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Subjects: Initiation of legal proceedings against Russia over MH17.

E&OE

STEVE AUSTIN:

I'm sure you've heard the story. It's been reported fairly extensively that it's been almost eight years since the downing of Malaysia flight- Malaysian Airlines flight 17, when it was struck by a Russian-made Buk missile. It was the time just before the G20. Tony Abbott was Prime Minister, and he made the famous phrase, he would like to shirtfront Vladimir Putin. Some people were wishing he had actually done that now, given what's taken place. I don't mean to be flippant, but maybe things would have been different, who knows. But today, Australia, along with the Netherlands, have launched new legal proceedings against Russia for the incident. Now I'm sort of puzzled by this; whether it's more window-dressing than anything. Russia have long since denied any involvement. So what will the new proceedings bring forth? Will it bring forth some kind of accountability? Or does it just give countries like Netherlands and Australia and others a chance to sort of vent displeasure and exercise the sort of the pain of the whole matter?

Well, LNP Senator for Queensland Amanda Stoker is the Assistant Minister to the Attorney-General. And I was keen to speak with Senator Stoker, because she's also been a prosecutor in the Federal DPP. Senator Stoker, thanks for coming on this afternoon.

AMANDA STOKER:

Hi Steve, good to be with you.

STEVE AUSTIN:

So what will these new legal proceedings deliver if Russia is not a signatory to the International Criminal Court and broke off negotiations some time ago anyhow?

AMANDA STOKER:

So what we have done is bring proceedings in the International Civil Aviation Organisation – which is a part of the United Nations, one of its sort of specialist arms. And what it will do is it will be the next

important step in our fight to get justice for the lives of the 298 people – including 38 Australians – that were lost when flight MH17 was brought down. Now, in the time between that plane coming down and the present, there have been negotiation processes that have been engaged in between the Netherlands, Australia, and the Russian Federation. Russia has walked away from those. There has been an international effort; many different nations participated in the investigation process. And despite the fact that the Russian Federation hasn't taken responsibility, that investigation made it very clear that there is overwhelming evidence that the missile was not just one that belonged to Russia, but that it was transported there for release into the air by and a Russian-backed separatists group – who could not have operated without the trained Russian military crew that helped to operate it – that it belonged to the Russian federation's 53rd Anti-aircraft Military Brigade, and that from the launch site, and with that trained Russian crew at the helm, or instructing someone in order to release it, none of this would have happened. Now we've taken the negotiations-

STEVE AUSTIN:

Assist me here. The ground crew, the irregular troops that launched this Buk missile, I seem to recall that they were actually- were they actually in the Donbas region that we're hearing about now, in that general area, or was that another part of the area? Can you recall?

AMANDA STOKER:

It was in an agricultural field in the east of Ukraine, which is part of the area that is currently the subject of conflict.

STEVE AUSTIN:

Right.

AMANDA STOKER:

And all of the evidence indicated that it was brought to that region by Russian-backed separatists, who were assisted and instructed in the firing of the missile by those who belonged – as a trained Russian military crew – to the Russian Federation. So it is connected to the current conflict in a long-range kind of way. But what is important here is that, in the time since the event occurred, there has been a relentless effort to gather the evidence to prove Russian responsibility. And now we are taking it, in essence, through to that next step of accountability – a bit like how you would for prosecution if it were something that happened domestically. And we are making sure that every measure available at international law is applied to give justice to the families who have lost loved ones.

STEVE AUSTIN:

Okay, I seem to recall when Tony Abbott was Prime Minister – when this occurred, Tony Abbott was Prime Minister – that Australia actually sent Australian Federal Police investigators into that area. I'm just- I'm unclear on the facts. So my assumption is they actually got into that area, despite it being a sort of a contested zone, let's call it, and were able to collect forensic evidence. Were they?

AMANDA STOKER:

They were able to collect some things. They were able to access some places. But my understanding is they didn't access all that they needed to. Nevertheless, a strong case has been put together, not just by AFP officers, who have done a great job in their efforts, but also by equivalent investigators

from many of the other nations who were affected by the downing of the flight. Now it's reasonable to ask – and you might do so next Steve – what happens if we succeed?

STEVE AUSTIN:

Yes, what happens if we succeed, Senator? Because you've got an unwilling participant who's is not going to be turning up at the hearings.

AMANDA STOKER:

And it's a reasonable question, because international law has many limitations in circumstances where ultimately what we know, particularly when you're dealing with a nation like Russia.

STEVE AUSTIN:

Well they're not the only one. I mean, most of the members of the Security Council aren't, you know, full signatories to the international criminal court even are they? Israel, China, Russia, the United States, a whole lot of them.

AMANDA STOKER:

And look, if we're honest about international law, the real limitation is that sovereignty is the only thing that really matters at the end of the day.

STEVE AUSTIN:

Yeah.

AMANDA STOKER:

But what it can do is it can take away almost the privileges that are currently granted to the Russian Federation as a part of its involvement in the International Civil Aviation Organisation, which are critical to its ability to engage with the international civil aviation process.

STEVE AUSTIN:

What privileges do they have left? We've pretty well withdrawn everything haven't we? What have they got left?

AMANDA STOKER:

We have withdrawn a lot. But a ruling from the International Civil Aviation Organisation would, for instance, suspend it from the organisation, which would take away its ability to contribute to those aspects of international travel and commerce that depend on civil aviation. And so it almost has the effect of another sanction in another part of the economy that relates to the Russian Federation. Now that's one of the many things that it could order, but we hope that what it will do instead is provide that international transparency about who was responsible, so that that deniability just can't continue, that it will lead to an acknowledgement and an apology to those families who have suffered greatly, and that there will be a compensation payment for injury to those who have lost those who are loved. And that is consistent with the kinds of rulings that we have seen in relation to other civil aviation incidents over time.

STEVE AUSTIN:

This is ABC Radio Brisbane, my guest is LNP Senator for Queensland, Amanda Stoker and Assistant Minister to the Attorney-General. She's been walking me through the process of pursuing the nation

of Russia over the downing eight years ago of Malaysia Airlines flight 17, when it was struck by a Russian-made Buk missile. I can't recall, but I don't even think Russia actually even agree that it was a Buk missile that brought the aircraft down. Can you clarify for me?

AMANDA STOKER:

Look, my understanding is that the Russian Federation have just denied knowledge of anything. You know, the 'we know nothing' approach. Now that is their right, I suppose. But it is then incumbent upon us to go through the legal process that leads to a ruling, a finding of fact, that binds them, at least in relation to their ability to engage in the commercial field of civil aviation. These consequences aren't the same as we might find for an individual if they faced criminal law but we owe it to these families who have suffered greatly to pursue all of the options that are available to make sure that these types of events don't happen again and that starts with accepting responsibility. It starts with committing to take steps to make sure this sort of thing doesn't happen again. And it begins with them being able to no longer hide from the reality of the facts.

STEVE AUSTIN:

Maybe we should get Tony Abbott to have another go at shirtfronting Vladimir Putin.

AMANDA STOKER:

Well look, he did very much metaphorically shirtfront him. I'm not sure he ever committed to actually engage in an act of violence. But think of it as though, you know, the way that Al Capone had to be pursued for tax fraud, this is the roundabout way we are trying to hold the Russian Federation accountable for its refusal to do the right thing by the people of the international community of which it is a part.

STEVE AUSTIN:

Senator Stoker, thanks for your time.

AMANDA STOKER:

Thanks so much Steve. Bye.

STEVE AUSTIN:

LNP Senator for Queensland Senator Amanda Stoker, Assistant Minister to the Attorney-General.

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