

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(SE16/144) - Non-conforming building products - Programme 1.1: Border Enforcement

Senator Carr, Kim (L&CA) written:

In evidence to the Non-Conforming Building Products Senate Inquiry the Australian Border Force indicated they had finalised five investigations into the importation of goods containing asbestos during the 2014/15 year.

What was the nature of those investigations?

What results did DIBP find?

Has DIBP briefed the Minister of the results of the investigation?

In the same evidence DIBP suggested there were a further two investigations underway.

Where are those investigations up to?

What products are those investigations looking at?

An ABC article from 17 July 2016 indicated that since 2013, Australian Border Force has had 17 positive matches for asbestos and has finalised 10 investigations.

How many investigations per year have DIBP conducted since 2013?

How many seizures have occurred since 2013?

An article in Fairfax 30 September 2016 suggests that the Australian Border Force has made 13 seizures of banned building material containing asbestos since its establishment of ABF.

What sorts of materials have been seized?

Can DIBP provide a breakdown of the product (by tariff code) and country of origin of these 13 seizures?

This same article states that 69 sites around Australia are being investigated for asbestos contaminated material, including 11 sites in Victoria. Please provide an update on those investigations?

What was the total value of these seizures according to the import declarations?

In December 2015, Australian Border Force stated that there been \$64,000 in fines, penalties and costs imposed since 2009 relating to asbestos offences.

Can DIBP provide an updated figure regarding fines, penalties and costs given all of the recent seizures?

How does DIBP investigate possible asbestos imports at the border?

It has to be through physical testing, is that right?

Roughly how many shipments are flagged for possible asbestos?

And of these, how many actually undergo physical testing?

In terms of inspections, it has been suggested in an ABC report from July 2016 that "1,000 shipments had been flagged as fitting or being similar to a high-risk profile, of which 100 had been sent off for testing."

Is this correct?

Have DIBP completed testing of these?

What does DIBP consider to be high risk? How does DIBP determine a high risk profile?

Please provide a breakdown of the country of origin for these products? (by tariff line)

Does DIBP agree there has been an increase in asbestos imports in recent years?
What difference has DIBP noticed and what can this be attributed to?

Answer:

In evidence to the Non-Conforming Building Products Senate Inquiry the Australian Border Force indicated they had finalised five investigations into the importation of goods containing asbestos during the 2014/15 year.

What was the nature of those investigations?

To establish whether the relevant conduct amounts to an offence under customs law, and where appropriate and taking into account the Prosecution Policy of the Commonwealth, commence prosecution action.

What results did DIBP find?

Of the five cases finalised in the 2014–15 financial year:

- One resulted in a successful prosecution outcome, and
- Four were discontinued because of insufficient evidence to establish that an offence against customs law had occurred.

Has DIBP briefed the Minister of the results of the investigation?

No. The ABF does not routinely brief the Minister on the progress or outcome of investigations.

In the same evidence DIBP suggested there were a further two investigations underway.

Where are those investigations up to?

As these investigations are ongoing, the ABF is unable to disclose the details or comment further at this time.

What products are those investigations looking at?

As these investigations are ongoing, the ABF is unable to disclose the details or comment further at this time.

An ABC article from 17 July 2016 indicated that since 2013, Australian Border Force has had 17 positive matches for asbestos and has finalised 10 investigations.

How many investigations per year have DIBP conducted since 2013?

Asbestos Investigations 2012/2013 – 2016/2017			
Commenced	Total	Finalised	Total
2012/2013	4	2012/2013	2
2013/2014	3	2013/2014	5
2014/2015	3	2014/2015	5
2015/2016	3	2015/2016	1
2016/2017	2	2016/2017	1

*Criminal investigations commenced since 30 June 2012: 15

*Criminal investigations finalised since 30 June 2012: 14 (these include cases that commenced before 2012/2013)

*Active criminal investigations: 6

How many seizures have occurred since 2013?

Since July 2013 (to 31 October 2016) there have been 36 seizures of asbestos-containing material at the border.

