

SENATE ESTIMATES BRIEF

Whole of Defence 19
Secretary's and CDF's pack

WHOLE OF DEFENCE 19: RISKS OF 'TURNING BACK THE BOATS'

Key Facts

<ul style="list-style-type: none"> • On 30 May media reported CEO Customs and Border Protection Pezzullo stating Customs would "dust off" a 2010 brief warning of the risk of turning back asylum seeker boats. 	<ul style="list-style-type: none"> • On 12 April 2013, Ms Bianca Hall wrote an article in the Canberra Times, quoting retired CDF ADM Barrie that "to turn boats around on the high seas could constitute piracy in some circumstances".
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Key Issues

- There are risks associated with any activity that Defence undertakes.
- Defence will always lawfully execute the direction of the Government of the day.
- Australian Defence Force planning and procedures for dealing with suspected IMA vessels in Operation RESOLUTE take into account, and comply with, Australian and international law.
- Australian Defence Force personnel involved in Operation RESOLUTE are trained to comply with Australian and international law in their dealings with vessels involved in the suspected transfer of irregular maritime arrivals.
- The Chief of Navy has briefed the Committee at previous Estimates hearings on the safety concerns and practical issues associated with turning back boats.

Statements by Customs and Border Protection CEO

- As is normal, Defence will thoroughly prepare incoming Government briefing material for whichever Government wins the September election;
 - These briefs will advise on the Department's capacities to implement the incoming Government's stated policies.

[PLEASE SEE BRIEF OPERATIONS 1: STATUS OF ALL OPERATIONS' FOR MORE INFORMATION ON DEFENCE'S SUPPORT TO BRORDER PROTECTION UNDER OPERATION RESOLUTE].

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ATTACHMENTS:

- A. *Herald Sun* article 30 May 2013
- B. Supplementary Budget Estimates Hansard, 19 October 2011 pp. 109-112

BACKGROUND

- On 30 May in an article entitled "customs warning on boats", the *Herald Sun* reported the comments of CEO Customs and Border Protection (CBPS) at the Budget Estimates Hearing for the Attorney-General's portfolio. Mr Pezzullo was also reported as saying:
 - CBPS would "dust off" a previous incoming government brief warning how "asylum seekers turned violent, jumped overboard and sabotaged their vessels every time attempts were made to turn them back".
 - "agencies have to be responsive to the policy of the government of the day".
 - he "would revisit all the issues raised in the three-year-old document in conjunction with defence force chief David Hurley".
- Regarding the Coalition policy of turning back the boats the former CDF, Admiral Chris Barrie, has said "I think it's going to put people's lives at risk and I think therefore it's not a very good policy".
- The current Chief of Navy, Vice Admiral Ray Griggs has said that turning back the boats can risk the lives of both asylum seekers and ADF personnel, with "risks involved in this whole endeavour".

ATTACHMENT A

iSENTIA
INTEL - FORM - 2011

Herald Sun, Melbourne
 30 May 2013

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Customs warning on boats

CUSTOMS will "dust off" and update a 2010 brief warning of the risk of turning back asylum seeker boats, should the Coalition win the September poll.

Customs and Border Protection Service chief executive Michael Pezzullo is not about to step away from the advice.

The brief warned how asylum seekers turned violent, jumped overboard and sabotaged their vessels every time attempts were made to turn them back.

The report was prepared

as an incoming government brief and released after a Freedom of Information request. It cited the potential for violence and for stress and trauma for asylum seekers and Navy and Customs personnel.

Mr Pezzullo says agencies have to be responsive to policy of the government of the day. "We will dust off the brief," he told a Senate estimates hearing in Canberra yesterday.

Doing so would be part of "our normal processes for developing incoming gov-

ernment briefs".

Mr Pezzullo said he would revisit all the issues raised in the three-year-old document in conjunction with defence force chief General David Hurley.

Both he and General Hurley held deep concern for the safety of their people and asylum seekers.

The committee also heard that Border Protection Command had applied for permission, under environmental sea-dumping laws, to sink asylum seeker vessels once their passen-

gers had disembarked.

Border Protection Command commander Rear Admiral David Johnston said the application was lodged in February and would replace a permit that had expired about 2005.

The command had destroyed 400 asylum seeker vessels in the past two years, mostly at sea.

The practice is for asylum seeker vessels to be set on fire with any debris sinking to the sea floor.