



Finance Minute on Report 197— Coal Export Duty



Report

205

Joint Committee of
Public Accounts

DEPARTMENT OF THE SENATE	
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOINT COMMITTEE OF PUBLIC ACCOUNTS

205TH REPORT

FINANCE MINUTE ON THE COMMITTEE'S 197TH REPORT -

COAL EXPORT DUTY

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DUTIES OF THE COMMITTEE

Section 8.(1) of the Public Accounts Committee Act 1951 reads as follows:

Subject to sub-section (2), the duties of the Committee are:

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the Audit Act 1901;
- (aa) to examine the financial affairs of authorities of the Commonwealth to which this Act applies and of intergovernmental bodies to which this Act applies;
- (ab) to examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

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PREFACE

Arrangements to ensure that appropriate action is taken in response to comments contained in the Committee's Reports have been in operation since 1952 although they have been reviewed periodically. These were known as Treasury Minute arrangements.

Following the creation of the Department of Finance on 7 December 1976 it was agreed that the arrangements should continue as before but should be known as the Department of Finance Minute.

As they now stand the procedures are:

1. The Report of the Committee is tabled by the Chairman in the House of Representatives and by a Member of the Committee in the Senate. Motions are moved in both Houses of the Parliament that the Report be printed as a Parliamentary Paper.
2. The Chairman of the Committee thereafter forwards a copy of the Report to the responsible Minister and to the Minister for Finance with a request that he give the Report his consideration and inform the Chairman of the action taken to deal with the Committee's conclusions.
3. The reply received, in the form of a Department of Finance Minute, is then examined by the Committee and, together with the conclusions of the Report to which it relates, is submitted as soon as possible as a Report to the Parliament.
4. Should the Committee find during its examination of a Department of Finance Minute that certain recommendations are not fully dealt with or are subject to a further Minute, it holds an exploratory discussion with officers of the Department of Finance prior to the submission of the Minute to the Parliament.
5. In reporting a Minute to the Parliament, the Committee, except in special cases does not usually make any comment other than to note recommendations not fully dealt with or subject to a further Minute.


6. When the Committee next examines the Department concerned the Department of Finance Minute is considered by the Committee if applicable.
7. The Department of Finance furnishes the Committee with a half-yearly report on outstanding Minutes, indicating the progress made in dealing with the Committee's comments.

In accordance with the procedures outlined above, this report documents the Department of Finance Minute which was submitted in response to the Committee's 197th Report.

For and on behalf of the Committee.



Senator G. Georges
Chairman



M.J. Talberg
Secretary
Joint Parliamentary Committee of Public Accounts
Parliament House
Canberra
15 June 1983

CHAPTER 1

INTRODUCTION AND SUMMARY OF THE COMMITTEE'S 197TH REPORT

1.1 The Committee's 197th Report, which reviews the Government's arrangements for collection of coal export duty, was tabled in the Parliament on 29 April 1982. A brief summary of that report appears in paragraphs 1.3 and 1.4 below.

1.2 The Committee is satisfied with the Department of Finance Minute, dated 18 April 1983, which was submitted in response to the 197th Report. The Report's recommendations together with the Department of Finance Minute are set out in Chapter 2.

1.3 This inquiry arose from comments in the Auditor-General's Report of 1979-80, which referred to unsatisfactory features of the then Department of Business and Consumer Affairs administration of the Coal Export Duty. At an early stage, the Committee was advised that while the Department of Business and Consumer Affairs was responsible for duty collection, policy aspects and rate determination were the responsibilities of the Department of Trade and Resources. As a result, the Committee examined both departments in public hearings and also requested submissions from major export coal producers. The Committee also inspected coal mining and export facilities in both New South Wales and Queensland.

1.4 The inquiry has indicated a need for the development of a consistent and stable policy on the Coal Export Duty. It also highlighted the fact that considerable uncertainty has been generated within the industry by the almost annual changes. The Committee suggested in the Report that benefits could be achieved if a co-ordinated approach involving discussions with all interested parties, including State Governments, was developed for the fair and equitable taxation of the coal export industry.

CHAPTER 2

DEPARTMENT OF FINANCE MINUTE ON THE 197TH REPORT

2.1 Set out below are the Committee's Recommendations of the 197th Report of 9 March 1982, with the responses from the Departments in the form of the Department of Finance Minute of 18 April 1983.

RECOMMENDATION 1

The Committee recommends that the Department of Business and Consumer Affairs and the Thiess Dampier Mitsui Company act quickly to resolve the dispute which currently involves duty payments of over \$100,000. Should an independent technical arbitrator be required to achieve this, the Committee recommends that any fees involved (excluding company costs) should be a charge on the Commonwealth.

Response

2.2 The Department of Industry and Commerce has advised that, despite repeated requests by the Collector of Customs in Queensland, the Thiess Dampier Mitsui Company did not produce its submission on the matter until 7 June 1982.

2.3 After examination of the submission it was decided that an independent expert was required to arbitrate on the matter. After discussions with the Company, the professor of Mining and Metallurgical Engineering of the Queensland University, Professor R.L. Whitmore was engaged.

