



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

**Completion of Kakadu National Park
(Koongarra Project Area Repeal) Bill
2013, Customs Amendment (Anti-
Dumping Commission) Bill 2013, Marine
Safety (Domestic Commercial Vessel)
National Law Amendment Bill 2013**

Second Reading

SPEECH

Monday, 25 February 2013

BY AUTHORITY OF THE SENATE

SPEECH

Date Monday, 25 February 2013
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Questioner
Speaker McLucas, Sen Jan

Source Senate
Proof No
Responder
Question No.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (20:36): I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

I rise in support of the Completion of Kakadu National Park (Koongarra Project Area Repeal) Bill 2013.

Koongarra is an area of native woodland of great environmental and cultural significance, located within the boundaries, but not part of, Kakadu National Park.

Koongarra was previously excluded from the Park because of its potential to be the site for a uranium mine as recommended by the Ranger Uranium Environmental Inquiry.

The Traditional Owner, through the Northern Land Council, has clearly stated his wish that the land be included in Kakadu National Park, and as a consequence, has waived his interest in Koongarra as a mining lease.

In 1981 Parliament enacted the *Koongarra Project Area Act 1981* (Cth). The proclamation of the commencement of the relevant provisions of this legislation was made conditional on the Minister for Aboriginal Affairs (now the Minister for Families, Community Services and Indigenous Affairs) and the relevant Land Council (the Northern Land Council) providing consent. Such consent has never been provided and accordingly the relevant provisions of this Act remain unproclaimed.

Over the years, a number of mineral lease applications relating to the Koongarra area have been made. None of these applications have been granted.

In June 2011, the UNESCO World Heritage Committee included Koongarra into the Kakadu World Heritage Area.

The remaining legal steps for inclusion of Koongarra into Kakadu are close to being finalised. Minister Macklin has provided consent under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and signed a lease of Koongarra to the Director of National Parks. A proclamation by the Governor-General under section 350 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) is imminent, and will include Koongarra into Kakadu National Park.

The repeal of the *Koongarra Project Area Act 1981* (Cth) is part of the process necessary to prevent uranium mining and preserve Koongarra's environmental and cultural treasures forever. The 1,288 hectares of Koongarra will soon be protected by incorporating it into Kakadu National Park in accordance with the clearly expressed wishes of the Traditional Owner, for the benefit of all Australians.

Australia's a trading nation. Trade is the key to our success. The Asian White Paper makes that very clear.

One of the things that can harm trade is dumping.

Dumping is cheating.

Where goods are dumped into our domestic market, it can hurt Australian industry, it can also reduce confidence in the whole trading system, and that's why it's important that you have a strong anti-dumping system that makes sure that people play by the rules.

Last December the Prime Minister, the Minister for Industry and Innovation and I announced a package of measures to strengthen Australia's anti-dumping system. This \$24.4 million package includes:

Establishing a new Anti-Dumping Commission to investigate anti-dumping cases;

Almost doubling the number of investigators working on anti-dumping cases — so that cases can be dealt with fairly and more expeditiously;

Reforms to make the anti-dumping system more accessible for small and medium sized businesses; and

Introducing stricter remedies against overseas producers who deliberately circumvent Australia's anti-dumping system.

This bill is the first step in the implementation of these important reforms.

Its purpose is to establish the Australian Anti-Dumping Commission.

The establishment of this new Commission, under legislation, is the primary recommendation of the review into Australia's anti-dumping and countervailing system led by the Hon John Brumby, the former Premier of Victoria.

In July last year I asked Mr Brumby to provide me with advice on the best structure for administering Australia's anti-dumping system – based on consultation with Australian businesses, unions, stakeholder representative groups and experts in the anti-dumping field.

He contacted over 400 stakeholders as part of his review.

His report found that in the past 12 months the workload of the administration had almost tripled – as a result of economic conditions like the high Australian dollar, surplus product on world markets and increased competition.

Mr Brumby recommended that the government establish an anti-dumping commission – based in a major capital city - and increase the resources set aside for anti-dumping investigations.

This bill implements this important recommendation for structural reform.

It also recommended that additional resources be directed to anti-dumping investigations. That's exactly what we have done - boosting funding for anti-dumping investigations by \$24.4 million over the next four years.

The new money means we will almost double the number of investigators working on anti-dumping cases.

The Anti-Dumping Commission will be principally located in Melbourne and it will commence its work in July this year.

The Commissioner will report directly to the Minister.

The Commission will consist of:

The Commissioner;

Two senior executive staff, and

Other staff, including the new investigators.

The Anti-Dumping Commission will be organisationally situated within Customs and Border Protection. This means that staff assisting the Commissioner will continue to be officers of Customs, however, they will report to the Commissioner.

The Brumby Review weighed up the costs and benefits of different organisation models for an anti-dumping commission.

