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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON COMMUNICATIONS, TRANSPORT AND
MICROECONOMIC REFORM

(FORUM)

Australian Maritime Authority annual report 1996-97

ELIZABETH BAY

Tuesday, 14 July 1998

PROOF HANSARD REPORT

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Australian Maritime Authority annual report 1996-97

ELIZABETH BAY

Tuesday, 14 July 1998

Present

Mr Neville (Chair)

Mr HollisMr McDougall

Mr McArthurMr P Morris

The committee met at 9.01 a.m.

Mr Neville took the chair.

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CHAIR—Welcome, ladies and gentlemen. In welcoming you here today, I declare open this public hearing of the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform, in its inquiry into the Australian Maritime Safety Authority and in particular its annual report 1996-97.

In conducting its inquiry, the committee will emphasise ships' safety by focusing on the following five areas: the quality of ships, operational issues, port state control, crew training and competency and crew welfare. It is listed in your program on the back of your information brochure. I anticipate spending about an hour on each of these five focus areas. At the end of the day, there will be a plenary session when invited participants and other interested individuals—I include those in the gallery—will have the opportunity to raise matters which they feel might need to be brought to the committee's attention in relation to the terms of reference.

Members of the committee wish to express their appreciation to all those who have made submissions. They have been quite extensive. You have obviously gone to a lot of trouble and we want you to know that we appreciate the effort you have made, especially those here today who have given up time on behalf of their companies and organisations to assist the committee with its inquiry.

Before proceeding, I wish to give all witnesses the information that, although the committee does not require that evidence be given on oath, the public forum is part of the legal proceedings of the parliament and warrants the same respect as proceedings of the House itself. Any false or misleading evidence is a serious matter and may be regarded as a contempt of parliament.

Today's proceedings vary little in style from most public hearings. To enable an accurate record to be made, I ask that, as a first step, all invited participants state their names and the capacity in which they appear before the committee. Then, throughout the day, each time one of you speaks, would you again identify yourself for *Hansard*. It will make for a much smoother operation and orderly conduct of the meeting.

There is a very important caution which I would like to give to all of you. As you are aware, for reasons of ensuring that all evidence given before us today is protected under parliamentary privilege, all questions and answers must be directed through the chair. I do not want to be heavy about this matter but any cross-chat across the table does not give you parliamentary privilege. All direction must be through the chair.

I would also like to ask that, if you are using any proper names or any quotations today, before you leave or at one of the breaks, you might refer to *Hansard* so that they can record the information accurately in the record.

I introduce my colleagues here today. On my right is Graeme McDougall, who is the federal member for Griffith in Queensland. On my immediate right is the deputy chairman of the committee and member for Shortland, Mr Peter Morris. As you know, prior to my assuming and Mark Vaile assuming chairmanship of this committee, Peter has been the chairman of this committee or its predecessors for some years and oversaw the quite famous report *Ships of shame*. On my left is the committee secretary, Meg Crooks, who is well

known to all of you. Then there is Stewart McArthur, who is the member for Corangamite in Victoria—

Mr McARTHUR—A land based sailor.

CHAIR—Yes. We sailed along his railway lines of recent weeks. On his left, we have Colin Hollis, who is the member for Throsby in New South Wales. We will have two other colleagues joining us during the day and I will introduce them at the appropriate time.

I have a few things to say from a personal perspective. I think we need to be conscious today that the world's fleet is ageing, that freight rates and charter rates are falling and with that come economic pressures on shippers and those using shipping. Shipping is becoming increasingly globalised. The relationship between shipowners and crews and vessels is becoming more distant. Bulk carriers are increasing as a proportion of the world's fleet and technology is changing the very nature of shipping.

This report of AMSA is a good starting point to re-examine those five areas that I spoke of: the quality of ships, operational issues, port state control, crew training and competency and crew welfare.

To give us a starting point and a focus, I now call on Patrick Quirk to give us a five- to seven-minute statement on behalf of AMSA and then members of the committee will follow with questions on the quality of ships and we will proceed into that first focus area of today's activities. Would you please make welcome Patrick Quirk from AMSA.

[9.09 a.m.]

Focus area 1: Quality of ships

MR QUIRK—Good morning, Mr Chairman; good morning, industry representatives. My introductory notes are wide ranging and perhaps form the basis of the context of today's discussions. I would like to initially apologise for Clive Davidson, our chief executive. He had planned to come, but unfortunately urgent business in Canberra prevented him making the trip to Sydney today. We have submitted a detailed submission to the inquiry and obviously we are prepared to take questions on any issues in that submission.

In general on the quality of ships, you have mentioned some of the economic factors involved with the operation of shipping and, although we are a safety agency, we in AMSA are fully aware of the economic factors which involve safety performance.

You have mentioned a poor freight rate and I can confirm that, in terms of the bulk sector, the freight rates are the lowest they have been for a long, long time. In the liner ship industry, freight rates are very bad. In the livestock industry in northern Australia, the industry has virtually stopped. So there are strong economic pressures on operators.

There is a strong supply of shipping in the world marketplace. As an example, at 1 June this year, there still remained 160 bulk carriers to be delivered to the world's fleet this year, and next year there are another 175 vessels to be added to the supply of shipping. So supply is very strong. In terms of vessel removals, in terms of scrapping, it is not a strong market and it has been made worse recently by the difficulties with India and Pakistan in terms of border tension due to political unrest in those areas. Naturally the industry is concerned by the Asian economic crisis and the currency instability which makes fixing medium- or long-term freight fixtures very difficult.

In terms of the regulatory environment within which shipping operates, the International Maritime Organisation, the IMO, is taking a much more proactive stand, as are other bodies such as the ILO and semi-government bodies such as the OECD. In the last five or six years there has been a greater awareness of safety and environmental protection, and particularly the emphasis on the human element.

I think the industry and regulators agree that there is little need for new rules and regulations. If the current rules and regulations were implemented, we would have one of the safest transport modes in the world. It is more to do with the implementation. Under the terms of international conventions, the flag states have primary responsibility, but in reality the port and coastal states are taking a much more proactive role. In terms of the regulatory environment also, there is much more economic regulation impacting on shipping. Two examples would be the recent action by the European Community in terms of the P&I club arrangements and also in terms of the cargo sharing arrangements in the North Atlantic trade.

I come now to the indicators of shipping quality and safety. In the past few years AMSA's port state control program has seen a reduction in the detention rate. In 1993, the detention rate was 3.6; it rose to 9.5 in 1995, but last year, the last calendar year, fell to 6.5 per cent. We are fully aware in AMSA that our detention rate is a function of many factors, including our targeting system, and there are a number of ships

we cover in the more remote ports. We are aware that our statistics, although they reflect the situation, may not be the definitive factor in determining ship quality. The detention rate in other administrations is not reducing, and we are at the moment reviewing our targeting system to ensure that we are inspecting the suspect ships.

In terms of other indicators of quality, every year we commission a report from Simpson, Spence and Young who are well-known shipping consultants in London, looking at the iron ore trade to see if our port state control program is having an effect on the vessels available for that trade. It is very difficult to isolate the impact of port state control in terms of vessel availability or freight rates. But their studies show that in the iron ore trade, compared to Canada and South America, vessels trading to Australia are younger vessels. Age is only one indicator of vessel quality, but in the very hard trade like the iron ore trade it is an important indicator.

In terms of freight rates, there is a premium paid to vessels trading in the Pacific basin. It is not possible to identify whether or not this premium is due to poor state control or to a number of other very important factors involved with the equation of supplying demand for shipping in the Pacific basin. I have a summary sheet of those results available here, Mr Chairman, if you care to have a look at them later.

In addition to AMSA's actions, we have a close association with the major commodity groups in Australia, the major companies, BHP, Rio Tinto, the wheat shippers, the sugar people. They are all keenly aware of their obligation in terms of vessel quality, and in association with AMSA they have adopted a much more risk based approach to the chartering of ships which leads to safer shipping in Australian waters. That is in terms of the quality of shipping, Mr Chairman. I can go on to other issues in the report if you want me to at this early stage?

CHAIR—You might just touch on a few of those.

Mr QUIRK—The major issues are the issues of the flag state responsibilities. As I mentioned previously, the basis of the conventions through the IMO is the role of the flag state. There is now a flag state implementation subcommittee. It met three weeks ago in London and I was at that meeting. At a later stage in the meeting I can give the committee details of the position IMO is adopting in terms of enhancing the flag state accountability role. There are aspects in the management of environmental aspects of shipping in terms of the bunkers convention, compulsory P&I and review of the existing Marpol annexes. I also note that IMO has now adopted the concepts of sustainability and precautionary principles in determining the regulatory framework and also I can speak on aspects of water ballast management in Australia, which is a major emerging issue.

On operational issues we can talk in terms of bulk carriers, their losses in the early 1990s and the operational and structural measures now being adopted to manage the risk of those high risk vessels. In terms of the terminal interface between the ship and the shore, we are about to commence a major program of enhancing the interface between the bulk terminals and the ships. In terms of operations, the ISM code became operational on 1 July for phase 1 ships, and since that date we have conducted a concentrated campaign of enforcement on ISM and I can speak in some detail on the results of that campaign at a later stage.

The three major issues I have not mentioned are port state control, from the point of view of both our domestic programs and our involvement in the regional cooperations. The two final issues are crew training and competency. Crew training obviously comes under the umbrella of the STCW95 convention, but crew competency takes into account that factor. There are also other factors like fatigue and bridge resource management.

Finally, there is crew welfare. I can speak on developments in marine order 11 and in terms of what we can and cannot do in terms of intervening on ships on matters involving the crew. Having made that early statement, Mr Chairman, I can expand on other details as requested.

CHAIR—Thank you, Mr Quirk; that was very good. As we start to interact, if you want the call, give me some signal with your hand, or a nod or something, and I will call on you to speak. To kick off the questioning, I would like to pick you up on that point where you mentioned somewhere in the vicinity of 300 to 350 vessels coming on stream over the next two years. What do you think have been the key factors driving that? Has it been driven by reform or has it been driven by economic measures to carry more bulk cargo? You said there was a preponderance of bulk carriers in that. Where has that left the rest of the fleet? Has there been attrition from the rest of the fleet or have we got a lot of rust buckets still bobbing around?

Mr QUIRK—‘Rust buckets’ is a term we do not use lightly in AMSA. It is an emotive term and I will not use that term if that is okay.

CHAIR—It is descriptive though.

Mr QUIRK—I accept that. It is always a wonder to us in AMSA why people build ships, because in terms of operating ships there is not much money. But smart shipowners build ships for a whole of life concept; they get the right financing; they go into the long-term charters; and they sell at the right time. Over the life of the ship there is money to be made, but often on the voyages of that ship’s operating life there is no money to be made in terms of profit. The smart shipowners, the ones who are interested in shipping as a long-term concept, buy a ship for a whole of life cycle exercise. Many of the ships being delivered now were ordered 2½ years ago, when perhaps the freight rates were on an upswing and the outlook, particularly in the Asian market, was much brighter.

As I said in my opening statement, there has been a slowdown in the scrapping rate. Scrapping prices are not good and there are problems on the Indian subcontinent. I noted recently in the press that the US government is about to impose environmental constraints on some of the scrapping yards, particularly in the Asia-Pacific basin. Those scrapping yards utilise work practices and environmental practices which would not be accepted in most OECD nations. The impact of that new restriction will be uncertain on the scrapping market.

The rate of increase of the fleet, according to my London sources, is reducing, but the fleet is still increasing, and it is a worry. Oversupply will not be good for the freight rates. The indicators are, from my contacts in London, that the freight rates are unlikely to go down any lower than they are now, but they are unlikely to rise within the next three or four years.

As I mentioned in my opening statement, we in AMSA are a safety agency, but we are fully aware that, when people are striving to cut costs, they cut costs in the discretionary areas. The discretionary areas in ships are crew costs and maintenance costs; most other costs are fixed. If people stop spending money on maintenance and crew, then we could develop another spate of safety problems, particularly on the ageing bulk carriers.

CHAIR—Thank you, Mr Quirk.

Mr HOLLIS—When you mentioned that the livestock trade from the north has practically stopped, that is not because of freight rates, is it? That is because of other considerations in Asia?

Mr QUIRK—In terms of the cattle trade from northern Australia, the collapse of the Indonesian economy has virtually wiped out the trade of live cattle from Australia to Indonesia. There is a slight resurgence in this trade, I believe, to the Philippines, but that trade is still pretty low. There was an emerging trade to Libya in the Middle East, but I believe some problems with the European Community have stifled that trade. The outlook in northern Australia for the live cattle industry is not strong. The indicators we receive from the industry peak bodies are that it is unlikely to increase in the next 12 months.

Mr McARTHUR—We heard in previous seminars that the number of new ships coming on stream was unlikely to fulfil the international fleet expectations that in fact there would be fewer. I am interested to hear you say that you have got another approximately 300 new ships. Apart from rising freight rates why did that, in fact, happen? You mentioned the lack of profitability, and we heard about that before. Why was there this turnaround in the tonnage coming on stream?

Mr QUIRK—I believe the world economic situation is a volatile one, as we all know. As I mentioned, the smart shipowners order ships for a whole of life cycle. They do not order a ship to make a profit next year or the year after. They are looking 15, 18 years down the track. The demand and supply equation of shipping varies. The best example of that is the oil tanker fleet. A year ago, there was a surplus of tankers; now the freight rate for tankers is strong and looks likely to be strong for the next six or nine months. People are actually keeping some of the older VLCCs in trade to reap the benefit of that.

I cannot fully explain the economic circumstances underlying the dynamics of supply and demand in the shipping industry. It changes on a regular basis. Perhaps my colleagues in the Maritime Transport Group could explain some of the underlying economic factors, but I cannot explain the turnaround in shipowner expectations between this hearing and the hearing three years ago.

CHAIR—Would someone like to take up that point?

Dr FEENEY—I do not really have much to add to what Mr Quirk has already said. We could provide the committee at a later time with some analysis in relation to Mr Quirk's issue that he has just raised.

CHAIR—What about you, Mr Vellnagel?

Mr VELLNAGEL—I have a couple of points to add to it. The report talks about the enormous financial and economic pressures facing the shipping industry. The shipping industry is not unique in this particular aspect. There are fairly significant economic shake-ups of lots of industries around the world. The minerals industry in Australia is actually going through a fairly difficult time at the moment where there are pressures on it too.

In terms of the ageing of the fleet, I looked at the numbers in the report from AMSA and 72 per cent of the world fleet is under 20 years of age. If you go back through the statistics, that is probably not vastly different from what it was 10 or 15 years ago when the age in the world fleet really started to blow out. It was in that early 1980s period that we actually saw the rapid expansion of new buildings come into the market and the lower level of scrapping. It did meet the demand that was there for bulk commodities during that time. As I recall it, from about 1986 we have had very little difference in terms of saying 72 per cent of the fleet is less than 20 years of age.

I think the important factor which is not in the figures here is how much of that is in the 15- to 20-year age group. Particularly if you have got more than half your fleet under 15 years of age, I do not think a ship under 20 years is an unacceptable position in terms of an evolving market where there are always new buildings coming on stream and there must always be some scrapping. There will be overhang at times and there will be a shortage of vessels and tonnage on the market at other times.

At the moment I think the shipping industry is having to restructure. I see the economic pressures are such that they do have to look at the market. There is not much profitability in cargo any more so one presumes that there cannot be too much profitability in actually moving that cargo.

CHAIR—Mr Filor, you might have a perspective on this?

Capt. FILOR—Not really. The economics do not perhaps enter too much into the accident investigation area.

CHAIR—Do you see this trend starting to reflect now on the safety side or making the older sector of the fleet more prone to accidents?

Capt. FILOR—If we look internationally as opposed to particularly an Australian perspective, then, particularly in the area of bulk carriers, the losses of bulk carriers are associated with the older ships. In particular, in relation to 1976 losses, all the ships—and I believe there were four that were total losses—just broke up at sea. They were all in the 18- to 20-year-old group. Yes, there is that in the formula, but in general accidents are more complicated than just age.

