of an importer mis-declaring origin or misclassifying goods to avoid asbestos interventions at the border. However, this type of industry behaviour is captured in our current asbestos profiling and interventions at the border.

In most instances where asbestos containing material has been detected, the importer has been unaware of its presence in the goods being imported.

*Is DIBP aware of goods containing asbestos that have not been stopped by Border Force simply because they haven't matched the risk profile in operation at the time? If so, how did they fall through the cracks and what actions were taken?*

DIBP is aware of a number of instances where asbestos was detected post-border. These instances are usually a result of consignments not matching against asbestos profiles in place at the time.

The ABF takes post-border detections of asbestos seriously and actively engages with industry and other Government agencies at state and federal levels to encourage the reporting of post-border detections in imported material.

The ABF, as a member of the Heads of Workplace Safety Authorities (HWSA) Imported Materials with Asbestos Working Group, works closely with state-based authorities to identify and act upon all new information relating to asbestos contaminated products.

The ABF is constantly refining its targeting efforts to detect goods containing asbestos. Our pre-border and at-border approach is reviewed and amended where necessary on receipt of new information or intelligence from a range of sources that indicates there may be a higher risk of asbestos posed by certain goods or suppliers.

Where appropriate, post-border detections of asbestos are also considered for formal investigation by the ABF.

*If a contaminated product is imported from a particular country or supplier (and assuming it is discovered), does it automatically trigger a consignment about that country or supplier being classified as high risk, or does it inform your existing risk profiles? What is the process?*

If asbestos is detected in a type of good or involving an entity that was previously not being targeted, either additional profiles are put in place to target that good/entity or existing profiles are refined. Asbestos profiles can be purely commodity based, entity-based (i.e. importer and/or supplier) or combined with other key risk indicators such as country of origin. Some can be broad due to the nature of the risk (i.e. commodity-based profiles, commodity-origin profiles), whilst others can be very specific and limited to certain entities.

*Commander Erin Dale visited China in May 2016 to discuss issues around asbestos imports with government agencies. Can you provide details of this trip and its results?*

In late May 2016 Commander Dale from the ABF visited China. Whilst the trip covered a range of ABF matters, one area of focus was engaging with relevant Chinese government authorities to discuss Australia's ban on asbestos and how the ABF can more effectively engage and communicate with Chinese suppliers and manufacturers to prevent asbestos-containing materials being shipped to Australia. Outcomes included a greater understanding of Australia's asbestos ban and the ABF's role at the border, and an in-principle agreement from the General Administration of Quality Inspection and Supervision and Quarantine (AQISQ) to support the ABF's asbestos overseas outreach program by continuing to publish relevant information on their website and including an ABF segment in AQISQ's program of industry seminars and workshops. Following this visit, the ABF is progressing its outreach program in China through its overseas post – by directly engaging with suppliers and manufacturers to educate and raise awareness of Australia's asbestos ban and border requirements.

*What is an “asbestos-free certificates” and how are they issued?*

Importers must provide sufficient assurance to the ABF to demonstrate that imported goods do not contain asbestos. One of the ways importers can provide assurance is through the sampling and testing of their goods by an accredited testing laboratory. On completion of testing, laboratories issue 'certificates' certifying that the samples contain no asbestos content. Goods being imported can be tested prior to the importation by a laboratory in Australia or overseas.

Importers, who wish to have their goods tested in Australia, prior to the importation, must first seek permission from the Minister of Employment to import sample for analysis purpose, through the Asbestos Safety and Eradication Agency (ASEA). Once the permission has been granted, importers organise sampling and testing. The samples must be from the actual shipment to be imported. The testing must be undertaken by an Australian testing laboratory that is accredited by the National Association of Testing Authorities (NATA).

Certification of samples tested outside Australia must be from an overseas testing laboratory that is accredited by the NATA equivalent testing authority in that overseas economy. The local testing authority must be a signatory to a Mutual Recognition Arrangement (MRA) with NATA.

Any other certificates provided by manufacturers or third parties will not be accepted by the ABF as evidence of compliance with Australian standards.

*Peter McRae, the CEO of customs broker Platinum Freight, said in an article from Fairfax that "Until recently, authorities had accepted asbestos-free certificates that were several years old and potentially out of date" Is this true?*

When presented with testing certification from an accredited testing laboratory, the ABF will seek additional assurances to verify whether the samples tested have been drawn from the actual batch/consignment - specific to the goods being imported to Australia.