An article in Fairfax 30 September 2016 suggests that the Australian Border Force has made 13 seizures of banned building material containing asbestos since its establishment of ABF. What sorts of materials have been seized? Can DIBP provide a breakdown of the product (by tariff code) and country of origin of these 13 seizures?

In 2015–2016 there were 13 seizures in total (not just building products). These seizures included the following types of goods:

- EPS sandwich fibre panels
- Gaskets
- Brake Pads / Brake shoes
- Vehicle washers
- Crayons

Country of Origin

Number of Seizures	Country of Origin
8	China and Hong Kong
3	Undetermined (a component part of a vessel)
1	Taiwan
1	USA

By Tariff Code

Number of Seizures	Tariff Code	Tariff Description
1	68109100	Prefabricated structural components for building or civil engineering of cement, concrete or artificial stone, whether or not reinforced.
1	68129990	Articles of asbestos or of mixtures based on asbestos or asbestos and magnesium carbonate, e.g., yarn, thread, cords, string, woven or knitted fabric, whether or not reinforced (excl. of crocidolite asbestos, fabricated asbestos fibres, mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate, compressed asbestos fibre jointing, in sheets or rolls, paper, millboard and felt, clothing, clothing accessories, footwear and headgear, friction material with a basis of asbestos, articles of asbestos-cement)
2	68132090	Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials. Not containing asbestos, Brake linings and pads.
1	89019090	Cruise ships, excursion boats, ferry-boats, cargo ships, barges and similar vessels for the transport of persons or goods.
2	89069090	Other vessels, including warships and lifeboats other than rowing boats.
1	96091000	Pencils (other than pencils of 9608), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chinks and tailors' chinks. Pencils and crayons, with leads encased in a rigid sheath.
2	96099000	Pencils (other than pencils of 9608), crayons, pencil leads, pastels, drawing charcoals, writing or drawing chinks and tailors' chinks. Other.

This same article states that 69 sites around Australia are being investigated for asbestos contaminated material, including 11 sites in Victoria. Please provide an update on those investigations?

The investigations referred to in the media article are not ABF investigations.

What was the total value of these seizures according to the import declarations?

In most instances, only the asbestos or asbestos containing material is seized from a consignment, with the remainder of the consignment released unless there is a risk that the asbestos may have contaminated the remainder of the consignment based on the inspection of the goods by a competent person. Therefore the Australian Border Force (ABF) cannot provide an accurate value of the seized material (as the declared value of the goods is for the entirety of the goods).

In December 2015, Australian Border Force stated that there been \$64,000 in fines, penalties and costs imposed since 2009 relating to asbestos offences. Can DIBP provide an updated figure regarding fines, penalties and costs given all of the recent seizures?

Since December 2015, there have been an additional two penalties for a total of \$16,200 issued under the *Customs Act 1901* Infringement Notice Scheme. An additional ten detections are currently under consideration for penalty action.

How does DIBP investigate possible asbestos imports at the border? It has to be through physical testing, is that right?

If a consignment is flagged as posing a risk of asbestos, the goods are held at the border by the ABF and commercial documents are requested to determine the nature of the goods.

If required, a certificate from an appropriately accredited laboratory is requested to confirm the goods contain no asbestos content.

If a certificate can't be provided, or the certificate does not provide adequate assurance that the goods contain no asbestos content, an examination will be requested and the importer will be required to have their goods tested.

Testing is undertaken at the cost to the importer. Testing must be conducted by a NATA accredited laboratory.

If the test is positive for asbestos, the goods will be seized by the ABF and in most cases subject to immediate disposal, and the importation is referred for investigation in the first instance.

Roughly how many shipments are flagged for possible asbestos? And of these, how many actually undergo physical testing?

Since the establishment of the ABF on 1 July 2015 until 31 October 2016, 4011 consignments have matched specific asbestos profiles and alerts.

This number only captures those consignments which have been selected as a result of matching a specific asbestos profile or alert. The ABF also asks an asbestos Community Protection Question (CPQ) on a range of tariff classifications, which provides another layer of assurance at the border. The CPQ is required to be answered by the importer (or a customs broker acting on their behalf) at the time of entering their

goods. Positive responses to an asbestos CPQ triggers further scrutiny of the consignment for the risk of asbestos.