Mr PETER MORRIS—Mr Vellnagel, listening to what you are saying, it seems to be that everything in the garden is okay, that it is not too bad—that we have a large percentage of over-age ships, many of which are undermaintained, but that is the way business goes. Is that what you are really saying?

Mr VELLNAGEL—No, that is not what I was saying.

Mr PETER MORRIS—It sounded very much like it.

Mr VELLNAGEL—Peter, you and I have been colleagues and I think at one stage you actually called me gamekeeper turned poacher.

Mr PETER MORRIS—Yes—very appropriate sometimes.

Mr VELLNAGEL—I think, over time, the shipping industry saw me as the poacher even when we were in a regular forum together. Perhaps I have come full circle—I am not so sure.

That is not what I was saying. What I was saying was that in a growing market where volumes continually increase, you will never have an expectation that the vessel fleet will progressively get younger. As you have to meet demand for more tonnage, new buildings will increase, but while the new building is coming on stream there will be a capacity to continue to use some older vessels to keep them in the trade for a bit longer. I do not think that bears any relationship to a suggestion that those fleets would be poorly maintained. You can maintain an older vessel nearly as effectively as you can a new vessel.

Mr PETER MORRIS—But the incidence of older vessels is always much greater in the area of casualties. What I am suggesting is that, given that your industry is looking to better quality ships and the pastors want to see a higher scrapping rate, that seems to be a contradiction. You seem to have shifted away from that view.

The other thing I want to say is that, as far as competitiveness across the industry is concerned, if the only trucks available are all good quality trucks then everybody is on an equal footing. What the shipping industry says, and what the major exporters, shippers, have to say is that they want to see more reliable, better quality shipping across the industry. What we have had before us repeatedly is these fringe elements of old—not necessarily only old, but substandard—shipping with substandard practices that undermine the efforts to bring better quality across the industry. We are looking for your help on that.

Mr VELLNAGEL—Through you, Mr Chair, I concur with the view: the Australian minerals industry and the bulk shipping industry would actually like to have very well maintained, good quality ships. We actually like our cargoes and we like our cargoes to get to their markets. But I do not think there is any difference there and I think we get into this area again later. In terms of the quality of ships servicing Australian exporters, and indeed our importers of bulk commodities, I think there has been a significant improvement—particularly, albeit perhaps belatedly—in the last few years.

Part of this is related to port state control in Australia, but I think part of it is also related to the ability to fix better quality ships in our market. We heard from Patrick Quirk that some of the statistics seem to suggest that there is actually a premium in the Pacific basin. I do not think that is entirely due to port state control; it is probably partly due to the fact that we are looking for better quality ships.

The difficulty our industry faces in a competitive situation is that, where we might be fixing ships at a slightly higher rate than our competitors, the ability for our competitors to actually trade in older, cheaper ships puts our industry at a competitive cost disadvantage in final markets. We would like to see the whole

world clean up into better quality ships. It will take time. I think we are doing it in the Australian market. I think we need to look at other markets.

Mr PETER MORRIS—That raises the question I was going to ask of you next but you have answered it already. Your submission can be interpreted in a way that says, ‘Because there is a competitive disadvantage, or what we perceive to be a competitive disadvantage, the standard should be lowered to embrace those ships being used by our competitors.’ That is not what you want to say but that is how I interpreted what you had in your submission.

Mr VELLNAGEL—No, that is not what I am trying to say in the submission. What I am trying to say in the submission is that we would like to have that cost disadvantage reduced. The best way to do that is to lift the standard of ships worldwide, not to lower the standard of ships worldwide. It makes very little difference to our industry if our costs are the same as somebody else’s. The final market then has to bear the increase in quality of ships. At the moment we are tending to meet the increase in quality of ships in the Australian market vis-a-vis our competitors.

CHAIR—BHP, you have got a multifaceted interest in this. How do you see the situation?

Mr CAMPBELL—I think we have supported for quite a number of years now the concept of having better quality shipping in the world. We obviously are shipowners. We are obviously large charterers. So we have a dual responsibility, but we see that we can enhance our quality, which we have done since the early 1990s, by introducing our vetting system. We understood some of the issues around the structures—particularly in large bulk carriers—and the losses that were occurring in the 1980s and we were determined then to avoid those sorts of incidents with any business that we were doing. We have certainly been enhancing our own vetting system since the early 1990s and we are continually improving it.

In terms of shipowning, ship chartering, I think in the future you would probably see, as was mentioned earlier on, that shipowning is probably not where we want to be. Certainly ship chartering is very possible for us in the way of bare boat chartering, and we can maintain a quality fleet. Other people can be the owners but we certainly would like to control our own destiny and do the maintenance, do the crewing and manage the ships in a proper fashion.

CHAIR—Mr McDougall, do you have a question?

Mr McDOUGALL—Could I just start off by saying I am pretty new to this game and around the table everybody has probably been in the industry a hell of a long time. Can that be one of my observations. I wonder sometimes how many industries can improve by some new changes to industries to be able to see some advantages come forward.

From an outsider’s point of view, can I ask this question, and I do not direct it at anyone in particular. While I acknowledge that the airline industry might have some problems, it has some international agreements and international standards in relation to construction, in relation to operation, in relation to quality and performance of equipment. Why does that not happen in the shipping industry? Is there not an ability for the industry to come to an international standard—whoever wants to take it up?

Mr QUIRK—Ships are constructed and operated under a complex matrix of agreements between the IMO conventions and classification rules. I might add that in the last year or so that relationship has become formal with the SOLAS convention—the safety of life at sea convention—now containing the provision that ships must be constructed and maintained under class society rules.

Whereas with aircraft—and I am talking about the major passenger planes—there are perhaps three major builders of aircraft in the world, there are an endless number of yards around the world that construct ships of convention IMO size. It is one thing to have a rule, but the interpretation of that rule is another thing—and the way it is interpreted by the classification society, who in many cases act for the flag state authority.

So we have hundreds of shipyards building ships nominally under the one standard, but under a myriad of interpretations. Even when that ship is constructed, launched and commissioned, it then falls under the flag state to ensure that that vessel operates within the broad parameters laid down in the various IMO conventions. Some flag states will fill that role better than others. I must admit, in terms of the aviation industry as well, ICAO—the International Civil Aviation Organisation—is just about to formalise what is called an oversight enforcement program because there are some nations of the world which operate quite large aircraft in a way which does not satisfy ICAO standards.

Because most ICAO delegates fly to their meetings in Montreal, they are all very aware of air standards and they are all very keen to see all nations comply to the same standards. The US Civil Aviation Authority has actually banned a number of nations from flying aircraft of their nationality into American airspace. So the airline industry is not immune from the problems we have seen in the shipping industry. In the shipping industry they are perhaps more magnified because of the global nature of the industry: the vessels are owned in one nation, operated by another nation, chartered by another nation. The problems are more magnified. I will be plain by saying that the value of life on some of the ships in Third World countries does not seem to register in terms of the value systems of some of the Western countries. I think that is a well recognised fact as well.

So there is a myriad of factors involved. The aviation industry is not totally immune, but we have problems in the shipping industry. I must comment that in the last 10 years the industry itself has made substantial moves to tighten up. As I said in my opening statement, the issue of flag states and how they operate is a major problem for the shipping industry in the world.

Mr CHARLES—I would just like to follow on from what Patrick has said and ask him to give us the benefit of his knowledge on some moves that are being made at the IMO and internationally in respect of identifying those flag states that are not taking up their responsibilities, and the move towards port state denial for those flags.

Mr QUIRK—The ship industry already knows who the negligent flag states are, even through our port state control statistics, the casualty statistics, the vetting reports of either the oil or the bulk industry. I am pretty sure I could name the 10 worst flag states now if I chose to. So the industry already knows in a commercial sense who the good guys are and who the bad guys are.

In a formal sense, there is the International Maritime Organisation, which is a UN agency, which operates very much on UN principles. It operates by consensus. The delegates of the various nations come to the IMO with a consensus nature—they are not forced to be there—to agree on safety regulatory issues and environmental regulatory issues. The hard part comes when some nations are knowingly not fulfilling their flag state responsibilities. We come to the very sensitive issue of sovereign right. The IMO nominally does not have an enforcement arm. It is a body of consensus, of cooperation.

There is a flag state implementation subcommittee which meets every year. It has only met the last five or six years. At the last meeting in London, after much opposition from a number of nations, it was agreed that a flag state self-assessment form would be developed and referred to its parent committee for approval. We in Australia expect that self-assessment form to come under considerable opposition in the parent committees in December this year at a meeting in London. It is by no means certain that the assessment form will go on. But it is a first step in terms of the IMO recognising that, for the IMO to have a long-term future, it must address the problem of flag state compliance. Without the flag states complying, some of the IMO conventions are not worth the paper they are written on.

CHAIR—Let us swing to Lloyds. What other imperatives can you see to enforcement?

Mr RIDLAND—We are a member of IACS, the International Association of Classification Societies. This is 11 classification societies. We are guided by them to give a standard of service, by means of laid down requirements as well as by auditing by the IACS body. Recently we had one of the IACS members actually withdrawn from some of their role because their standard was not up to IACS requirements. To answer your question, I think IACS is the main party that is giving us direction to give a more global response to criticism, as well as improving standards.

CHAIR—What you are saying is then that the self-regulation of the classification societies can have a cascading effect into other areas of safety? Is that what you are saying?

Mr RIDLAND—Yes, I think IACS is very important in the work we do. As well as that, classifications do get audited by the Norwegian inspectorate and various other authorities.

Mr CHARLES—I just wanted to go back to my original question to Patrick. You gave us a very complete answer in respect of the first part of the question, but nothing in respect of the possibility of moving as an enforcement process to those flag states that deny their responsibilities or avoid them. We probably, as Patrick says, all know who they are. We could name the top 10 in that respect. Is there the possibility of picking them off one at a time, with the question of port state denial and what that means, and where we are heading, given that in your previous presentation prior to the question period you also made us very aware in respect of the lowering of charters and the obvious consequence of that—neglect of maintenance and also crew welfare in respect of wages and conditions. They are the areas that will be under pressure now that we are moving into that period. So we could link the two together and look at where we are heading in both those areas, where you think we in Australia should be moving in respect of both of those areas and what steps are in place.

CHAIR—Before you answer that, Mr Quirk, what do you mean by ‘picking them off one at a time’?

MR CHARLES—I think it is internationally accepted that the easiest way to get the flag states that are denying their responsibilities, rather than naming them holus-bolus, is to audit them one at a time and put pressure on them in an international sense through the IMO. In the process of giving the IMO some teeth, those flag states are identified and audited one at a time. If the international area picks out one flag state and audits it, and if it needs port state denial or some further teeth, it will probably make the rest of those states address their own situations on a voluntary basis rather than be put under this enormous fishbowl type of effect.

CHAIR—What do you say to that, Mr Quirk?

MR QUIRK—I will just explain what flag state denial is as I understand it. Under the interaction of domestic law and international law, primarily through the United Nations Convention on the Law of the Sea, UNCLOS, a coastal state—Australia, being a coastal state with ports—can theoretically deny access to a ship of a particular flag if it chooses to do that. I need to explain that I am not talking possible policy for Australia; I am only commenting on what I have heard overseas in terms of discussions.

CHAIR—We understand that.

MR QUIRK—There are discussions taking place which would link a flag state’s compliance with international conventions, in terms of how it operates its vessels, to the right of that nation to send its ships into the ports of its trading partners. For example, a ship of country X, which we all know would be a bad performer, may be denied access to the European Community ports until that nation fulfils its flag state responsibilities. It raises a lot of economic issues, a lot of trade issues under the World Trade Organisation and a lot of issues even for the IMO in terms of the legal framework that could be done. But the issue is being discussed in an almost open nature now about nations exercising flag state denial, which may be one means of enforcing certain states to comply with international conventions.

CHAIR—Have we ever denied a particular flag state access to Australia?

MR QUIRK—To the best of my knowledge, I cannot recall a situation where we have ever actually denied access to a ship.

Mr PETER MORRIS—A ship being on the basis of flags.

MR QUIRK—On the basis of flags, yes.

Mr PETER MORRIS—But we do target particular ships, the flag of the vessel and the agent of the vessel in a milder fashion than does the US Coast Guard.

MR QUIRK—Yes, we have a targeting regime and flag is an element.

Mr PETER MORRIS—It is much milder than the US Coast Guard, isn’t it? Why don’t you and Mr

Charles stop beating around the bush and tell us who these flags are? It would help a little bit.

MR QUIRK—I could read from the *Port state control report* in terms of the tension.

Mr PETER MORRIS—What page? I have been looking through it while I have been listening to you.

CHAIR—And you are addressing this particular reading through the chair, aren't you? It is a very sensitive reading.

MR QUIRK—That is correct. Table 5 on page 13 lists ships detained by flag. We have not listed them in any sort of league table, but there is a list there and it is quite obvious that some countries have troubles: Antigua, Cyprus, Indonesia, St Vincent in the Grenadines and the Ukraine, just to name a few.

Mr PETER MORRIS—Through you, Chair, do you concur with that, Mr Charles? Would you like to add to that?

MR CHARLES—Through the chair, I think we could probably add a couple of more well-known flags: Panama and Liberia would probably be fairly well up the top of anybody's list.

MR QUIRK—I need to clarify my position. We are talking in terms of safety and performance. From our perspective, I know there are difficulties in certain Liberian management companies. In terms of safety performance, they would not be in my top 10 list. Some issues are objective, some are subjective and some are particular issues for particular groups.

CHAIR—Before I come to you, Captain Filor, I would be interested to talk to Mr Bohn. You are a new player in this field. Does this talk spook your operations in any way or have you got an action plan that keeps your particular registrations out of that mire? As a new player in the field I would be interested to hear your perspective on this because you must see the potential difficulties for your country further down the track if you get lumped in with some of these more dissident ones that have been spoken about today. I am not suggesting that you would, but I am asking what quality control you have put in your own operations to make sure that this never happens to your particular fleet.

Mr BOHN—Firstly, Vanuatu has been involved with ship registration internationally for 17 years so we are not totally new. In fact, we have been in the business quite a bit longer than some of the more recent entrants, some of the ones that have been named. We believe that we have got administration and safety policies in place that prevent vessels that are substandard from coming onto our registry. But even more than that, we follow on with surveys and inspections, using classification societies and our own facilities to ensure that we have vessels that are maintaining their quality and maintaining the international conventions applying them. Ultimately, we have the right to—

CHAIR—Very briefly, how do you do that? You are fairly remote from the centre of Europe or the centre of the Americas. How do you enforce that? How do you carry out those inspections? Do you have agents? What is the methodology?

Mr BOHN—We would certainly apply those rules in the same way as Australia might apply those rules, being quite a bit distant from those areas of operation. Certainly, Australia would have more facilities as far as administrative control is concerned, but they would work with their own authorities, with classification societies. We would tend to use more agents working on our behalf in those areas.

CHAIR—Captain Filor, you had something to add.

Capt. FILOR—On page 127 of the MUA submission to you, there is a list of those flags we are talking about. What we have done in the MIIU is to try and make a threshold and compare the number of accidents with the ships at risk. Panama is a flag which has by far the largest fleet in the world and so one could reasonably expect them to have the most accidents.

In Australian waters, Panamanian ships, for instance, account for something like 13 per cent of all ships visiting Australia and they also account for 13 per cent of the accidents which we investigate—that is not to say substandard ships or anything that comes under the port state control regime. So they are not over-represented. One would obviously like to see them not represented at all.

This is the table I was referring to on page 127. The fourth mentioned—I have talked to Mr Coombs about this and I think he agrees—should read Belize and not Bahamas. If we then compare internationally, we actually find that those vessels in that list all account for or are over-represented by nearly twice. I have not expressed that very well, but those flags are almost all twice as likely to have an accident as they should be. In Australia it seems that they are not over-represented but internationally it does seem that they are almost between 1.5 and two times over-represented in accidents which are investigated, and total losses. I hope that makes sense.