2.4 On 25 February 1983 Professor Whitmore presented his report to the Collector of Customs Queensland and in effect supported the position taken by the Collector. In conclusion he said:

I am not satisfied that the evidence presented to me is acceptable as proof that there is a significant difference in recovery from the two raw coal sources. The differences we are looking at are really quite small (although no doubt very important in money terms when aggregated over the total coal output of the mine). I think that their validity needs to be established statistically. The company does not appear to have considered this possibility and it might be worth their while to pursue such a line of approach a little further.

2.5 Professor Whitmore's report does not provide any basis for an adjustment of duty on past shipments and the matter now rests with the Company as to whether it proposes to adopt the professor's suggestion of a statistical examination. In the interim the Collector has written to the Company indicating that he will be maintaining his position and that consideration will be given to any further submission the company may wish to make.

RECOMMENDATION 2

The Committee however believes that there should have been greater initial consultation between the Department of Business and Consumer Affairs and the Department of Trade and Resources prior to the introduction of the 1979 legislative changes. This is particularly so in view of the fact that the Department of Business and Consumer Affairs had indicated that there would be substantial administrative problems associated with the proposals.

2.6 The former Minister for Trade and Resources considers that appropriate consultation took place amongst departments. When the changes were announced in the 1979/80 Budget Speech, the Government was aware that there would be administrative difficulties in their implementation, but these difficulties were subordinated to the larger policy issues. In recognition of these difficulties, but also of the fact that any attempt to obtain outside technical advice would have jeopardised Budget secrecy, it was decided to proceed with the change, but delay implementation for a number of months in an effort to enable the administrative problems to be addressed. In this context, appropriate consultation relevant to the Budget policy issues took place among departments.

RECOMMENDATIONS 3 AND 4

Whilst the Committee follows the fundamental principal that it does not concern itself with Government policy, in this instance it had difficulty in understanding the Government's intentions in relation to the Coal Export Duty. From 1976 to May 1979 the Government had given unequivocal assurances that the duty would be abolished, but since then for budgetary and other reasons the duty has been retained and extended. This has had the effect of creating considerable uncertainty with regard to the duty in the coal export industry.

The Committee considers that the Government should develop a consistent and stable policy on the Coal Export Duty and that the mechanism of collection should only be changed after consultation with the industry. The Committee regards the present situation where the rates and conditions of the duty are changed almost yearly as unsatisfactory as the industry requires long lead times to develop new or expanded mining operations.

Response

2.7 The former Minister for Trade and Resources advised that it was the then Government's desire to give as much stability and consistency as possible to the rates and conditions of the coal export duty. It should be noted that with a single exception all of the actions of the former Government were in the direction of reduced duty, either in coverage or in rates. The policy had to be considered in conjunction with the broader questions of developing taxation policy and ongoing budgetary concerns that can be of over-riding importance. The former Minister believes that in the face of the economic and inflationary pressures that applied, the former Government's record in this area was very good.

RECOMMENDATION 5

The Committee considers that the decision to reduce the duty on high quality coking coal mined by open-cut methods below a vertical depth of 60 metres from the ground, from \$3.50 per tonne to \$1.00 per tonne has resulted in considerable administrative and technical difficulties for the Department of Business and Consumer Affairs. The Committee therefore suggests that the Government review this decision to determine if there is any less complex method for the collection of duty which will not discourage the use of high cost specialised technology in open cut mines. To this end, the Committee recommends a close examination of the methods used by surveyors of ships at the port of export, and accepted by both buyers and sellers of coal.

Response

2.8 The former Minister for Trade and Resources considered the Committee's suggestion and noted that the question was examined carefully at the time of making the original decision, but that this was another area where broader policy issues were regarded as over-riding perceived administrative difficulties. The former Minister recognised that the removal of the duty on

deep open-cut mining announced on 29 June 1982 did not remove the administrative problem but would remove any disincentive which might have existed to use appropriate technologies to win deeper coal deposits.

RECOMMENDATION 6

The Committee suggests that, following the release of the Senate Standing Committee on Trade and Commerce Report on the Australian Export Coal Industry, the Commonwealth Government should enter into substantial discussions with State Governments, the Coal Industry and other interested organisations, with a view to developing a co-ordinated approach to the fair and equitable taxation of export coal. There may be advantages in changing the structure of the duty from the current specific tax system.

2.9 In response to this suggestion the former Minister for Trade and Resources said that it has to be recognised that this suggestion involves individual parties with sovereign powers that are jealously guarded. A prerequisite for co-operation in such circumstances is a suitable climate in which can be perceived either clear and substantial mutual benefit or shared adversity.

2.10 The Committee's attention is drawn to the former Minister's announcement, on 29 June 1982 of a further reduction in the duty which responded to a consensus between Commonwealth and State Governments, coal owners and the union movement. Both the New South Wales and Queensland Governments announced measures at the same time which were designed to reduce the impact of State Government charges.