The Brumby Review found this to be the best model because it maintains the links to Customs' systems, data, and powers – with the benefit of the increased "*distinctiveness and independence*" that comes with a Commission structure.

This Bill also amends the *Customs Act* to create the Commissioner's role and offer legislative guidance to the Commission's work:

The Commissioner will be responsible for decision-making and other anti-dumping related functions that currently rest with the CEO of Customs and Border Protection.

This Bill confers on the Commissioner all of the powers contained in Part XVB of the *Customs Act*, currently exercised by the CEO.

The Bill also sets out the terms and conditions of the Commissioner's appointment including the term of appointment, disclosure of interests, outside employment, resignation and termination.

The Bill does not change the responsibility of the Minister for anti-dumping matters.

The recruitment process for the Commissioner will be merits-based. Advertisements will be published in the coming weeks.

I will appoint the Commissioner, for a specified period, not exceeding five years.

The Bill also amends the *Customs Administration Act* to:

allow the CEO of Customs to delegate to the Commissioner powers to disclose certain information to the extent those powers apply in connection with Part XVB of the Act; and

provide that the prohibition of disclosure of certain information will also apply to the Commissioner.

Over the past 18 months, the Government has brought to Parliament four tranches of legislation to improve the anti-dumping system. These changes included:

introducing a new Review Officer panel to undertake merits-based review of anti-dumping decisions;

introduction of an new anti-circumvention framework;

more closely aligning Australia's anti-dumping system with WTO obligations including by reflecting the full range of actionable subsidies;

requiring the Minister to make decisions within 30 days of receiving an investigation; and

establishing in legislation the key stakeholder body — the International Trade Remedies Forum - to provide ongoing advice to Government on future reform to the system.

These reforms represent the most extensive improvements to the anti-dumping system in a decade.

But there is more reform underway.

In December when I announced the Anti-dumping Commission and the extra resources for investigations I also announced we would:

remove mandatory consideration of the lesser duty rule in complex cases;

clarify the application of retroactive duties;

introduce a new review mechanism to reduce the complexity of the existing review processes and make them more effective; and

improve the infringement notice scheme to increase penalties and provide a more effective deterrent against importers making false or misleading statements in an attempt to circumvent duties.

I will introduce further legislation in the next sitting period to implement these reforms.

These reforms to the anti-dumping system are also part of the broader reforms to Customs and Border Protection that I announced late last year.

In December I also announced the establishment of a Customs Reform Board made up of three distinguished Australians with expertise in law enforcement, corruption resistance and best practice business systems.

The Honourable James Wood QC - Former Royal Commissioner of the NSW Royal Commission into the NSW Police Service;

Mr Ken Moroney AO - Former Commissioner of the NSW Police Force; and

Mr David Mortimer AO - Former CEO of TNT Limited, former Deputy Chairman of Ansett, former Chairman of Australia Post and Leightons Holdings.

The Board will provide advice and recommendations to reform the structure, operations and culture of Customs and Border Protection – and oversee the implementation of these reforms.

This includes improvements to its business systems, its law enforcement capabilities and its integrity systems and culture.

The board met for the first time last Friday - and will meet monthly.

Establishment of a well-resourced and high-profile Australian Anti-Dumping Commission is part of this reform program.

It will deliver stronger protection for Australian industry against unfair competition from overseas - and protect Australian jobs from being put at risk by products being dumped into this country.

Today I introduce to the House the Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2013, a Bill to amend the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the National Law).

The *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, which was passed by the Parliament on 23 August 2012, created a single national maritime regulator and a national safety system for domestic commercial vessels.

This will result in replacing eight existing federal, state and territory regulators with one National Marine Safety Regulator; the Australian Maritime Safety Authority (AMSA).

The National Marine Safety Regulator will officially commence in March this year.

AMSA, my Department and maritime officials from the relevant state and territory maritime safety agencies have been working together to complete the necessary implementation work ahead of this start date.

However, a legislative drafting error, which has a significant operational impact, was discovered whilst undertaking the implementation work.

The National Law's original policy intention, as negotiated and agreed by the Commonwealth and state and territory jurisdictions was that AMSA as the National Regulator will reimburse amounts collected by the states or Northern Territory for infringement notices issued under the National Law.

This is a significant revenue stream for many of the jurisdictions, allowing for the broad range of maritime safety activities undertaken by maritime regulators.

The legal and operational effect of the drafting error means that the Commonwealth, rather than AMSA, will be required to receive the revenue from the infringement notices.

However, the Commonwealth has no power to reimburse the amounts to the jurisdictions because the National Law does not contain an appropriations power.

I am advised that only this amendment to the National Law will achieve the original policy intention and ensure that there is no unintended impact on revenues collected by the jurisdictions.

Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the *Notice Paper* as separate orders of the day.