CHAIR—Do you want to add to that, Mr Coombs?

Mr COOMBS—Obviously, we were attempting to point out what is appropriate in this particular section and the problems that port state control has with flag of convenience. There is a huge amount of figures. You can go well beyond Australia and have a look at the experience, for example, in the UK with the decline of the fleet from 75 and 1,614 nationally flagged vessels to 226 in 1998 and the fact that 80 per cent of the problems that they experience are of flag of convenience shipping, which they would not have experienced, in their view, if—

CHAIR—That document could be very handy. When you have finished referring to it, could we work it into the record?

Mr COOMBS—That is not a problem—certainly.

CHAIR—We will let the committee consider working it into the record.

Mr COOMBS—That is why I brought it along. The argument there is rather graphic because of the fact that we are very much smaller and that perhaps people can somewhat be more dismissive of the problem in terms of the Australian situation.

When you go to a country like the UK, one of the leading maritime nations of the world, and see that level of decline, then see their studies and the reflection of the figures in respect of problem vessels and have a look at their port state control results in terms of their trading patterns, their ship visits and their flag of convenience operations, you get a true picture of the magnitude of the problem that we are confronted with. That is if we focus solely on that aspect. Of course, we will have something more to say about the question of the capacity of the crews and the competency of crews and the element that introduces into the question of ship safety.

Can I just say, in respect of this focusing on the age of vessels, that we have just purchased a 21-year-old vessel to be our flagship to go around the world to highlight the flag of convenience problems. It is a 21-year-old vessel which, I have to say, is in very good condition. It would not be carrying a British flag on behalf of the International Transport Workers Federation if it were not.

So it was not a question of meeting some standard in purchasing some vessel within a much younger timeframe. A 21-year-old vessel—properly maintained, properly crewed and competently crewed—meeting all of the requirements, of course, reduces dramatically the level of problem that we are focusing on here. This identifies relatively the importance of the condition of the ship as opposed to the question of the competency of the crew and the human element factor.

CHAIR—That is a very good point and I know that it will spill over into another topic later. Just on this point, Mr Ridland, you said in your submission that you had noted deficiencies in on board maintenance. Could you expand on that? Is that the point that Mr Coombs is making? What is it? Is it the cutback in crew size, the competency of crews or other factors?

Mr RIDLAND—I think it would be the cutback in crews if you reflect on the fact that, probably 20 years ago, the same size of vessel had a crew of 30. You are back to 17 or 18. So there would be a considerable bout of ongoing maintenance which is not accomplished by the crew members. I think this is reflected in the port state detention list where there is a lack of maintenance on fire flaps and a whole range of things which come up; every detention you see them listed. To answer your question, I would say, yes, crew size and competence would reflect on the standard of the vessel.

CHAIR—We have only got a couple of minutes left. Is there anything in this particular segment that someone wants to touch on before we move on to the next topic?

Mr CHAMBERS—I think we really should be focusing more on substandard shipping of any flag. Mr Coombs and Mr Charles keep raising open register vessels, or flags of convenience as they are called sometimes, but of course the list that Mr Quirk read out included a number of national flag countries, and I think the focus needs to be more on that. From a shipowner's perspective internationally, we are concerned, and we have had discussions with the ITF in London, about focusing on substandard ships and substandard operators no matter what the flag. So I think we need to just focus back in on that component of it and not necessarily get carried away by the idea of open registers.

CHAIR—Thanks. That is a good point. Colleagues, any other questions?

Mr PETER MORRIS—Yes, I have got a couple of questions—both to Mr Chambers and to Captain Quirk. Mr Chambers, on page 222 of your submission you are saying that the Australian government should be using its persuasive powers on other governments to speed up the process of appropriately implementing existing international regulations via flag states. What is the implication—that we could be doing more than we are doing? And, Captain Quirk, that bears upon your responsibility and that of your colleagues. Are you just going through the motions at IMO in respect of flag states? And what has been the result of that flag state implementation? This is the weakness in this whole system. Is that going anywhere? Is there going to be another convention or are we still continuing a talkfest over there?

Mr CHAMBERS—From the Australian perspective we support the government's activities in conjunction with a number of other countries—the UK and others—who are looking to introduce a possible convention on flag state implementation into IMO. We are fully supportive of that activity. From the operator's point of view generally, the International Chamber of Shipping has had discussions amongst its members—its members are national shipowner associations around the world—with the idea of possibly looking at providing a code to ship operators which points to the well operated flags as opposed to the not so well operated flags, so that there is some information in the marketplace that ship operators can use to make a decision on the flag that they will operate their ship under.

So there is activity going on. Mr Quirk will probably follow up with some of the very recent discussions that have gone on about flag state implementation in London.

Mr QUIRK—I make one issue first about final points. Age of ships is important—it is an important factor in the profile of a ship—but I think we at AMSA appreciate that age is only one factor. As we get on today in discussions, we talk about how the ships are operated and how they are crewed, and although age is important there have been substantial changes in survey standards in the last four or five years to catch ageing ships, particularly bulk carriers and tankers that perhaps are past their due by date. That is important when we look at how ships are operated, how they are crewed and, more importantly, how they are managed.

In terms of the flags implementation subcommittee, we are dealing there with issues of national sovereignty. From Australia's perspective, it can be a very frustrating exercise. I make comment here—it is in the public domain—that one of the editorials in Lloyds list London three or four days ago, maybe a week ago, commented that Liberia made a very emotional intervention at the last committee meeting saying that if the IMO tries to get involved in enforcement, then it is the end of the IMO as we know it today. Those sorts of emotional statements are unusual from the IMO. This is generating an intense debate on whether or not the IMO has a future in terms of enforcement.

So we are making slow progress, but I might add that in other areas of its operations the subcommittee has made substantial progress. Maybe Captain Filor can comment on the code of casualty investigations—also in terms of the process in the port state control data. The committee has made progress on a number of fronts. Where it has the most difficulty is coming to terms with whether or not it has a political mandate or whether or not it is a technical committee, and that has yet to be resolved by the IMO assembly.

CHAIR—We may come back to this issue in the fourth focus group on crew training competency. I

would just like a quick comment from Dr Lewarn. We talked about the size of crews and the age of vessels. Mr Hollis and I were involved with a particular vessel—I think it was an Indian registered vessel the *APJ Anand*—that became a bit of an icon issue when it was impounded at Gladstone in my electorate. The thing that came through there was not just the regulatory misdemeanours on the part of that vessel; they did not even have the equipment. Even if they had had a bigger crew, they did not even have the equipment. There had to be auxiliary power plants and things brought on to the wharves to help them load and unload.

My question to you is this, and we might expand on this later on in section 4. In the training of crews today, has sufficient emphasis been given to making sure that the right equipment is on ships? Surely today you do not just chip the rust away with a chisel? There are other methods of doing it. Is that happening or is some maintenance caught in a time warp?

Capt. FILOR—I think the answer, coming backwards, is yes, some maintenance is caught in a time warp. Our experience with relatively large numbers of overseas students is that you would have to say that you wonder if some of them have actually ever set foot on a properly operated ship. I would not for a moment blame those particular individuals. There is quite clearly a very significant range of operators out there in the world shipping environment, some of whom quite clearly provide almost no equipment for maintenance at all. In answer to the first part of your question—whether we pay attention to maintenance issues and the need for proper equipment, and indeed training, for Australian seafarers—the answer is yes, very much so.

CHAIR—On Mr Coombs's evidence, obviously the British are doing the same?

Capt. FILOR—Indeed, that would be the case.

CHAIR—So that is another dimension of this, is it not? It is not just being regulatory with these particular countries that are playing up, but making sure there is a culture of training and proper equipment involved as well.

Capt. FILOR—Indeed, I think that is correct. I think the word 'culture' is very important in all of this. It is the culture of the operators, the trainers, the seafarers and all involved, which, in the end, go to make up the differences between the good and less good players.

Mr PETER MORRIS—Mr Chairman, you raised the question of the ship the *APJ Anand*, a single voyage permit vessel. In this representation here and submissions, there is hardly any reference at all to single voyage permit vessels. Mr Quirk, we do not inspect single voyage permit vessels before they are operated. Are there any statistics on the incidence of single voyage permit vessels? Maybe we will come to that in port state control later in the day? Would that be a more appropriate time, Mr Quirk.

Mr QUIRK—The issue of single voyage permits is a policy issue for the department. I can talk in terms of vetting but maybe Mr Feeny could make some comment on changes to current procedures.

Mr PETER MORRIS—The question was not about policy; the question was just about the facts. Maybe it is more appropriate to leave it until later in the day when we come to port state control?

CHAIR—I think we might do that. I also want to hear Mr Richardson, so we will pick you up in section 4 if we could on this particular issue. We have gone over quite a bit. It was a very good opening, everyone. I appreciate the interaction, but I now want to move on to operational issues.

Is it the wish of the committee that the document known as *Dicing with disaster* be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The document read as follows—

[10.10 a.m.]

Focus area 2: Operational issues

CHAIR—Mr MacGillivray, you had quite a bit to say about safety culture. Perhaps you might like to lead with a short statement of two or three minutes to get us into this new section?

Mr MacGILLIVARY—Let us look at the way the industry is going now. In the preamble to the ISM code, one of the stated objectives of the ISM code was to raise the safety culture in the industry. I think that that to a certain degree is happening with the ISM code and the STCW—the changes which are occurring there. This goes back to what we were discussing before as far as the implementation of the STCW is concerned. Nobody really knows how it is all going to pan out in the end, but we will just have to wait through experience to see how it is going to really work.

It is important to note that as far as IMO monitoring of the flag administrations, as of 1 August, it is now a requirement that flag administrations issue a plan to IMO as to how they are going to implement the STCW. As far as the quality of shipping is concerned, one of the things that I have noted—and I am speaking from personal experience here, and I think it is related to what Mr Chambers said earlier—is that there should not be so much focus now on flags of ships. Through my experience through several years of surveying and conducting safety audits on ships, it is the operators who really should be in focus. I firmly believe from my experience that behind every substandard ship there is a substandard operator. The fact that certain substandard operators hide behind flags of convenience is just one of the things of the industry. I have been on many ships now of Panamanian or Liberian registry which are in very good condition. The crews are very well trained. The ships are very well maintained.

CHAIR—That is a good opening. In taking that point of yours, you are talking about the culture. What about when the culture breaks down and salvage becomes an issue? Mr Cole, you noted in your submission that maintaining the salvage capacity is no longer commercially viable or justified in some countries. What arrangements exist in other countries in these circumstances? When there is a breakdown, how does the rest of the shipping family cope with that?

Mr COLE—The problem is a worldwide problem and the salvage industry is trying to come to grips with it. As Mr McDougall said in a comment in a previous session, sitting around this table you see men who are getting older. That is not just confined to this committee meeting: it is the case in salvage.

There is a problem in the salvage industry. Firstly, the participants are all getting older, and because there is a decrease in salvage activity there is no ongoing training. The problem is one of manpower, and nobody in the international salvage community has come up with an answer to it, although we are looking at a training regime where we can bring new players or younger people into the industry and collectively train them. But that is costly and we have to find the resources to be able to implement such a regime.

Secondly, we look at how we meet the need for salvage. This is a problem that we have identified in Australia, and it is a problem that has been identified around the world, because with the success of the implementation of the various marine orders that have been internationally promulgated, we are now finding

that there is a decline in the number of incidents. Of course, the decline in the number of incidents also equates to a decline in the earning capacity of salvage companies.

In addition, both the hull underwriters and P&I clubs have become a lot more proactive in how the contracts are to be let. Whilst in years gone past, the LOF form was almost the standard universal form, which bound salvage contractors with their clients—whether it be shipowners and/or underwriters—the intent expectation now is of commercial reality, and there is a negotiation process that goes on. That negotiation process is obviously to bring prices down.

We are seeing a disinclination in the salvage industry to invest in salvage. What has happened overseas is that the government has become far more proactive, and we see the example in the United Kingdom where they have stationed tugs around the United Kingdom during the winter months—not during the summer months—as a line of defence for the prevention of what is generally the most emotive issue in marine affairs—oil spills.

We in United Salvage took a different tack. We have tugs that are stationed and are dual purpose that provide towage services in ports around Australia. These tugs have had additional features added to them during construction, and we use them for the provision of salvage services. It is seen around the world that this response is probably the way a number of countries are handling salvage responses.

It is a problem, and I get back to the question Mr McDougall asked in the previous session, when he said, ‘Why is the shipping industry so different from the airline industry?’ My response to that question, if he asked it of me, would be to give the example of a ship that sank in the English Channel a couple of years ago, and nobody knew it had sunk until 15 days later, when it was due to arrive in the West Indies and it did not arrive. There was a loss of 24 people.

It is not emotive. The only emotive issue that the public buys is oil spills. You lose 24 people in a ship and it does not rate a mention. You see an aeroplane fall out of the sky and we are all aware of it. Fifteen days this ship was lost, and nobody was aware it was not on the high seas.

CHAIR—Do you want a reply to that, Mr McDougall.

Mr McDOUGALL—I think it is a very interesting response to the question. I would like to, but it is in last part that I would like to. May I just go back to the point, because it is something that I am trying to get at. I know that all the comments around this table have been made in relation to the quality and the operational issues of the fleet that exists and the fleet that is coming on board in this 335. How relevant are the designs of those ships to the tasks that they are going to be carrying out, and in relation to the projected life that the builder and the owner are looking at in relation to that vessel?

When you ask that question, the next question to me is: how is that vessel used in relation to it? So you can go down the path of asking all the questions that have been raised. But I come back to the original point: if you are dealing with a substandard product in the first place from brand new, you have got two different arguments you have to follow. It was the standards that I was trying to set in the first place. Are we arguing and debating at the right level from the start point? There are two questions to me—the question of

dealing with the problem that exists and the question of dealing with the future. Are we continuing to manifest the past in the future because we are not dealing with the future. That may be a bit more succinct than what I said before.

CHAIR—This problem that we are talking about is not unique either to aviation or to shipping. The committee is currently winding up its inquiry into the national rail system. Without anticipating the committee's findings, the uniformity of train driver training between the Australian states is as big a problem. So it is not something just confined to aviation or the maritime industry. Perhaps on this point again, coming back to you, Dr Lewarn, picking up Captain Cole's point, where is the appropriate forum for training younger people in salvage? If there is not a capacity within Australia on its own, is there a capacity to perhaps regionalise this so that there are competent teams in various parts of the world, in particular in Australia, New Zealand and the South Pacific circumstance?

Dr LEWARN—I think I have one bit of good news. We have recently provided to young Australian cadets Smits tugs based in Singapore. Those cadets have undertaken their basic training at the Australian Maritime College and they will undertake their more specific salvage tug oriented training with Smits, so that is a positive step. In terms of regionalising, that seems like a logical approach. Dale Cole would be better placed than I would to talk about the possibilities associated with that. But quite clearly, for any training to occur, you do need some synergy and a reasonable group of people involved. I cannot see why, with some degree of goodwill, that should not occur.

CHAIR—Some inter-country exchange can perhaps achieve the same end: is that what you are saying?

Dr LEWARN—I would believe so. Most certainly, Smits, who are one of the world's largest—if not the world's largest—do have training programs for young people. We have been fortunate to be able to place two young people there. Maybe that is the start of what Dale Cole was talking about.

CHAIR—Back to you, Mr Quirk. Do you have a perspective on this?

Mr QUIRK—Yes, Mr Chairman. Looking at ships, there are two sides to the equation. There is the hardware and the hull machinery, the equipment and the crew and the way they are managed. On the structural side, the equipment side, the question was asked: are we utilising best practice? We are always improving but I believe that the core technology at the moment in terms of structures and machinery is adequate in terms of safety performance. We are going down a road called formal safety assessment. With the high-speed craft being built by people like Bob Clifford in Tasmania, their safety parameters are partially determined under a formal safety assessment which is a more risk based assessment rather than a rules based assessment.