Certain commodities (such as vehicles) are also stopped at import and evaluated for a range of reasons (i.e. permit requirements), including the risk of asbestos.

Of the 4011 consignments, 284 tests have been conducted to date.

In terms of inspections, it has been suggested in an ABC report from July 2016 that “1,000 shipments had been flagged as fitting or being similar to a high-risk profile, of which 100 had been sent off for testing.” Is this correct?

The officer referred to in that report was quoting 2015–2016 financial year figures. In 2015–2016 1167 consignments matched a profile or alert for asbestos. Of these, 117 consignments were tested for the presence of asbestos.

Have DIBP completed testing of these?

Yes. There were 13 positive detections as a result.

What does DIBP consider to be high risk? How does DIBP determine a high risk profile?

All asbestos (other than trace amounts naturally occurring in raw materials) is recognised as presenting significant potential health, economic and environmental consequences and, as such, is treated as high risk in terms of profiling and at border activities.

Please provide a breakdown of the country of origin for these products? (by tariff line)

Of the 117 consignments that were physically examined, 15 were air cargo report self-assessed clearance declarations (SACs) which have no tariff classification.

By Tariff

Count of Country	Country							Total
	Tariff	China	Germany	Spain	Hong Kong	Indonesia	India	
4903000	2							2
6806909	11							11
6808000	5							5
6809110	1							1
6810910	2							2
6811820	14							14

6812999 0							1	1
6813209 0	1			1				2
6813899 0							1	1
7308900 0	1							1
8419600 0			1					1
8539490 0	1							1
8539900 0	1							1
8708301 9	1							1
8708309 9	1							1
8716900 0	1							1
9609100 0	33							33
9609900 0	18	1			1	1	2	23
Total	93	1	1	1	1	1	4	102

Tariff Descriptions:

Tariff Classification	Tariff Description
49030000	CHILDREN'S PICTURE, DRAWING OR COLOURING BOOKS
68069090	SLAG WOOL, ROCK WOOL AND SIMILAR MINERAL WOOLS; EXFOLIATED VERMICULITE, EXPANDED CLAYS, FOAMED SLAG AND SIMILAR EXPANDED MINERAL MATERIALS; MIXTURES AND ARTICLES OF HEAT-INSULATING, SOUND-INSULATING OR SOUND-ABSORBING MINERAL MATERIALS, OTHER THAN THOSE OF 6811 OR 6812 OR OF CHAPTER 69: - OTHER
68080000	PANELS, BOARDS, TILES, BLOCKS AND SIMILAR ARTICLES OF VEGETABLE FIBRE, OF STRAW OR OF SHAVINGS, CHIPS, PARTICLES, SAWDUST OR OTHER WASTE, OF WOOD, AGGLOMERATED WITH CEMENT, PLASTER OR OTHER MINERAL BINDERS
68091100	ARTICLES OF PLASTER OR OF COMPOSITIONS BASED ON PLASTER: -- Faced or reinforced with paper or paperboard only
68109100	ARTICLES OF CEMENT, OF CONCRETE OR OF ARTIFICIAL STONE, WHETHER OR NOT REINFORCED: -- Prefabricated structural components for building or civil engineering
68118200	ARTICLES OF ASBESTOS-CEMENT, OF CELLULOSE FIBRE-CEMENT OR THE LIKE: -- Other sheets, panels, tiles and similar articles

