



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION
COMMITTEE

ESTIMATES

(Additional Estimates)

THURSDAY, 24 FEBRUARY 2011

CANBERRA

CORRECTIONS TO PROOF ISSUE

This is a **PROOF ISSUE**. Suggested corrections for the Bound Volumes should be lodged **in writing** with the Committee Secretary (Facsimile (02) 6277 5818), **as soon as possible but no later than:**

Thursday, 28 April 2011

BY AUTHORITY OF THE SENATE

[PROOF COPY]

THIS TRANSCRIPT HAS BEEN PREPARED BY AN EXTERNAL PROVIDER
TO EXPEDITE DELIVERY, THIS TRANSCRIPT HAS NOT BEEN SUBEDITED

Senator Conroy—I can certainly say, on behalf of the minister, we would endorse what Minister Albanese said and what Mr Richardson said a moment ago. ‘Whacko stuff’ were the words he used.

Senator KROGER—Minister, maybe you could provide me with an answer as to whether the minister has directly contacted the council and spoken to them about it?

Senator Conroy—I cannot imagine that we would even give it the credibility of a response, but he may have done so.

Mr Stuart—You asked if any Israeli officials had raised this with us. The ambassador, when he made an introductory call on me a couple of weeks ago—I have only just started in this position—raised this at the end of the meeting. He presented me with some arguments that this was against, for example, the WTO-GATT obligations, and of course I think he understood that it had no endorsement whatsoever by the Australian government. He understood the political context of it, but he left us with the technical arguments and we are looking at those at the moment.

Senator KROGER—What do you mean by the ‘technical arguments’?

Mr Stuart—The argument about whether this is WTO-GATT inconsistent. There are principles of trade law, on which I defer to colleagues in this room. I think our general policy on this, recalling from when I was in the UN, is that we do not support coercive economic measures that are not sanctioned by the United Nations or some other body whose legitimacy we would accept. This is a unilateral sanction, in this case by a non-sovereign entity. That is a lot of highfalutin words, as others have said. This is bizarre and not terribly relevant, and when we have our technical advice we will see. It may be there is an issue in law.

Senator KROGER—I am greatly encouraged. Thank you.

Senator TROOD—I have received representations, as I suspect other members of this parliament have, with regard to a suggestion that an individual may be nominated by the Sri Lankan government as the high commissioner, of whom some groups disapprove. In fact, the allegation is that this individual has been involved or participated in war crimes in a broad sense. Are you familiar with these allegations?

Mr Richardson—I am familiar with what I saw in the media, but Mr Stuart will be more familiar than I.

Mr Stuart—Yes. Our practice is that we do not discuss nominations of such positions. That is a longstanding practice of Australian governments.

Senator TROOD—My understanding is that the foreign minister has been contacted about this matter. Is that true?

Mr Stuart—There have been representations, especially by the Tamil community.

Senator TROOD—So you are familiar with those representations?

Mr Stuart—I am.

Senator TROOD—Do you know the individual concerned?

Mr Stuart—We do not discuss nominations.

Senator TROOD—Can you tell me: is the position of the Sri Lankan High Commissioner to Australia currently vacant?

Mr Stuart—I must say that I am still doing my introductory call, but I believe so.

Mr Richardson—Yes. I met the charge d’affaires yesterday.

Mr Stuart—I have been a bit distracted by things in the Middle East part of my vast kingdom!

Senator TROOD—Yes, it is a vast kingdom, but this is an issue of some moment. You have not had reason to consider an application from Colombo about this; is that right? Have you received a request to consider a future high commissioner to Australia?

Mr Stuart—It is not the government’s practice to talk about nominations, whether they have been made or the substance of the nominations.

Senator TROOD—Presumably, at some point, there will be a request from the Sri Lankan government to invite us to decide whether or not we should receive a new high commissioner? Is that a fair proposition?

Mr Stuart—Yes.

Mr Richardson—It is, but unless the nominating country made the nomination public—and some countries do that; for instance, Indonesia very often makes a nomination public before a decision is taken. The Australian government does not comment publicly on who may or may not have been nominated.

Senator TROOD—You are obviously reticent to make any observations about it. Perhaps I can make the point that neither I nor any other member of parliament ever has much of an opportunity to make any observations on these matters as well, that I have received considerable representation about this and it reflects a deep degree of concern within parts of the Sri Lankan and particularly the Tamil community, and that we should be very careful about any appointment that we consider in the light of those concerns. Thank you.

I have one other question in relation to Sri Lanka, which concerns a potential International Criminal Court action in relation to Tamil Tiger deaths. It relates to several Tamil organisations having made some allegations of war crimes to the International Criminal Court concerning an Australian citizen, Dr Kohona. Are you familiar with that matter?

Mr R Rowe—Yes. I am aware that two Tamil groups have sent a communication to the International Criminal Court asserting war crime claims against Dr Kohona, who is a dual Sri Lankan-Australian citizen.

Senator TROOD—Do you know whether the court has taken up this matter?

Mr R Rowe—The International Criminal Court will deal with this communication in the sense that it will consider whether there is sufficient information to warrant the opening of an investigation, which would be determined by the Office of the Prosecutor. The matter is in the hands of that office. I would comment that, of course, that office receives many hundreds of communications with assertions of various crimes having been committed by individuals, but the onus is on the office at the moment to make a determination whether or not the situation that has been referred warrants an investigation in terms of the statute.

Senator TROOD—So we are a long way from any consideration of a charge being propounded or a warrant or anything of that kind being issued for the arrest of this person?

Mr R Rowe—That is correct. As I said, there would be a decision and then an investigation.

Senator TROOD—Do you know if Dr Kohona is a resident of Australia?

Mr R Rowe—Dr Kohona currently occupies a position as Sri Lanka's permanent representative to the United Nations in New York.

Senator TROOD—And he is a dual Sri Lankan-Australian citizen?

Mr R Rowe—That is correct.

Senator TROOD—So, if there were to be a pressing of charges of some kind, we would have an interest in the matter?

Mr R Rowe—We would certainly monitor the matter. As I said, the onus is on the International Criminal Court prosecutor's office at the moment, and I think it would be fair to comment—and I cannot speculate too much obviously because much will depend on what decision the Office of the Prosecutor takes—but I would note that the assertions that have been referred to the Office of the Prosecutor relate to activities that allegedly occurred in Sri Lanka, and in the normal course the Sri Lankan government would be asked to comment or be involved in these investigations.

Senator TROOD—I do not have any further questions on that subject. Thank you.

Senator KROGER—I have one more question in this area. I refer to a matter that many people have come to me about. It is in relation to a gentleman in Afghanistan who has been incarcerated in Kabul and who is allegedly to be hanged within days because he converted to Christianity. He allegedly was asked to convert back to Islam and, if he did not do so, he would be hung. Just for background: he is someone who has worked there for the Red Cross for 15 years. He lost a leg on a landmine back in the 1990s. It has received quite a bit of coverage, particularly in the United Kingdom. I understand that as a nation we do not seek to impose our views on other nations in relation to their judiciary systems, but I was wondering whether, in any instances, we actually pursue diplomatic channels expressing our concern. The delegations that I have received from people in relation to this particular gentleman are all strong supporters of our troops in Afghanistan and they find the whole thing very difficult to reconcile—that is, our strong support in one way and yet what we as a government are doing about such blatant human right abuses. Do you have any comments on that?