As a general comment, I believe the structures, machinery and equipment available today in the marketplace are adequate for a safe ship industry. We come back to the supply side, the crew, and their competency, training and management. This comes on to one of the later sections of the day's discussions, but that is the weak point in the current transport chain. The comment was made before that behind every substandard ship there is a substandard operator who is cutting costs in employing least cost crews. That is

the core of the problem.

CHAIR—Let us come to the AMSA submission itself—Captain Hay's submission. In Captain Hay's submission he made a couple of comments about, I suppose you could say, the business being too theoretical. He talked about a box ticking exercise on the one hand and then he said, when he was talking about the reef reporting system, that it was expensive and of limited benefit. What I am trying to come at here is what sort of culture has to be created to properly address the matter of reporting in a meaningful way—not just going through the motions, but doing it in such a way that it has some meaningful impact on operations.

Mr QUIRK—There are two distinct issues there, Mr Chairman. The first involves part of the ISM code, which is a safety management code which came into force on 1 July, and even most ships these days have what is called a pilotage check list: when the port or coast pilot comes on board, there is an information sheet for the pilot to know what is working, what is not working, what the capabilities of a ship are and what it is not capable of. If the pilotage check list is made out three weeks ahead there is definitely a problem on the ship, and if the pilots advise us of those issues we will look into it in a non-intrusive manner without identifying the pilot. It is a problem.

A couple of submissions have been made about pilot training standards. It is a two-way street. The pilots cannot demand good ships if they themselves will not play their role in ensuring standards are complied with. It is a long time since I heard a pilot knocking back a ship for pilotage.

On the second issue of the reef pilot reporting system, that is the most extraordinary statement in that submission, Mr Chairman, and I was quite upset when I read that. If people in this room will take their minds back about four years ago, Det Norske Veritas did a detailed three-stage risk analysis of shipping risks in the Great Barrier Reef. One of their recommendations was a more prescriptive reporting system for ships. Under the auspices of the IMO we now have a leading edge technology ship reporting information system in force in the reef which I can say to you, without any reservations at all, has enhanced safety. I cannot understand for the life of me what that statement is supposed to mean, and I find it quite extraordinary. Safety has been enhanced by that system and will continue to be enhanced by that system.

CHAIR—Would Mr Chambers like to make a comment on that?

Mr CHAMBERS—I fully agree. It is a reasonably complex reporting format, and it took probably some time to bed down. Those things happen when you introduce new ideas and new reporting circumstances, but the reef system is working well.

In terms of pilotage generally in the reef, it is our members' view that in fact standards have risen. So competition has not reduced standards, in our view; standards have risen. The pilotage companies are trying to differentiate their service on quality, and as a result their quality has risen.

Mr PETER MORRIS—Can I just dwell upon the submission from Torres Pilots' Captain Sturt and also Captain Hay's submission. I would be interested to know what status that submission has. He said it was a private submission, but he is not here. Some of the comments he makes are fairly caustic, and when you link them with the submission from Torres Pilots, this really goes to the core of the problem.

If you look at page 61 in your submission, Torres Pilots is in the middle of the page. He refers to Kit Filor and says that a high proportion of these incidents—these are on the investigated incidents—have involved Australian pilots who are licensed under one of various federal or state licensing machines. There then follows the section on pilots' standards. Captain Sturt, you just raise the question that development of a national pilotage standard needs to be uniform, but you do not elaborate on it. Can you tell us something about that? It is pretty strong stuff. Is there really a need now to get uniformity? I have been told that each of the ports control their own pilots and the standards for pilots and practices vary from port to port. Can you tell us something about it?

Capt. STURT—I must say I did not write this report. This was done by our manager.

Mr PETER MORRIS—But you have got to answer for it!

Capt. STURT—I have not been able to speak to him. I only received this yesterday. I am not quite sure, to some extent, what he was referring to in some of these statements. I think the standard of pilotage training has not changed a great deal since I have been a pilot. It has been quite a high standard in all my experience.

Mr PETER MORRIS—Are there differing standards of pilots from port to port?

Capt. STURT—I am not a port pilot; I am a coastal pilot. I go just up and down the Great Barrier Reef.

Mr PETER MORRIS—There are or there are not? Are there differing standards required of pilots, and different practices from port to port up the Queensland coast?

Capt. STURT—I do not know anything about the port pilots.

Mr PETER MORRIS—Could you come back to us in writing on that?

CHAIR—We need that by Monday, Captain Sturt, if that is possible. I know it is a fairly short time span, but we have to get this report through the system for tabling in August.

Capt. STURT—I am not quite sure of the question really.

Mr PETER MORRIS—If you read the submission, what you are saying on the bottom of page 61, which is the second page of Torres Pilots' submission, is that it refers to pilotage standards and a need for a strong case for development of national pilotage standards and the review of various regimes. The implication there is that there are differing standards from port to port. There is no more sensitive area in Australia for shipping than the Great Barrier Reef and I think it is extremely important, for the committee's interest, that we have that clarified. Can I invite Mr Quirk to respond, Mr Chairman?

Mr QUIRK—Just to clarify and comment, Mr Chairman, we need to differentiate coast pilots who pilot the ships through the Great Barrier Reef and great north-east channel. They are licensed by AMSA; they

are under a uniform regulatory framework by AMSA, we believe. It is always open to discussion whether that training framework is acceptable and the pilots are of a high standard. Where the current difficulties exist is between the port pilots who pilot ships in port limits. They are either licensed by a state authority or by a particular port authority. In Queensland they are licensed by the state authority. I believe, being an ex-Queensland pilot, I might admit, the standard is okay, but on the other side of the equation, in Western Australia, the ports licence the pilots as opposed to the state marine authority.

There is a strong push at the moment for a national uniform training and selection framework that has been agreed. Hopefully it will go to the meeting of the Australian transport council later this year. That will provide a non-prescriptive uniform training framework with the ability for all states to prescribe particular issues within that framework. But there is a problem in pilotage standards. It is well acknowledged, and not only in Australia. I think Australia is pretty good. Organisations like Intertanko have been strong in their proposals for more accountability of pilots in terms of their performance of their duties. Australia is well positioned for that. We are moving down the road for national uniformity, but, given our federal system of government, there will always be some jealousy or turf protection by the authorities.

Mr PETER MORRIS—So the longer you take to do this, the more likely the Great Barrier Reef is to be at risk?

Mr QUIRK—I repeat that the coast pilots, the reef pilots, are licensed by AMSA as one group. We believe that we have a training certification process which meets the aims of safe pilotage in the reef. It is the port pilots—I will not mention ports—for individual port limits where there are perceived difficulties in uniformity.

Mr PETER MORRIS—Let me take you to Captain Hay's submission on the second page. It is on your page 78. It says:

With competitive pilotage you can come under commercial pressure not to report defects.

Is that the case?

Mr QUIRK—That is a natural concern of all people who provide service in the shipping industry. Given the nature of the industry, if a person is seen to be not toeing a line agreeable to the owner or the charterer, there is a possibility of them changing their service provider.

Mr PETER MORRIS—It's that nice and simple? If I report your ship being deficient then you will not give my pilot his business next time? Is that the way it works?

Mr QUIRK—That is a natural concern to the pilots and I believe it is a well founded concern. We have got around that, I might admit, by having a reporting system which enables pilots to report ships in a manner whereby AMSA can investigate without naming the pilot or the source of the information. That is used on a regular basis.

Mr PETER MORRIS—Is it compulsory to report defects noticed by pilots?

Mr QUIRK—Under our current law, no. I believe pilots would have a duty of care themselves to report defects, as would the general community.

Mr PETER MORRIS—But is it the case with the EC that there is a directive that pilots must report deficiencies noted that may affect the safe navigation of the ship—article 13?

Mr QUIRK—I am unaware of that directive, Mr Morris.

Mr PETER MORRIS—Do you want to have a loan of it?

Mr QUIRK—Yes. Certainly. I would not mind a copy.

CHAIR—Don't have a duel with him, please.

Mr PETER MORRIS—No. I think it is a very important question because it has also been picked up on the grapevine apart from what we are doing formally here. This message is going around the grapevine about the dangers that are involved, particularly with competition between pilots. The other issue being raised by pilots is that the market is so skinny that there is really not room for two players and so standards are going down.

Mr QUIRK—As a safety regulator, I dare not get involved in economic argument.

Mr PETER MORRIS—Please don't.

Mr QUIRK—But I must comment that some of those arguments put forward are based on very thin rationale.

Mr PETER MORRIS—Can I ask Mr Chambers? Mr Chambers is concerned about this. You are a customer?

Mr CHAMBERS—I will repeat what I said before: that it is our members' view that standards have risen as a result of competition in coastal pilotage in Queensland.

Mr PETER MORRIS—And that includes international pilotage through Australian waters, obviously through the Great Barrier Reef?

Mr CHAMBERS—Yes. Correct.

Mr PETER MORRIS—Can I ask our BHP representatives here what is their experience.

Mr BAXENDALE—What we are seeing is that the standard has improved. The pilotage through the Great Barrier Reef is better. They are better organised. They have qualified themselves with a quality system and they have put their systems in place. I do not think the competition has done a great deal of damage to the pilotage itself. I think that the quality of what we are getting is good.

Mr PETER MORRIS—Captain Filor, this submission from Torres Pilots refers to the incidents you have investigated, and you have investigated a number of incidents involving pilotage on the Australian coast.

Capt. FILOR—Yes. We have. What we have found is that it was purely human factors. It is lack of anticipation. It could almost equate with driving your car and momentarily becoming absentminded.

What we have found and targeted were things such as lack of bridge resource management—in other words, using all the resources on the bridge that were available—and basic lack of anticipation and planning by pilots and by those on the bridge. There are very human things which occur particularly when the pilot is feeling comfortable and relaxed. Whereas perhaps on a less well managed ship they are on a higher level of alertness, what we find is that on the better managed ships they tend to relax a bit, and this is when accidents tend to creep in.

What the Australian shipping industry has done over the last two or three years is actually set up a course on bridge resource management, which most, I think now, Australian officers have been through. Many pilots have been through it. Over the last few years—I don't want to put the hex on this—the rate of accidents through, for want of a better word, carelessness does seem to have decreased quite markedly, particularly on Australian ships.

Mr PETER MORRIS—A number of the incidents you have investigated have been foreign registered vessels, haven't they, transiting Australian waters?

Capt. FILOR—There have been some. But there have been others which are Australian ships as well.

Mr PETER MORRIS—And when you referred almost literally to the pilots taking their eye off the ball, is this code for fatigue?

Capt. FILOR—Not necessarily, no.

Mr PETER MORRIS—So they are all bright and frisky? No one is tired?

Capt. FILOR—Certainly, there was one classic of extreme fatigue in the *Peacock*. The pilot was fatigued.

Mr PETER MORRIS—Because there are other submissions here that refer to the length of duty, and there are the reports that you have brought down that refer to the pilot going down below and the helmsman taking over and then losing control.

Capt. FILOR—It is not usually the helmsman; it is the officer of the watch, certainly. We find that on that passage the pilots do have areas where they can go down and leave the ship in the hands of an ordinarily competent officer.

Mr PETER MORRIS—When you say 'bridge resource management' that you were looking at to embrace all of these problems, what precisely do you mean? Can you explain it in lay terms for us?

Capt. FILOR—It is using all the resources on the bridge—that is particularly human resources. It is a proper interchange of information with the pilot, his plan for the voyage. It is an exchange of information with the ship on how they see the pilotage should be conducted, bringing the two plans together so everybody knows at each stage of the passage what should be going on, what course should be steered, and turning marks, and those sort of things.

What we are trying to do is prevent a single person failure accident—very much along the lines of the airline industry, where we involve everybody in the cockpit, if you like, in the passage of the ship. What has happened traditionally, and what is one of the major problems, particularly in port pilotage, is that the pilot climbs on board a ship he does not know, everybody says, ‘Oh good, the pilot is on board,’ and turns off and leaves it entirely to the pilot. The pilot makes perhaps a relatively minor slip and, given the parameters of the port, and speeds, that is all it needs to make an accident.

It is really overcoming those problems, getting everybody involved and making people realise—and particularly masters—that they are actually responsible for their ships, which are worth millions and millions of dollars.

Mr PETER MORRIS—Can I just move then to you, Captain Mathias. The New South Wales cabinet office submission is yours, is it?

Capt. MATHIAS—That is correct.

Mr PETER MORRIS—He is asking that there should be a requirement for all foreign registered vessels to come under the jurisdiction of AMSA when operating in Australian ports, regardless of their voyage—you can have a foreign ship on an intrastate voyage. You are asking—and I think it is a very important question of jurisdiction for the committee report—that that should be brought under federal administrative authority. Can you elaborate upon that—why you are asking this?

Capt. MATHIAS—As we know, the AMSA act does not apply when a vessel is on an intrastate voyage—that is, a voyage between ports in the same state—unless the vessel actually declares itself to be under the act. Most of the better managed vessels do that, but a lot of the others do not.

At this point in time, and I think it will be thus in the future, the only people with the expertise to actually carry out an effective port state control on any foreign vessel would be AMSA. The state bodies, as opposed to AMSA, being the Commonwealth, do not have that expertise, and I do not believe that they would be desirous of even acquiring that ability to carry out port state control. You have got bit of a lacuna there, or a bit of a gap in the legislation, where a foreign flag vessel would not come under any quasi state control.

Mr PETER MORRIS—Which ports are you referring to? Between where and where?

Capt. MATHIAS—Between any ports in a particular state.

Mr PETER MORRIS—What, Kembla, Newcastle, Sydney?

Capt. MATHIAS—If there were vessels which were operating between, say, Newcastle and Sydney, or Newcastle and Port Kembla.

CHAIR—Gladstone to Weipa?

Capt. MATHIAS—That would be included. They would not come under any port state regime. I think that has got to be closed, because currently you are leaving it up to a shipowner to say, 'I want the act to apply.' We do not want them to elect; we want to say, 'They are our waters, that is our property, we will come in and inspect you.'

CHAIR—There are two aspects to that, Mr Quirk. The first one is the intrastate travel, and the other one is the foreign vessels that are operating on the coastal service. What is the state of play there?

Mr QUIRK—Just by way of background, under the Commonwealth Navigation Act, in the offshore constitutional settlement, AMSA has responsibility for foreign vessels engaged on interstate voyages. However, it is possible for foreign vessels to engage in intrastate voyages on a regular basis. Examples would be Weipa to Gladstone on the bauxite trade, and also in the petroleum trade from Fremantle to the north-west ports. A strict interpretation of the Navigation Act would mean that AMSA has no jurisdiction on foreign vessels, whatever size, engaged on intrastate trade. Also, they do not fall under the single voyage permit requirements either, they fall under a state responsibility.

We work very closely with the state administrations when that happens to ensure that our expertise is available to the states. We are pursuing a proposal through the ATC, the Australian Transport Council, that the jurisdiction be changed to enable AMSA to have jurisdiction on all foreign vessels in Australia. On the other side of the coin, AMSA would relinquish responsibilities for small commercial Australian vessels operating between the states. For example, it is really a bureaucratic problem for them to go from a Queensland jurisdiction to a Commonwealth jurisdiction and then go to a New South Wales jurisdiction on a simple voyage from Brisbane to Sydney.

For vessels operating intrastate, and an example I would use would be Queensland Alumina in Gladstone—

Mr PETER MORRIS—This is being advanced by New South Wales.

Mr QUIRK—Yes, but the example I would use is a Queensland example. I think it is a good example to use. Sometimes one of the major four bauxite ships is off the run for dry docking but a need arises for more bauxite in Gladstone. QAL then charters a foreign flag, a panamax size bulk carrier, to fill that gap. The opportunity is open for that vessel to be declared under the Navigation Act under section 8A.