Tariff Classification	Tariff Description
68129990	FABRICATED ASBESTOS FIBRES; MIXTURES WITH A BASIS OF ASBESTOS OR WITH A BASIS OF ASBESTOS AND MAGNESIUM CARBONATE; ARTICLES OF SUCH MIXTURES OR OF ASBESTOS (FOR EXAMPLE, THREAD, WOVEN FABRIC, CLOTHING, HEADGEAR, FOOTWEAR, GASKETS), WHETHER OR NOT REINFORCED, OTHER THAN GOODS OF 6811 OR 6813: OTHER
68132090	FRICITION MATERIAL AND ARTICLES THEREOF (FOR EXAMPLE, SHEETS, ROLLS, STRIPS, SEGMENTS, DISCS, WASHERS, PADS), NOT MOUNTED, FOR BRAKES, FOR CLUTCHES OR THE LIKE, WITH A BASIS OF ASBESTOS, OF OTHER MINERAL SUBSTANCES OR OF CELLULOSE, WHETHER OR NOT COMBINED WITH TEXTILE OR OTHER MATERIALS: OTHER
68138990	FRICITION MATERIAL AND ARTICLES THEREOF (FOR EXAMPLE, SHEETS, ROLLS, STRIPS, SEGMENTS, DISCS, WASHERS, PADS), NOT MOUNTED, FOR BRAKES, FOR CLUTCHES OR THE LIKE, WITH A BASIS OF ASBESTOS, OF OTHER MINERAL SUBSTANCES OR OF CELLULOSE, WHETHER OR NOT COMBINED WITH TEXTILE OR OTHER MATERIALS: OTHER
73089000	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF 9406.00.00) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK-GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL: OTHER
84196000	MACHINERY, PLANT OR LABORATORY EQUIPMENT, WHETHER OR NOT ELECTRICALLY HEATED (EXCLUDING FURNACES, OVENS AND OTHER EQUIPMENT OF 8514), FOR THE TREATMENT OF MATERIALS BY A PROCESS INVOLVING A CHANGE OF TEMPERATURE SUCH AS HEATING, COOKING, ROASTING, DISTILLING, RECTIFYING, STERILISING, PASTEURISING, STEAMING, DRYING, EVAPORATING, VAPORISING, CONDENSING OR COOLING, OTHER THAN MACHINERY OR PLANT OF A KIND USED FOR DOMESTIC PURPOSES; INSTANTANEOUS OR STORAGE WATER HEATERS, NON-ELECTRIC: - Machinery for liquefying air or other gases
85394900	ELECTRIC FILAMENT OR DISCHARGE LAMPS, INCLUDING SEALED BEAM LAMP UNITS AND ULTRA-VIOLET OR INFRA-RED LAMPS; ARC-LAMPS: - OTHER
85399000	ELECTRIC FILAMENT OR DISCHARGE LAMPS, INCLUDING SEALED BEAM LAMP UNITS AND ULTRA-VIOLET OR INFRA-RED LAMPS; ARC-LAMPS: Ultra-violet or infra-red lamps; arc-lamps: - PARTS
87083019	PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF 8701 TO 8705: - Brakes and servo-brakes; parts thereof: OTHER
87083099	PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF 8701 TO 8705: OTHER
87169000	TRAILERS AND SEMI-TRAILERS; OTHER VEHICLES, NOT MECHANICALLY PROPELLED; PARTS THEREOF: PARTS

Tariff Classification	Tariff Description
96091000	PENCILS (OTHER THAN PENCILS OF 9608), CRAYONS, PENCIL LEADS, PASTELS, DRAWING CHARCOALS, WRITING OR DRAWING CHALKS AND TAILORS' CHALKS: - Pencils and crayons, with leads encased in a rigid sheath
96099000	PENCILS (OTHER THAN PENCILS OF 9608), CRAYONS, PENCIL LEADS, PASTELS, DRAWING CHARCOALS, WRITING OR DRAWING CHALKS AND TAILORS' CHALKS: OTHER

Air Cargo Report SACs (no tariff classification available)

Air Cargo SACs – Goods Description	Number
Crayon related	11
Stationary	2
Other	2
Total	15
By Country	Count
China	5
Spain	1
Hong Kong	1
India	2
Korea	4
Papua New Guinea	1
Venezuela	1
Total	15

Does DIBP agree there has been an increase in asbestos imports in recent years? What difference has DIBP noticed and what can this be attributed to?

The ABF employs an intelligence-led, risk-based approach to address the risk of asbestos at the border. Our targeting and intervention responses are informed by indicators such as commodity type, supplier and country of origin and are driven solely by risk.

There has been an increase in asbestos detections since the ABF was stood up, reflecting an increased strategic and operational focus on this risk as a result of intelligence and information received. A range of factors can be attributed to this increase, including changing trade volumes and trade patterns.