For example, if the testing certificate is more than twelve months old, the ABF would seek further assurance from the importer and supplier that the goods follow the same manufacturing process as the goods that were tested or are from the same batch.

If sufficient assurance cannot be provided, the certificate will not be accepted and the goods would remain subject to customs control until further information can be produced to provide additional assurance.

The ABF reserves the right to require further testing on importation, if deemed necessary.

*And if so, were Chinese government agencies and/or manufacturers told that this would no longer be acceptable when Commander Dale visited China in May?*

Whilst in China, Commander Dale clarified Australia's import requirements in relation to asbestos. This included the requirement that testing is conducted by NATA accredited laboratories in Australia or if testing is conducted overseas, a laboratory that is accredited to undertake asbestos testing by a NATA-recognised equivalent international accreditation authority, as well as the types of assurances the ABF will seek at the border in relation to asbestos.

*How does a supplier obtain an "asbestos-free" certificate? What's the process?*

NATA is the recognised testing authority in Australia. All testing must be conducted by a NATA-accredited laboratory. NATA also has MRAs in place with overseas testing authorities, which in turn accredit laboratories in their countries.

The ABF only accepts certificates from laboratories accredited by NATA to undertake testing for asbestos when such testing is conducted in Australia. If testing is conducted overseas, the testing certificate must be from a laboratory that is accredited by a NATA-recognised equivalent testing authority to undertake testing for asbestos.

*Does it require goods to be tested within Australia by an accredited laboratory?*

No. Testing can also take place overseas in a laboratory that is accredited to undertake asbestos testing by a NATA-recognised equivalent international accreditation authority.

*Mr Tighe from the Asbestos Eradication Agency stated that: “importers of goods/materials that are at risk of containing asbestos...should be required to demonstrate they have put in place a robust testing regime to ensure their goods/materials are asbestos-free”. He also recommended that the testing of goods and materials should be undertaken in Australia, by an accredited laboratory, because certification provided to importers from overseas manufacturers has sometimes been proved to be incorrect or unreliable. Does DIBP agree that the testing regime needs to be improved?*

In testing for asbestos, the Department relies on the expertise of accredited testing laboratories. In Australia, laboratories are accredited by NATA. Where the testing is carried out overseas, the testing must be undertaken by a laboratory accredited by the NATA equivalent that is a signatory to a Mutual Recognition Arrangement (MRA) with NATA. The Department is engaging with authorities, including NATA, as part of improving our border management response. If the ABF suspects that a consignment contains asbestos, the goods will be held at the border and further testing may be required.

*What is DIBPs position on the proposal that the testing of goods and materials should be undertaken in Australia by an accredited laboratory?*

Testing goods for asbestos can be undertaken either in Australia or overseas. All samples of goods, whether tested in Australia or overseas, must be tested in an accredited laboratory. In Australia, laboratories are accredited by the NATA. Where the testing is carried out overseas, the testing must be undertaken by a laboratory accredited by the NATA equivalent that is a signatory to a MRA with NATA.

The ABF assesses all assurances provided at the border to determine whether goods contain asbestos, including test reports and other types of documentation. Where there is insufficient information to provide assurance that the goods do not contain asbestos, they will be held until further information is provided. Where testing is required to demonstrate sufficient assurance, the testing is to be undertaken by an appropriately accredited laboratory as per the above.

DIBP does not require testing to be undertaken in Australia, but reserves the right to require additional testing in Australia on importation if deemed necessary.

*Is ABF briefing DFAT ahead of the next High Level Dialogue on Technical Barriers to Trade between Australia and the Chinese Government (which is a dialogue formalised under the Australia China Free Trade Agreement) about what is required to assess positive evidence of conformance with Australian standards, in regards to products with a high risk of containing asbestos? If not, why not?*

Asbestos is a prohibited import and is not a Technical Barrier to Trade. As a result, asbestos is not discussed as part of the High Level Dialogue on Technical Barriers to Trade.

DIBP has increased international engagement on Australia's asbestos prohibition with government representatives of major exporting countries, including China, to clarify Australia's strict border requirements.