There are difficulties with that declaration because it brings into play other aspects of federal maritime jurisdiction, including single voyage permits and coverage under the Sea Care Authority. Therefore, some operators are reluctant to make that declaration, which means that those voyages are under state jurisdiction. We have a very close relationship with Queensland Transport on these matters and our surveyors accompany their state surveyors inspecting that vessel to ensure that safety standards are not compromised. But under the

current arrangements there are some unsatisfactory issues and we are trying to pursue them through a political solution.

CHAIR—Should the committee be making a recommendation on this in its report?

Mr QUIRK—Far be it from me to recommend that but it is an issue which I believe, in terms of an efficient transport chain, there is an unforeseen gap in the regulatory framework at the moment.

CHAIR—That is the point I was coming to.

Mr COOMBS—Could I make a comment about where we were just a little while ago before the point is lost. Going back to what Mr Chambers said, which came over into this section, it is a question of not just focusing on open registers. I would agree that there are any number of nationally manned vessels in deplorable condition around the world, under national flags. I would suggest to you that that is purely and simply as a result of the competitive advantage that flag of convenience shipping has. We got the answer to this problem in the very first comments that were made today about the pricing structure of the movement of cargo and the fact that the competitive nature of the business is such that the flag of convenience substandard shipping is in there with one hell of an advantage over properly manned, safe, properly maintained ships.

It does not matter whether it is open register or national flag, the problems all comes from the one base. That is why it is so important for us not to follow trends in respect of port state control and the ILO and navigation acts and everything that might well have been deregulated around the world. This country should set an example on behalf of its own people, not follow the popular trend of deregulation and globalisation and generally join the weakening of standards that has been inflicted upon the maritime industry worldwide.

Can I carry on from what Patrick has said. The problem that he has identified is really just another version of the problem of land based people using legislation or safety procedures. We addressed this problem over many years to try and get a federal perspective so that there was no grey area between a New South Wales Department of Industrial Relations inspector and a federal department inspector. You remember the grey area that existed when a forklift was on a ship and when it was on the wharf. We have made a lot of progress in getting a common standard. It is quite an important issue and should not be lost.

Whilst we have made that improvement to get a common standard across that land based operation, we have neglected the position in respect of shipping. Therefore, we have this ridiculous situation where vessels are trading intrastate, or as my colleague behind me reminds me, we have cargoes coming off floating production facilities offshore to any Australian port, that are not covered by a single voyage permit and presumably not covered in the manner in which they should be covered by AMSA.

There is a very significant question in respect of our own domestic trade and the ability for us—and I would suggest to you that there is no capacity for this committee to do anything about the pricing structure for cargo—to maintain and ensure that we have got this capacity to regulate the safety requirements of vessels working on the Australian coast.

CHAIR—Mr Quirk, do you confirm Mr Coombs's point?

Mr QUIRK—The floating production platforms off the North West Shelf are an extremely complex jurisdictional mix. Those production platforms primarily come under the Petroleum (Submerged Lands) Act, which is administered under a complex state-federal system of administration. It is my belief that shuttle tankers operating between the platforms and Australian oil ports do not come under the single voyage permit requirements. Those tankers are subject to port state control on arrival in Australian ports—they do not go without inspection—but it is another unforeseen gap that perhaps that trade is not seen to be part of Commonwealth legislation.

CHAIR—Could you give us a brief paper on that by next Monday?

Mr QUIRK—Yes, certainly.

CHAIR—On those two aspects, that one and the one we spoke of before.

Mr QUIRK—Yes, okay.

Dr FEENEY—Mr Chair, as Mr Quirk indicated, we can prepare a paper for the committee but it is a complex area. There are provisions for the movement of cargo between the mainland and offshore platforms to be covered under the coastal trading provisions, but we will provide details for the committee.

Capt. FILOR—What Mr Quirk was saying just now spills over into marine accident investigations. We have international obligations to IMO and to flag states and where these ships are on intrastate voyages, and particularly overseas ships, we have the same problem. We do cooperate with the states, and particularly with New South Wales where we have very good arrangements. Nevertheless, it is still a problem, a very grey area, and one where demarcation and those sorts of problems come to the fore.

Capt. MATHIAS—Mr Chairman, I just wanted to add two points to the earlier answer I gave when I was queried about intrastate voyages in New South Wales. Firstly, when we required the services of a qualified ship surveyor for a vessel in the port of Yamba, we had excellent cooperation from AMSA, and we are very grateful for that. Secondly, we do have vessels which are foreign flagged on intrastate runs. A particular vessel runs between the port of Yamba, in New South Wales, to Lord Howe Island. Lord Howe Island is part of New South Wales. That is an intrastate voyage and there is no port state control there at this point in time.

Mr PETER MORRIS—Is that the only intrastate voyage that you are referring to in your submission?

Capt. MATHIAS—At this point in time, that is the one we are aware of in New South Wales.

Mr VELLNAGEL—We acknowledge that there is a regulatory gap in this federal state jurisdiction. We are also aware that it has been identified for some time and that there are concerted efforts to try to fix it. It is not a lack of resolve by AMSA or the industry in order to close the gap. It is a policy issue that reflects

governments' attitudes to resolving this issue. It is for you to make a recommendation. But this is being and has been dealt with. I think it has been before the standing committee on transport on several occasions. There are proposals to resolve it which I think are quite satisfactory and which the industry would support. The issue that I would simply like to refer to is that, even though a regulatory gap exists, it is not being exploited by substandard shipping. There is still cooperation in place to ensure there is port safe control in relation to the ships that operate those trades.

Mr CHARLES—I have just a short comment in respect of Mr MacGillivray's contribution at the beginning of this session and Mr Chambers's at the close of the last one on why we concentrate on FOCs and not the substandard operator. One of the difficulties we have got in respect of the FOC system is actually identifying who is the owner of a vessel. It is becoming increasingly difficult to track through the paper trail to get to the owner to identify who is ultimately responsible for whatever damage may have been caused to Australia or to the crew on board the vessel. It is much easier for us to identify a substandard owner on a national register—because it is there; it is in front of us.

The FOC system allows the substandard operator to shop around, to find the flag that is most suitable for him to operate under and the one that will offer him the most lenient observation or attention to the condition of his crew or the way he treats his crew. I suppose we would call it a compliant flag that would allow him to operate his substandard vessel without scrutiny. We cannot just focus on the operator. We must get rid of the system that allows him to shop around to find the lowest common denominator. That is what we have to do and that is why we focus on the FOC campaign.

In saying that, we recognise entirely that there are good shipowners operating under the FOC. People must not be under the illusion that we are attacking those good shipowners. It is a bit like the carrot and the stick. Good shipowners have to be rewarded, whatever system they work under; bad operators have to be penalised, whatever system they work under. What we do find, however, is that we cannot get away from the fact that the majority of substandard shipowners, when they do their shopping around, eventually finish up under the flag of convenience system. That is why we attack that.

Mr Chambers knows from his previous experience with the International Shipping Federation that the ITF and that organisation are working very closely at the moment to try to come to some common ground in respect of rewarding the good shipowners and penalising the bad shipowners. Having said that, we have to recognise that we cannot get away from the fact that the majority of ships lost from the world's fleet are from the FOC fleet. That is just an indisputable fact that nobody can back away from. We must do away with the system that allows that to happen.

CHAIR—Are there any other comments?

Mr PETER MORRIS—This is really directed to BHP, to Captain Quirk and Barry Vellnagel. In earlier inquiries, we were given explicit assurances about vetting by major exporters, loaders and operators of loading facilities. I am particularly referring to iron ore and coal. A code of practice has been put in place for the loading of bulk carriers and so on. What is the current situation? What we hear unofficially is the deterioration in practice. Some of the submissions here refer to masters and ships operators being directed by load facility managers. How well is the system working now and is there room for improvement?

Mr QUIRK—I can take that, Mr Chairman. Very briefly, on July 1 this year, a package of recommendations and legislative reform was implemented by the IMO. It is being currently translated to Australian legislation specifically looking at the interface between the ship and the bulk terminals. I know there are one or two comments in the submissions, which concern us and we will follow them up.

On Thursday, we are addressing a meeting of the National Bulk Commodities Group where we are going to introduce the code of practice, a code which I might add was virtually written and edited by people in the Australian bulk export industry through the IMO. Australia can be very proud of its contribution. That will become the benchmark standard for terminal ship interface in terms of ensuring a safe operation between the ship and the terminal.

There are some terminals around the world where communication still needs to improve. I believe that, in general, Australian terminal practice would match world's best practice but we are always open to improvement. I believe this code will make a tangible contribution to safety. We have a few copies here for submission today, if it would be helpful to you.

Mr PETER MORRIS—May I ask BHP, through you, Mr Chairman, to add to that.

Mr CAMPBELL—From our point of view, for a number of years it has been the procedure in our fleet vessels that the communication link with the shore is maintained. Going back even 20 or 30 years, we have always had written confirmation of the cargo requirements, the vessel that is required and the loading plan. The vessel is required to carry out its own shear force bending moment calculations and draught calculations, so that, at any point in the loading or discharge, the ship is well aware of its condition and we make that information available to the terminals.

Mr PETER MORRIS—Who does the loading plan?

Mr CAMPBELL—The loading plan is calculated on board the vessel by the master and the mate.

Mr PETER MORRIS—Do you give that a bit of a nudge now and then?

Mr CAMPBELL—If we have to. We quite often get copies of the loading plans; we are particularly interested in shear force bending calculations. That information does come to our office and we do have technical people who look at that information.

Mr PETER MORRIS—The program we had for the stress gauges were fitted to bulk carriers that BHP was involved in. What have been the results of that?

Mr CAMPBELL—I could not tell you the results of that here today.

Mr PETER MORRIS—It would be useful if you could come back to us with follow up information.

Mr CAMPBELL—It would be, yes.

CHAIR—Mr Vellnagel, do you have a comment?

Mr VELLNAGEL—I do not think I have got much to add to either of those interventions. The industry was constructively involved in the development of the code. We will be constructively and cooperatively involved in the implementation of it. I concur with the view that probably Australian bulk terminals do have an enviable reputation within the world, particularly the larger ones that we are involved in.

There is one issue that I think is important that has come out of the code. The relationship between terminals and shipmasters is generally pretty good. What has been difficult sometimes is that ongoing communication after the initial establishment sometimes breaks down. The provision in the code for a terminal representative to be nominated for every vessel through which there can be ongoing contact and responsibility will assist in filling what I think is being perceived as a gap in the relationship. We are looking forward to the code working well. Certainly the game has improved in the last 15 or 20 years; I think it is well on best practice standards.

Mr COOMBS—Through you, Mr Chairman, if I could just ask Patrick Quirk a further question. Going back to my comments in respect of floating production facilities, is it possible for a vessel, a flag of convenience or a national flag vessel, to go to an offshore floating facility and then go overseas without coming into contact with port state control, and is it possible that the infamous *Kirki* could have been such a vessel? You remember the *Kirki*, Mr Chairman?

Mr QUIRK—Yes, Mr Chairman, I believe there is an existing trade from some of the North West Shelf platforms to Singapore and associated ports on a regular basis. Because of our relationships with the producers, we are made aware of those ships and we do check them against a sire database system held in London. I must admit that, because of resources and logistics, it is very hard for us to access those ships. Those platforms are in extremely isolated positions and we rarely visit those ships.

Mr PETER MORRIS—But they are subject to Australian jurisdiction if you had the resources?

Mr QUIRK—I would need to obtain legal advice to ascertain our degree of coverage of those ships. There is a question mark over the degree of coverage we have at some of those offshore platforms.

CHAIR—Is there a question mark in our legislation, in international law or both?

Mr QUIRK—Both, because instances would be vessels operating within the zone of cooperation with Indonesia. There is a complex matrix of law and I am not quite sure where the Navigation Act fits in.

Mr PETER MORRIS—But the simpler ones are those that are operating within Australia's economic zone.

Mr QUIRK—That is right; they are the simpler ones.

Mr PETER MORRIS—A series of economic zones and they actually constitute part of Australia, do

they not? Do you want to leave that and get advice?

Mr QUIRK—The kind of general rule that we use is the further off the coast, the less power we have.

Mr BAXENDALE—In regard to BHP's offshore facilities, all the cargo is equity cargo which does go out of Australia and does not come to the Australian coast. The ships are vetted through BHP system. Every ship that goes to those terminals has a current port state control certificate on board. Part of our vetting system is to check that they have got one. If they have not got one that is valid within the last six months, then we do not take the ship. So part of the vetting system is that it must have a current port state control certificate from Singapore or from one of the other signatories of the Tokyo MOU.

CHAIR—Can a vessel subject itself voluntarily to a port state control in an instance like that?

Mr BAXENDALE—If it gets into a port, yes, of course it can.

Mr PETER MORRIS—But your offshore production facilities—with the exclusion of that part that comes into the joint Australian-Indonesian zone—constitute Australian territory and are subject to Australian jurisdiction, aren't they?

Mr BAXENDALE—I think we are actually covered by Western Australian jurisdiction.

Mr PETER MORRIS—Given the arrangement, what is not being mentioned here—and which was partly referred to earlier—is that in that legislation there is provision for saving arrangements between state and federal and also the sea state jurisdiction to federal jurisdiction. We will leave it until later.

CHAIR—We might pick this up this afternoon in the plenary session because it flies off at a few tangents, does it not? It is a bit complicated and we had better not bog down the free flow of the morning on that issue, but we will come back to it. If you want to make a comment on that, Mr Quirk, you might let us have that by Monday.

Resolved (on motion by **Mr Hollis**):

That this committee authorises receipt of the document entitled *Code of practice for the safe loading and unloading of bulk carriers* by AMSA, as exhibit No. 6 to the committee's inquiry into the role of shipping.

Proceedings suspended from 11.09 a.m. to 11.29 a.m.

Focus area 3: Port state control

CHAIR—Thank you for that morning session, it was very interesting and stimulating. We are now moving onto the third focus area, port state control. It is pretty hard to know where to start on this. Mr Quirk, We might ask you to say what AMSA thinks are the major issues facing port states. You might give us a two- or three-minute introduction on this and then we will start to get the interaction going.

Mr QUIRK—In terms of our domestic program, AMSA has taken on board the recommendations of the previous inquiry recommendations and I believe our port state control program now meets world's best practice, although there is always room for improvement. Port state control is now a core activity of the Australian Maritime Safety Authority, along with our important flag state role.

We recently did an internal audit of our system to ensure greater consistency and uniformity of our inspections. In any organisation with approximately 70 surveyors around Australia, there are always structural problems which will emerge with a program that has grown quickly, and we believe the internal audit addressed a lot of those issues. I might add that many of the problems we come across now in port state control do not relate to structural or machinery issues but rather to operational difficulties which reflect on the way the ships are managed and operated by their crews.

Our detention policies and operational procedures are largely consistent with those of the Paris MOU and the Asia-Pacific MOU. In the last five years the growth of the original port state control systems has been the main issue in terms of port state control. Regional port state control offers many advantages including pooling of resources, pooling of intelligence, and maximisation of training opportunities. It also improves the computer links which enable us to target vessels.

Our port state control system is used by the Asia-Pacific MOU as one of the model administrations and we, either in Australia or in a number of overseas administrations, assist in training their surveyors in port state control techniques. There are many challenges for port state control coming up, not the least being the recent implementation of the ISM code which forces us to adopt a systems and QA approach rather than a traditional structural machinery approach. Mr Chairman, they are the main points in port state control as we see them at the moment.

Mr HOLLIS—This question is not so relevant to Australia I suppose because most ships in our waters are coming to Australia or coming from Australia. However, it seems to me that many countries have got a problem where ships are traversing the waters off their coast in their national water and there is no control over them at all. I am not quite sure how one could solve that.

Concerning the point that Mr Cole was making earlier this morning about the ship that was 15 days overdue and no-one knew it was overdue until it was missing, I recall a couple of years ago that I was in South Africa and no-one knew a ship was missing there until oil starting coming ashore on the South African beaches, and then it became a real problem. Is there any way that a ship traversing national waters on an international voyage could be covered at all?

Mr QUIRK—In a general sense the right to freedom of navigation, and the rights and responsibilities

associated with that right, are noted in the UNCLOS convention, the UN Convention on the Law of the Sea. Australia has had an exposure to that convention in the recent discussions in the IMO regarding the Indonesian proposal for sea lanes through that island nation.

The right of innocent passage is one of those God given rights that the maritime industry has enjoyed since the ark was launched. It is held as one of the key issues in a free trading regime as we know it in the world.

In the last 20 years perhaps there has been a proactive move by coastal states that have been impacted by a maritime incident off their shores to have more say in the regulation of shipping passing along their coasts. There is an arrangement now for free passage in the UNCLOS convention. I might add that it is now possible for coastal states, in an effort to ensure environmental protection of their coastlines, to develop and implement through the IMO vessel traffic systems, information systems, and traffic separation systems which can only enhance the movement of ships along their coasts. That is in terms of the traffic flow. If we come back to the standard to which a ship is maintained, that right rests with the flag state.

There are two answers there. In terms of the traffic flow, there is the ability of coastal states to take a more proactive stance, as has occurred in Australia, and the recently approved system in the Strait of Malacca is another example. But if we come back to on board the ship, that comes back to this problem of some flag states not implementing their convention requirements satisfactorily.

CHAIR—Do we have a database of ships in Australian waters, or is it a voluntary thing?

Mr QUIRK—We have a ship reporting system called Ausrep and a number of classes of ships are required to report to that system.

CHAIR—How far offshore?

Mr QUIRK—It matches our search and rescue area, and our search and rescue area is one-ninth of the world's ocean surface. It is a vast area.

CHAIR—So once they come into those parameters they are required—

Mr QUIRK—Yes, certain classes of ships are required to report, but a ship, say, going from South Africa to New Zealand through our waters is not required to report. The current Ausrep system, and I am only speaking generally here, applies to Australian ships and to a certain number of ships which are calling in at, or have called in at, Australian ports. A vessel transiting our waters from, say, South Africa to New Zealand through Bass Strait would not need to report under the current legislation.

CHAIR—Do they, voluntarily?

Mr QUIRK—A large number of ships do voluntarily report because they see the importance of it, but a number of ships do not.

CHAIR—What about these substandard vessels we were talking about earlier in the morning? Do we have, for want of a better expression, a black list? Do we keep a fatherly eye on some of those ones that may be coming back into our waters that have a bad track record?

Mr QUIRK—We have a detailed database called Shipsys which notes the port state control history of ships. When ships do appear over the horizon, our ports, our surveyors, interrogate the database. Past history is then an issue in terms of whether that vessel will be targeted for a further inspection.

CHAIR—Mr Richardson, you made a comment in your submission that we should be targeting inspections on ships that are in smaller ports. Can you expand on that a little bit? Are they getting through the net?

Mr RICHARDSON—Yes. It is not the fault of AMSA in particular—

CHAIR—No, I am not suggesting it is.

Mr RICHARDSON—There are ships that are below standard that are getting through the smaller ports. The obvious things that we look for are the lifeboats and the way the lowering mechanism is strapped down or wired up or covered up and things like that so you do not see the problems that are underneath it. We look at the state of the ship, its appearance, the rust, those sorts of factors. It comes back to the availability of an inspector to inspect at that particular port. It may be that he has just finished a long inspection of a ship and another ship comes through while he is having a break. It just loads quickly and is gone, and it slips through the net. There are incident like that occurring. They may even occur on a weekend when the inspectors have got a couple of days off.

CHAIR—What do you call a small port?

Mr RICHARDSON—The one that particularly comes to mind would be in Albany in Western Australia. One ship was in there when I was in port at the time. It was in over the weekend. It was sailing first thing Monday morning and it came in on the Friday night. I brought it up with the port authority and they said, 'It will come back here in three months time; we will inspect her then. We will get the AMSA guys and they can have a look at her then.' It is just one that moved through. It came in and went and there was nobody there.

CHAIR—Have you got a good relationship with AMSA on these matters?

Mr RICHARDSON—Yes. The chaplains in the ports themselves report directly to the port authorities and let them know that the ship has got a problem as well.

Mr COLE—I would like to ask Mr Quirk a question. Do you think there would be an advantage in having ships that are transiting our reporting area to compulsorily report their position? Would you see that as an advantage?

Mr QUIRK—Under the current UNCLOS provisions, there would be difficulty in enforcing that

provision. However, I add that there are moves within the IMO at the moment for ships to be fitted with Automatic Identification Systems, AIS, which are similar to aircraft in terms of their radar identification. I believe, in a reasonable period of time, maybe five or six years, vessels will be required to carry automatic satellite dependent responders so that we can track their movements, and cases like ships disappearing for 15 days will not happen. But the industry itself, as some people know, is very conservative. They are reluctant to take on new technology. There is a cost to it. There is a cost of maintaining the systems. I believe that we will achieve that result through the current developments within the IMO.

CHAIR—Global positioning and things like that have made those sorts of things measurably easier than they might have been 10 or 15 years ago.

Mr QUIRK—That is correct. The key is GPS and DGPS. AMSA has invested heavily in the differential GPS systems which are now available in the Great Barrier Reef. But in terms of general GPS, which gives your position within 100 metres in the middle of the Indian Ocean, that is good enough for us.

CHAIR—This has been standard practice in the aviation industry for years, hasn't it?

Mr QUIRK—It has. A commercial aircraft cannot come into Australian air space unless it has a transponder operational. If it is not operational, it sometimes has to turn back.

CHAIR—More to the point, if it gets into difficulties, we know within minutes, if not seconds, and then you can trigger all sorts of rescue responses.

Mr QUIRK—That is correct. AMSA does manage aviation search and rescue and we are aware of those developments. Our navigational services area is working closely with the aviation specialists in AMSA to develop proposals at the IMO for ship based transponder systems.

Mr CHARLES—In respect of the small ports, and to take up the point that Mr Ted Richardson made, similar difficulties arise in respect of what was said earlier in the morning about pilots reporting problems with vessel deficiencies. In small ports such as Albany—we will use Albany because it has already been raised and I know that there have been a number of occurrences—the same pressure is on the harbourmaster not to report deficiencies on vessels because of the possibility that the charterers, or the people bringing the vessel in, may go to another port in close proximity if they feel they are being closely scrutinised.

A similar sort of pressure comes on them not to report deficiencies. I will not say that they look the other way. I am sure that, if there were very bad deficiencies, there would be some action. Probably there have been difficulties reported to workers in the port area and those workers have identified them with the harbourmaster but he has not taken them up on their behalf. I am sure it is the same pressure. The pressure might not have been applied to him but it is inherent and he might turn away and say something like, 'We will look at it next time' or 'The ship is going to Bunbury or Fremantle. We will pass the information on to the AMSA inspector there.' Western Australia, I suppose, is a very good case because of the length of the coastline. I am sure that Patrick would agree with me in respect of that problem.

Mr McARTHUR—Mr Quirk, in view of the fact that AMSA is a federal authority, what is your

relationship with the state governments who generally control the ports and, secondly, for those ports that have been privatised, are there any difficulties or any problems in those jurisdictions in the way you operate?

Mr QUIRK—That is a wide ranging question. I might answer it like this. Because we are focused on safety outcomes, we are normally able to establish a good working relationship with port authorities, whether they are corporatised, privatised or come under the state administration.

Within those various models, there are some port managers or harbour masters who see that AMSA's involvement in the ship could delay the operation of a port. We are sensitive to that concern and I believe that, in the last four or five years, there have only been a few occasions where we have said ships cannot move off berths. Ports do not like to see their berths occupied by unsafe ships.

In general, we strive to maintain a good working relationship with the port authorities no matter what model they operate under. There are occasional problems of lack of understanding on both sides and we strive to address those issues as they arise. Generally, I can say that we have not found any opposition to our activities but we always need to explain carefully what our role is and how we operate.

Mr McARTHUR—Do the port authorities see some benefit in your being around?

Mr QUIRK—The greatest assets a port authority has are its berths and its channels, and if we are there trying to ensure a safe ship is at their berth and navigating their channels, they normally see us as part of their risk management approach.

CHAIR—Coming back to Mr Charles, in the morning session you spoke about this matter, and we might be able to pick it up here. One of the groups that put in a submission, Allandale Consulting, suggested that there should be a system perhaps called the green ship recognition scheme that would entail lower port charges for well managed and maintained ships. What is your comment on that? And then I would like AMSA to make a comment on it as well.

Mr CHARLES—It is something that has actually been discussed on an international level. It involves the possibility of the industry—and that is all the players in the shipping industry and also the union movement—producing what they would call a white list and a black list. It gets back to the carrot and the stick, doesn't it? People need to be encouraged to be on the white list and discouraged from going on the black list. I think that anything that moves an owner from what we would call a bad shipowner to a good shipowner, whatever incentive he is given, should be given a try.

CHAIR—What do you say, Mr Quirk?

Mr QUIRK—I believe a system similar to the one proposed in the submission is already operating in northern Europe based on ports like Rotterdam and Hamburg. I believe the aim of the program is well intentioned. We would hope in Australia that ships coming here are safe ships anyway. I suppose the problem is: do you need more incentive to operate a safe ship? I am unsure what stems from that sort of question. The volume of shipping in Australia also may not warrant a system such as that. It is not a system which AMSA has investigated. It obviously has advantages and disadvantages. There are a few questions about the system

which I would need to address from a policy perspective initially.

Mr RIDLAND—Classification of vessels does identify the additional construction benefits of a ship which add to their lifetime, so there would be a classed notation giving these enhanced requirements. I can perhaps mention a few. With something like SEA—that is, ship event analysis—you would have some monitoring of the strength of the vessel, ship emergency response and enhanced scantlings if an owner—probably if it were a bulk carrier—might say, ‘I need additional strength thickness of material.’ So, looking at the class of vessel, if there is additional strength monitoring through its life, you would have that identification.

CHAIR—So someone can come to a classification organisation and get that information? That is data based, is it?

Mr RIDLAND—You could get it out of a register book. Most classification societies would have notations.

CHAIR—There is one small point I would like to clear up in Vanuatu’s submission. You say that some ports treat foreign ships more harshly than local vessels. Can you give us some examples of that practice? When you say ‘treated more harshly’ are they letting their own vessels off safety requirements or are you talking more in terms of undue bureaucracy?

Mr BOHN—We find that in northern Europe many of the port state control authorities do target flag of convenience vessels maybe unfairly through the flag only, rather than focusing on the vessels themselves or the operators. The United States has a system where they will look at all three of those areas. Maybe that is a fairer regime.

We also find that, with many of our vessels that might have been targeted in northern Europe, we will not hear back from the administrations for eight months when we are asking for an immediate response. We understand the problems of government to government liaison but we cannot do our job as an administration if we are not hearing back on a problem for eight months—and it regularly happens. Those would be the two areas where we think that maybe port state control persons are looking at flags other than their own flags a bit more closely and they are not coming back to us in a timely fashion if, in fact, our vessels are found to have a problem.

CHAIR—What is your response, however, when you do find out that some vessel registered under your flag is not playing the game or does have a bad reputation for some aspect of safety, maintenance or crew treatment? What disciplines do you bring to bear on them?

Mr BOHN—First of all, we have a system where all of our vessels must be in class and must be in class with one of the IACS members. In addition to that, we have survey requirements on those vessels anyway. When we find out that there is a problem, we will go to whatever extent is necessary depending on the problem at hand. If that means putting an inspector on board immediately, we will do that. We have done that in many instances.

Mr McARTHUR—On the port state control, let us go back to the old issue of identification of stress

fractures in the bulk carriers and the unidentifiable rust of bulkheads. We had quite a lot of discussion about that on previous occasions, especially on those vessels that are in the 15- to 20-year age group, which, statistically, seem to have a bigger capacity to disappear. Have you improved your techniques in identifying rust and stress fractures in these bigger vessels?

Mr QUIRK—There are two issues there. One is our role as a port state authority and the second is the role of the flag state or class society. I will speak to the second one first.

Given the loss of bulk carriers in the early nineties and a number of reports, including the initial *Ships of shame* report, the IMO and class societies addressed this structural problem quite seriously. We now have a new survey regime in terms of normal surveys and what is called the ‘enhanced survey system’—and Mr Ridland may care to comment on this after I have—which specifically addresses the structural problems which are unique to bulk carriers, particularly bulk carriers carrying high density cargoes. I believe that program of survey requirements has lessened the incidence of structural issues.

In terms of our port state role, we accept that there are some areas of a ship which are more prone to structural failure than others. As far as we can, we identify those areas during port state control. But we must always come back to the inherent limitations of port state control: we are on a ship three or four hours; a thorough survey of that vessel in dry dock might take three or four weeks. We can only look for what we consider to be high risk areas and evidence of structural failure. We never say that the vessel is structurally fit or seaworthy. We are not in the position to make that determination. We identify risk areas and, if we are lucky, we will pick something up. But it always has to come back to the flag state and class society to ensure that the survey program for that ship is comprehensive. Mr Ridland may care to mention enhanced surveys.

Mr RIDLAND—The enhanced surveys were introduced mainly due to the loss of bulk carriers. They deal mainly with the surveyors being properly trained and qualified. Also they have a closer examination of the whole part of the ship—in the holds. Previously that was not necessary. Close-up examination means you should be able to touch what you are looking at.

Also the documentation from the survey is kept on board. This can be viewed by AMSA during the port state process. The thickness determinations of the ship, which were normally closely kept between the owners and the class societies, are available on the ship to the AMSA port states.

As the ships age, the severity of the surveys increase. I could look at some large bulk carriers where they have had to renew anything up to 500 tonnes of steel during this enhanced survey period. Previously, I would be doubtful if we would have renewed very much steel just by general observation and some random thickness determinations.

CHAIR—So both organisations actually pick up quite a few structural problems. Is that what you are saying?

Mr RIDLAND—Yes, during examination we do. Occasionally you will get a ship that comes into port and there is a structural failure. AMSA would normally get into contact with us and we would take the necessary steps.

CHAIR—And vice versa?

Mr RIDLAND—Correct.

Mr PETER MORRIS—Mr Chairman, it might help the interests of the committee if Mr Ridland were to give some examples of what he means by structural failures and the severity of them.

Mr RIDLAND—You may find a fracture in the shell plating, which is in the midship half-length—

Mr PETER MORRIS—The shell plating being the side of the ship?

Mr RIDLAND—The side of the ship—the envelope. I think we had an example in Hay Point recently. The surveyor went on board and there was quite a lot of difficulty. It was a floatable hold. His recommendation was for the ship to go to a repair port before they loaded. That ship went down to Brisbane to actually carry out a repair. Any fractures in the actual structural of the vessel are of concern and necessary action is taken.

The bulk carriers are the ones we concentrate on a lot because they are the workhorses of ships. They carry a lot of cargo and there can be a lot of cargo damage. But I think having this enhanced survey as well has certainly reduced the losses.

With the other thing we have done, before you could examine 20 per cent of the hull every year on bulk carriers and tankers. Now the IACS and enhanced surveys have introduced the system that you do an intermediate survey—which is like a mini-special survey; it is very thorough—between the second and third year, and in the fifth year you do a major repair survey. This, perhaps, prevents minor repairs being done, as was the case previously. Now the ship is virtually stopped and a major examination is carried out.

Mr McARTHUR—Every five years—is that what you are saying?

Mr RIDLAND—Yes, that is the special survey.

Mr McARTHUR—A five-year, 10-, 15- and 20-year type of approach?

Mr RIDLAND—It is in severity. As the ship ages, we virtually look at it more closely. There may be the diminution of material, which has to be renewed. So there is severity in surveys as the ship ages.

The other point I would like to mention concerns bulk carriers. We were involved in looking at existing bulk carriers, and from July 1998 there is a requirement to examine the scantlings of the No. 1 and No. 2 bulkheads in bulk carriers, as well as No. 1 double bottoms. This is a cost to the owners to increase the material size. This is a change from the original design to a requirement for bulk carriers over 15 years. On the flooding of bulk carriers, it is possible that a lot of the damage was up forward. Through research they found that the No. 1 bulkhead collapsed fairly quickly so we have taken steps to correct this.

Mr QUIRK—The committee needs to acknowledge the huge advances and the attention being paid to

bulk carriers, in particular in the eight years after the losses in the early 1990s. The industry has come a long way from a surveyor walking on board with a chipping hammer to a vessel now being dry-docked for a comprehensive survey at the required periods. It is a substantial development in terms of how ship safety is assessed.

I might comment that it is not the end of the story. A lot of discussion is now being placed on the strength of the hatch covers. Committee members may be aware of the *Derbyshire* incident eight years ago, and a lot of research has gone into that ship's sinking. We are now going away from the bulkheads and the double bottoms and looking at the strength of the hatch covers. There is now a theory that in extreme seas hatch covers may not be strong enough to withstand the odd phenomenal wave, and if you let water into a hatch you are gone.

The story has not ended. It comes back to the question: are we designing optimally? I believe we are with the development of current technology, but the risk assessment continues and we will see more change to design as we go along.

Mr PETER MORRIS—How is it that the five-year survey can be done and then three weeks later when the ship comes to Australia it is picked up for serious structural problems? They got the pink slip three weeks ago and then you pull them up for being—

Mr QUIRK—With any survey system we come back to relying on individuals. Whether it is class or AMSA or any authority around the world, some individuals sometimes let organisations down. It is a complex system of inducements, perhaps, or people are too busy or people do not notice what is there. There are no excuses for that.

I cannot talk for the class society but I can talk for AMSA. When we become aware of an issue which a surveyor should have picked up during the course of a normal port state control, we look at it and we counsel that officer to ensure that it does not happen again. I believe the same investigation is carried out by class societies in those obvious cases where something should have been picked up through the inspection. There is no excuse for it happening, but it does happen because at the end of the day we all rely on individuals to do their job.

Mr RIDLAND—Sometimes a vessel arrives and it has full certificates but AMSA might find major problems. In one particular recent instance there was a load line certificate on board and a survey had been done three weeks previously. On that particular survey the surveyor put conditions of class on hatch covers, deck plating and ventilators. That ship would have only been able to trade for another three months until that was corrected. But coming onto the coast here, AMSA and our surveyors did a follow-up visit and found that the ship had to have further repairs.

As far as quality of surveys goes, any detention worldwide is fully investigated by a team in London. Where a surveyor is deemed not to have completed the job satisfactorily the surveyor is penalised. It ranges from termination to restrictions in his duties or further training. I can assure the committee that this is carried out.

Mr McDOUGALL—Mr Quirk, since 1996 you have had the opportunity at AMSA to be able to examine crew competency. Can you give the committee some indication as to what you have found since 1996, particularly in relation to Australian vessels versus others?

CHAIR—Do you want to pursue that topic now or would you rather do it in the next segment?

Mr McDOUGALL—It is part of the port state control activity which has been introduced as of 1996.

Mr PETER MORRIS—There is a special session on crew training at 2.00 p.m.

Mr McDOUGALL—This is not training; this is examining crew competency at a port state control system, and that is different.

Mr QUIRK—The assessment of crew competency is the hardest issue that AMSA has to look at in terms of our port state control program and our flag state control program. The IMO has a certain number of recommended crew competency assessments which focus on the ability to operate the ship safely and operate the safety systems safely, including the cargo systems. There have been occasions when our surveyors have come across ships with a crew which is clearly incapable of operating some parts of the ship. In those cases the ship is detained until we can be assured that the crew can at least operate the key safety systems to our satisfaction. In terms of current assessment standards, luckily the ISM code which came into force on 1 July for a certain number of ships makes that task a lot easier because it actually defines the crew requirements and responsibilities.

In terms of Australian flag ships, our training regime at the AMC, the Australian Maritime College, and at other colleges, is world's best practice. But then again it comes back to the master, the chief engineer and the managers of the ship to ensure that the crew do perform. Unfortunately, Australian ships at times cause us concern in ways that overseas ships do. We only have one standard in Australia—a standard for Australian and overseas ships—and we have been known to detain Australian ships for safety breaches.

Mr McDOUGALL—I will follow up on that matter. A ship could be in port for 48 hours. How do you carry out a competency test on the crew during that period? Is it by witnessing their operational work? Is it by looking at the certificates they may have? They may be questionable depending on where they got them from. How do you go about that?

Mr QUIRK—Part of our port state control program involves the exercise of some of the key safety equipment on a ship—lifeboats, life rafts, emergency fire pumps, emergency generators, the operation of radars, and checking to see that the charts are corrected. They are all indicators of whether competency is achieved or not. Certificates show that they nominally have reached a certain level of academic training but whether or not they are competent to carry out their task is what we try to assess through the exercise of the key safety systems. That is the indication we have of whether or not the crew can safely conduct that ship in Australian waters.

CHAIR—Just on that point, and this is addressed to BHP, what is your competency regime? How do you assess these things internally? Secondly, if you have got vessels under charter, what is your regime

there?

Mr CAMPBELL—We will take our own vessels first. We believe very strongly in maintaining very high safety standards. That comes from our corporate philosophy, so it is not just in the maritime area. We have regular discussions with our people, quarterly meetings. We have performance reviews of all of our people and safety aspects.

CHAIR—Does it go right down to the crew itself?

Mr CAMPBELL—There are discussions at the moment with the ratings about taking it down to that level. Yes, that is an ongoing discussion we are having at the moment. At the moment it is confined to the officer level on board the vessel.

One of the aspects that is coming out of all of this is that we do have to do some work on attitudinal changes that are necessary, certainly with our own people, to drive the safety effort even harder than we have been. That is certainly something that we are engaged in. We do have ISM accreditation for our whole fleet now and we had that prior to 1 July.

CHAIR—What about charter vessels?

Mr BAXENDALE—Part of our vetting system with the chartered vessels includes the risk audit and management of the vessel's manager. When we carry out that audit, we audit the processes and procedures within his office. Part of that is crew management. Where does he get his crew? Where does he get the competency training for his crew? We go right through his records and track back where he has gone to. In the case of the Philippines, there are several training schools there that supply to a fair percentage of the world's fleets. We have also audited those facilities to make sure that the competency skills are raised there.

CHAIR—This afternoon I might pick you up on some of the detail of that, but this is in a general sense now.

Mr BAXENDALE—When we inspect the vessels themselves, we use the same key performance indicators that Patrick's people use. We make sure that the latest chart corrections are up to date, that voyage plans are in place, that cargo loading plans are in place and that people understand them. We make sure they can demonstrate that they understand the loading plan, that the vessel's passage plan was berth to berth as opposed to port to port and that they understood what they were doing, as well as determine if the instructions were there and were clear from the master as to his night orders and his navigational procedures. With ISM coming in now, of course, this is all mandatory on the certain class of vessel. Therefore, it is a lot easier now to control and to identify. We use those same processes within our organisation.

CHAIR—While we are talking of BHP, but on a slightly different tangent, in relation to your submission on pages 217 and 223, would you explain your comment that AMSA should 'review its policy of issuing detention notices as soon as the vessel is found to be deficient'. What do you mean by that?

Mr BAXENDALE—I think the main intent behind that is that, if a ship is not delayed, it means it

has not been detained. If a ship is delayed from sailing, it has been detained. If it has not been delayed from sailing then it means the serious deficiency has been repaired and it has been allowed to sail. It depends on this definition of what is detained. Our interpretation is that 'detained' means it was delayed and was refused permission to sail. AMSA's definition of that is that, if it was serious enough when it arrived, they would detain it regardless of whether they could repair it. I think the company's opinion on it really is that serious deficiencies should still be highlighted the way they are, but the word 'detention' should only mean the ship was delayed.

CHAIR—So if you have an operator with some minor, or perhaps even major, problem and they hop in and fix it immediately, showing no reluctance, and the problem is solved, are you saying that they should not be subject to a detention notice?

Mr BAXENDALE—We would still like them to get a note to say that they were deficient. Even if it is a safety issue, which would require a detention notice under the definitions at present, it should be listed as a serious deficiency against the ship.

CHAIR—What is the chamber's view on this? Bear in mind that the committee are laymen, other than perhaps Mr Morris, who has become a de facto member of your industry.

Mr PETER MORRIS—I am not in the club.

CHAIR—Very close to it, I can tell you. For us as laymen, you would probably need to explain to the committee these fine points between deficiency and detention—just the subtlety of those two delineations.

Mr CHAMBERS—To follow on from David Baxendale's discussion there, it is part of the federation's submission as well. We would like to continue dialogue with AMSA about the point in time at which a ship is detained as opposed to being provided with deficiency notices. Patrick Quirk previously said that the tension regime is in line with that of the Paris memorandum of understanding on port state control and other port state control memoranda around the world. That is true, but it is a debate that still needs to be considered in conjunction with AMSA.

AMSA has gone at least some way in putting into their statistics a list—another column—which shows the number of hours in which a ship was detained. It would then be easy for people to work out whether the ship was able to fix that particular problem within an hour or whether it took a number of days, and whether it was delayed past its sailing time.

We are heartened by the submission from AMSA, which talks about uniformity of decisions and continued uniformity in their training regime. I think that is part of the concern we have. We would like to continue to have dialogue with AMSA about when a ship should be part of a detention list and when it should not.

CHAIR—Before we get Mr Quirk to respond, has anyone else got a view on this?

Mr CHARLES—I take the opposite view. It is my view that any detention order that is issued should

be published. I might go a little bit further and say that I think also that the charter of the vessel's name should be published as well. What is the concern of anybody in the industry about having that? Is it an exposure thing? If a vessel is detained, what is the problem, once a detention order is issued, with that detention order being published? I just cannot understand it. Is it because they are frightened of the scrutiny they would be coming under? If you bring a vessel in and it has got problems on it and it is detained, what is the difficulty you have, once a detention order has been issued, with that notice or the detention order being published?

Mr CHAMBERS—Can I respond to that?

CHAIR—Yes, certainly.

Mr CHAMBERS—To go to one end of the spectrum, you may have a vessel that receives weather damage en route, say, to Australia. It comes into the port to effect repairs on that piece of equipment or on the vessel itself and it can be detained, even though it is seeking to overcome that problem at its first port of call. That is an example. That ship then appears on a detention list and, in a subsequent discussion with a charter or a charter looking over the list of ships that have been detained in a particular period, they might not differentiate with regard to the reasons why it was detained. It might simply then be knocked out in terms of its use by that charterer. That is at one end of the spectrum, but that is an example of where we need to continue to have discussion. I am not saying that that has necessarily occurred in Australia, but it has occurred.

CHAIR—So it is a hypothetical, is it?

Mr CHAMBERS—It has occurred in other parts of the world.

Mr PETER MORRIS—It is a long bow you are drawing.

CHAIR—I think I asked the question before: is there is a distinction between the vessel that comes into port, finds something wrong, and hops into it and gets it fixed immediately and another one to whose attention a fault has had to be brought?

Mr BAXENDALE—Obviously I was not clear in what I was saying. Just to clarify it, we would prefer the word 'detention' to be removed and 'serious safety deficiency' inserted.

CHAIR—That still does not address this problem.

Mr BAXENDALE—But it is still reported. Mr Charles is saying that it would not be reported, but it would be reported. We want it reported because it is part of our system also to track these ships to keep an eye on the quality of ships. We still need the report. It is only a question of the definitions that we are looking at.

Mr HOLLIS—It seems to me we are arguing over words. Surely, though, if the charterers are doing their work, as we keep being told they are, and they carefully scrutinise the ships before, they would pick up

this difference—that is, whether it was slight injury on the journey to Australia or whether it was a severe defect.

I am very much in favour of what Mr Charles was saying, because I remember the first inquiry when there was very little reporting at all. Out of that, AMSA now publishes a monthly list. They publish the inspector's name and various other things. In that very first inquiry, we found that, because deficiencies were not highlighted, shippers were getting away. Surely, if we are being serious about trying to address some of the deficiencies and in progressing, it is only by being open to full scrutiny and by publishing the list that we can address those problems that continue to be there, albeit on a declining level. I am very much in favour of continuing to publish. As a politician who is constantly open to scrutiny, I say the more scrutiny, the better.

CHAIR—Mr Quirk, you seem quite restless. Do you want to have a crack at it?

Mr QUIRK—I understand the views that are contrary to ours. I might just add a couple of statements here. Ships are only detained for gross violations of safety requirements. A lot of ships we detect with minor safety infringements are not detained. There is no hold-up to their operations. They are not recorded as having been detained. We only detain vessels that have gross safety infringements. We do not detain vessels for weather damage.

CHAIR—I might just interrupt there. You may not detain them. Do you list the deficiency?

Mr QUIRK—Yes, we have a number of stages of further involvement with that ship. If it is a deficiency which is not detainable or if it is a gross deficiency, they will be told to repair it within 10 days. If she goes from, say, Sydney to Melbourne to Adelaide, we might visit it in Adelaide. If it is not fixed up then, they can expect a more regulatory approach to that vessel and she probably will be detained.

In general, ships that are detained do not become unsafe when our surveyors walk on board. Normally they have been unsafe for a period of time. They come into our EEZ, down through the Great Barrier Reef into our coastal, territorial, inland waters and our ports in an unsafe condition. I have some difficulty saying, 'Okay, it is unsafe. It is a fair cop. Fix it up and we will not say anything more about it'. That is not what we are here for.

The advantage of detaining ships is that it becomes public knowledge in the public domain and future charterers can make a decision on whether or not they want to employ that ship. Shipowners know that, if they come to Australia and they are unsafe and they get caught in our detention program, then they will be listed. That is an incentive for them to maintain their standards. I can understand the concerns held by some shipowners, and primarily it is Korean and Japanese shipowners through their Australian agents who promote this view, but I can assure you that our procedure in terms of detention exactly mirrors the policies of the Paris MOU and the Asia-Pacific MOU.

CHAIR—Are there any other comments on this point before we move on?

Mr CHAMBERS—Just to clarify a point, the shipowners have no argument with what Mr Hollis said in terms of transparency of information. We agree that there should be transparency of information. It is just

that there is a point about when a ship should be detained or not. That is simply what we are saying.

Mr PETER MORRIS—It is like being a little bit pregnant.

Mr VELLNAGEL—I will try to put a layman's interpretation on the debate. I think it is an issue of words. It is not an issue of transparency. When I was at school, a detention was something that was very visible. I was kept in after school and when I got home my parents knew that I had done something very wrong. When I was in a state where I spoke out of turn in class and got 150 lines, it was still recorded against me, but it was never considered to be in the same bracket as being kept in after school. It is this word 'detention' rather than 'deficiency' that I think is the issue here. We are getting a little bit more transparency in the reporting of it, too, thanks to AMSA. If a ship has got a major deficiency but is able to repair it without interfering with its sailing time and schedule, I am not saying that it should not be reported—but that ship is then recorded as a 'detention', even though there was no apparent after-hours activity involved in it. They were still able to sail on scheduled time.

When the rest of the world starts looking at your charter arrangements and at the number of detentions, you do not get behind it to find out whether it was actually so bad that it affected the sailing time of the ship, relative to 'This is a problem, a safety problem; it must be fixed.' It must be transparent. If the ship is generally kept in reasonable order, when these things are discovered, they can be repaired and the ship is not recorded as a detention as such. It is a definitional problem with the use of the word—not with the transparency or with the issues.

Mr RIDLAND—I have just one point. Our classification rule requirements allow us to go on board a ship when invited on a periodical basis. It may be 12 months or it could be less. So we do support the port state inspections which actually give an indication whether the ship is being maintained in a safe condition. The point I am making is that we do support people like AMSA going on board our vessels.

CHAIR—Before Mr Morris asks a series of questions, there is one thing that I wanted to clear up. AMSA publishes data from port state control and inspection programs. What implication is it likely to have for a ship that is identified as being substandard? What are the implications of that?

Mr QUIRK—Mr Chairman, from our safety regulatory point of view, it is one immediate indication that ship had a safety problem of a major nature—not a minor nature, a major nature. That is an indication to us when she next calls to Australia that she should be re-inspected, but also in a commercial market—and obviously I am speaking as an outsider looking in here—if a company has an ability to charter, say, two ships, and it has got to make a decision about one or the other, it may take that detention into account in terms of quality tonnage.

Now all ships can have deficiencies. I know there are some ships caught under port state control where an accident of circumstance has happened like that and they are probably carrying that detention for the next couple of years. I appreciate that, but such is life. But the issue is that it is an indication to the chartering community of quality, of care for the environment and of adherence to safety objectives, and that is the way we see it.

Mr PETER MORRIS—Mr Quirk, we have put down that recommendation about ships that do not meet the international maritime safety. I am just looking for the two paragraphs that point to conditions effectively saying that, where a ship is unseaworthy, it is detained. As I listened to the contributions from our various colleagues around the table, what they are really saying is, ‘Oh, well, it has now been detected. It was operating with major deficiencies, but we have now fixed them. And because we were able to fix them before the ship’s due sailing time, they should not be recorded.’ That misses the point altogether.

The idea of identifying and detaining the vessel was clear evidence that the ship had been operating and was operating up to that point with major safety deficiencies, and I would be very resistant to the idea that that has been put forward by BHP, Mr Vellnagel and ASA, that we have some sort of new category. The simple question is: is the practice we have here of identifying ships as eligible for detention and for being detained consistent with what is happening with all of the other international port state control operations? Is that the case?

Mr QUIRK—That is true, Senator.

Mr PETER MORRIS—And what you would be really wanting to introduce here is some sort of Australian hybrid version, another subcategory, that says that ships that were operating with safety deficiencies but were able to be repaired prior to the scheduled sailing time of the vessel should not be recorded as having been eligible for detention.

I have got to run through a few questions. Have any ships been pulled up yet—and I know it is very early—for international ship management deficiencies, ISM code deficiencies?

Mr QUIRK—Yes. Since 1 July, there has been a concentrated inspection campaign of ISM issues. We have inspected approximately 160 ships and five ships have been detained for ISM deficiencies which is—

Mr PETER MORRIS—The make of those ships?

Mr QUIRK—Three overseas and two Australian.

Mr PETER MORRIS—Two Australian. We will get the details of those later. What action has been taken to ensure the consistency of port state control inspections, both at a national and an international level—and this comes back to the previous question?

Mr QUIRK—On a national level, we have conducted an extensive internal audit and, following that audit, we detected areas that needed to be addressed. We had a comprehensive training program earlier this year, and all our surveyors—I emphasise ‘all our surveyors’—went through a port state control retraining program to ensure that we were all operating on the same set of procedures.

Internationally, we are proceeding slowly with the regional arrangements. As in previous hearings, some nations are more actively involved than others, and that is a continuing problem in terms of uniform, global, poor state control approaches.

Mr PETER MORRIS—Less than the international scene?

CHAIR—BHP had a comment—not on the last question, the one before the last.

Mr BAXENDALE—I would like to go back and for the third time repeat, without somebody saying, ‘BHP is trying to water down the system,’ which we are not—

Mr PETER MORRIS—No-one suggested that. Someone suggested it is a different category you are introducing.

Mr BAXENDALE—What BHP were getting at was purely the wording of it. If there is a deficiency there which would have led to a detention or whatever you want to call it, if it is serious enough, then it should be recorded. We would not mind if you even recorded and we could get hold of the minor deficiencies. We are not trying to water down this system. We just think the wording is stupid. Sorry. Thank you.

Mr PETER MORRIS—Paragraph 156 of AMSA’s submission refers to the transfer of class, and this goes to Mr Ridland as well. Where a shipper transfers class from one classification society to another and the conditions have been put upon the owners of that vessel to notify the classification society it is departing from, how effectively is that working? This goes to the problem, Chairman, that we had in previous inquiries where the number of ships that transfer out of one classification society do not all show up in another classification society. Somewhere in the middle there is a host of ships that are not registered within classification societies and therefore are not eligible for insurance and so on.

Mr RIDLAND—I had an initiative approximately 18 months ago on transfer class requirements. Previously, in the industry, it was called class hopping. The requirement now is that if an owner wants to transfer to another IACS member, they have got to give notification to the IACS. If there are requirements for any repairs or conditions of class, it is very doubtful that that ship will be able to transfer until those repairs, conditions of class, are completed under supervision. IACS do on occasion send their representatives out to examine the ship to prevent an owner—when it comes to special survey or five-year, 10-year survey—going to the next class and hoping that he does not have to do the repairs. They have stopped this loophole and it is working very effectively. IACS took the initiative on that.

Mr QUIRK—From our perspective, the system is working very well. It is more accountable, more open. There are still a number of societies operating outside the IACS arena, but they are becoming fewer and fewer as shipowners realise that there are real limitations in not working within the main group of class societies.

Mr PETER MORRIS—If you go to paragraph 163, that talks about the white list for the STCW, Australia is seeking to be entered on the white list. Have we been entered yet?

Mr QUIRK—The submission date is 1 August, and I think I have got a draft in my office in Canberra now to—

Mr PETER MORRIS—Paragraph 174, which is the white list—that covers the same thing.

Mr QUIRK—Yes. That is online and does not need to be submitted until 1 August; it will be on schedule.

Mr PETER MORRIS—Paragraph 191 was about inspection objectives in the Asia-Pacific. I notice, with the Asia-Pacific memorandum of understanding—the Asia-Pacific regional state grouping—that in your submission you say that three years in we have already achieved more than 50 per cent inspection of ships. How effective are those inspections? We look at Indonesia, which in 1996 inspected 1,800 ships but detained none. You blokes are missing that because that is where it is really done properly. They are all okay?

Mr QUIRK—Given the nature of the membership of the Asia-Pacific MOU, there are differences in quality of inspections; there will be for the foreseeable future. But we are working towards an overall goal of uniformity. It will be a slow road, but the majority of nations in the MOU are committed. It is a matter of them in a very tight economic situation getting the resources to put into this program.

Mr PETER MORRIS—Does that apply to Singapore too? They have a very low rate of detention—and Hong Kong.

Mr QUIRK—With all due respect, I cannot talk for Singapore.

Mr PETER MORRIS—I am sorry, I should not have asked that question.

CHAIR—We are a bit over time. We will take one or two brief comments and then we will adjourn.

Mr RIDLAND—Following on the transfer of class, there are ships that are transferred between various IACS members. This is mainly at the choice of the owners. But out of the 250 ships that have been punitively disclassified from Lloyds last year, there would have been a percentage of those ships that were trying to transfer into another IACS member. They were not accepted and then they disappeared out of the system.

CHAIR—Have I missed anyone who had a comment before we close?

Capt. FILOR—Two quick points, if I may. Of the bulk carrier losses in 1997—that is, the ships that sank—just for your information, the *Leros Strength*, which was mentioned in Mr Charles's submission, actually changed class six months before it sank. There were four of them. Another, the *Black Sea T*, looks as though it could not find a class to go to after it had left one of the IACS members. So I would not be quite so sanguine as to say it is not still a problem. I am sure we are coming to terms with it, but we have got a way to go, I suggest.

CHAIR—Mr Ridland said there are fewer of them now.

Capt. FILOR—That is right. That is still 50 per cent of the total losses last year. The final point is that we have been concentrating very much on the responsibility of the flag state. In an accident investigation we have to recognise that it is usually the coastal state that has very much more interest in the outcomes of

accident investigations. Going back to the infamous *Kirki*, as we all know it, I do not think anybody would have been satisfied if we had left it to the flag state to do the whole investigation. Perhaps with any luck, we might touch a bit more on that this afternoon.

CHAIR—We will suspend for lunch.

Proceedings suspended from 12.38 p.m. to 2.00 p.m.

Focus area 4: Crew training and competency

CHAIR—We are now onto the fourth focus area, and the subject for the first hour is crew training and competency. In some respects, this is probably the most important area. We might defer to you, Dr Lewarn, to give us an opening statement.

Dr Lewarn—There are a number of things which are worthy of consideration, starting first of all with the issues associated with training in Australia. The first thing I would suggest is that the level of training for Australians has dropped away in the last few years, mainly due to the changes within the Australian shipping industry, and the Australian Maritime College took a view some two or three years ago that, for the benefit of young people at the college and the industry in general, we should continue to train young Australians and work very hard to find them employment on non-Australian flag ships. I am pleased to be able to say that that is now happening. This is also to some extent in line with the original *Ships of Shame* report which suggested that we should be more proactive in the international scene. That is one thing that is an important issue.

Another issue which is important is the fact that within Australia now there are quite significant numbers of overseas students undertaking certificate of competency training. Somebody asked me this morning whether those numbers have dropped away. Certainly at the Australian Maritime College they have not. The hiatus in the Asian economies does not appear to have made very much difference and we would put that down to the fact that most of these seafarers are employed and paid in US dollars. We are in a sense now fulfilling a role which is in line with the broad government educational policy to export education.

Having mentioned those two pluses, there are two other issues which Rod Short may wish to comment on at some point. The networking between maritime training institutions has also improved considerably in the last few years. The creation of Australian Maritime Training Inc., which is a partnership between maritime training institutions within Australia, has helped to export those services in a variety of ways overseas. The formation of the Association of Maritime Training and Education Institutions in the Asia Pacific and of maritime training institutions in the whole region, has also brought together players from as far and wide as Vladivostok, Canada, New Zealand, Australia and all points in between. The purpose there is to try to assist each other in order to meet the requirements of STCW 95.

STCW 95 is, in the Australian context for training, well and truly in place and has been certainly at AMC for over a year. We work particularly closely there with AMSA and other training providers to develop both a national curriculum and syllabuses to go with it. That is a broad overview at this stage.

CHAIR—Mr Short, did you want to comment at this stage or would you rather we threw it around a bit first?

Mr SHORT—I would prefer to come in later.

CHAIR—What areas of training do we need to be concentrating on? Where have the deficiencies been shown over the last five to 10 years? You might also outline for everyone here the broad areas of training—and do not go right down to the minutia—that the maritime college delivers.

Dr LEWARN—I will take the second part of that question first. The maritime college has a student base of approximately a thousand students of which something like 30 to 35 per cent are seafarers. The rest are employed in shore based shipping industries. In simple terms, we are engaged in things like fisheries management, naval architecture, ocean engineering, maritime business law, maritime management and the seafaring aspects of deck and marine engineering officers, as well as integrated rating training. That is a sort of broad picture.

Within Australia there are probably few deficiencies I can put my finger on. I do think that the STCW 95 has focused attention much better on the outcomes of training. This is due to the fact that it is stated in what is known as competency based training format. In the STCW 78 scenario, that convention essentially concentrated on what people knew, whereas STCW 95 concentrates on what people should be able to do.

That has a significant impact on us as trainers and, certainly from our perspective at AMC, we have considerably increased the usage of our facilities and our equipment in order to ensure that competency is shown to have occurred, rather than formalised written exams, which used to be almost a single measure. Somebody these days doing a second mate certificate of competency, for example, will gain classroom experience, simulator experience and actually on board training vessel experience whilst at the college.

A deficiency—not of the college but perhaps of the system—is that, whereas we are obviously well and truly endowed with this equipment, not everybody else is. So the questions then arise about the possibility of different standards between different training institutions. I do not mean just outside of Australia, but within Australia.

CHAIR—On that point, the Torres Pilots in their submission said that the competency of officers and crews was of concern. What did you exactly mean by that, Mr Sturt?

Capt. STURT—I must apologise again. I only saw this yesterday and I have not been able to speak to the author of the paper. My personal opinion though is that the vast majority of crews that I come across are sufficiently competent to carry out the normal navigation tasks. They get themselves around the world and do not seem to have any problems.

CHAIR—What about BHP? Are you happy with the level of competency that is available in Australia from our own resources?

Mr CAMPBELL—Without doubt we are quite happy with the training that is provided at the AMC. We are also quite happy with the training that we have through the Newcastle college as well. We certainly monitor our level of competency amongst our people and there is a lot of discussion and performance review, as I indicated this morning. We promote a lot of discussion about non-conforming incidents, for instance, so that we do try and keep a level of understanding of what is going right and what is going wrong in our vessels as well.

Mr McDOUGALL—Can I go back to the comment made when we were talking about port state control and the empowerment to examine crew competency there. What are the opportunities of being able to recognise certificates of training between countries? Are we at a period where that is possible or is there still

too much variation between the standards of the different international certificates to be able to make that recognition?

Mr QUIRK—I might ask Mr Briggs to answer that.

Mr BRIGGS—Yes, as signatories to the STCW 95 convention, we are entitled to recognise training outside of our country, but in order to do so we are required to take every means possible to ensure that that training is up to STCW standards. To be able to do that effectively you really need to physically audit the courses. You then have the ongoing problem of whether they maintain the standards in the different countries.

It is extremely complicated and it is really beyond our resources to be able to recognise dozens of overseas courses and then put our signature on them to say, 'Yes, they do meet the standard.' Therefore, the majority of courses overseas are not recognised here in Australia.

CHAIR—This morning Mr Coombs spoke about the culture of good maintenance and good practice on vessels. In responding to Mr McDougall, could you tell us whether there is a culture of good training and competency building up, or is that patchy and, if so, where does Australia fit in the matrix of it?

Mr BRIGGS—I think the word 'patchy' is a very good description. It does vary considerably from country to country. Even some of the traditional well-known countries where you would expect very high standards can at times, in certain areas, because of a variety of reasons, be not quite up to the standard that we would require in Australia.

If we are going to certify somebody, if we are going to give somebody a certificate saying that they are competent to carry out certain duties, we have to be quite sure that they have been trained up to that standard. To accept a course from a country 5,000 miles or 6,000 miles away that we are really not 100 per cent sure of, when we have had paperwork only on that course and we really do not know the standards to which they are training, would be a very risky business. That would be one of the things that would start to bring Australian certificates into question. I believe, and all the feedback that I have had supports my belief, that Australian certificates are considered very highly throughout the maritime community.

Mr McDOUGALL—I have read where it is said that 80 per cent of marine accidents have a human factor involved in them. Obviously, marine accidents can be on board ship only or be between ship and shore. One would classify them all as marine accidents. Is that a figure that is related to Australia, that 80 per cent of the accidents have a human factor, or is that a general figure on a worldwide basis?

Capt. FILOR—The conventional wisdom is that 80 per cent of accidents are human factor related. In fact, a lot of us who are investigators go further and say it is much nearer 100 per cent because we are never quite sure where the human factor starts and ends. When you are looking at human factors you also have to look at the management regime, maintenance regimes and design regimes, and once you get into that area you are looking at near 100 per cent.

But having said that, it is true that if you want to talk about immediate or operational errors then certainly you are talking in that ballpark, 80 per cent plus. They are all part of the jigsaw; there is never ever

one single cause of an accident.

Mr McDOUGALL—Appreciating that, would you be able to say that those are caused mainly by the lack of training or from other causes? I am trying to relate it to the training rather than the human factor, for other reasons.

Capt. FILOR—This is very subjective. What we tend to find, and most of my colleagues would agree with me, is that it is not necessarily a lack of training. We do come up against cases where routine procedures are not as ingrained as they used to be, such as chart work. That tends to be more satellite navigation. The old routine things are not as ingrained, not as second nature to people. Maybe that is an issue. But having said that, there still used to be accidents in those sorts of areas. I would probably subscribe to that. There is an underlying problem of the old seamanship, for want of a better generic term. The routine things which we used to do automatically are not so automatic nowadays. People have to think about it more. That, perhaps, is an area in collisions and groundings which are occurring.

One other thing too, and again this is highly subjective, is that we are now in an electronic age. Somebody remarked up the other end of the table that we are all getting old and grey around this table. When we used to do things manually, such as radar plotting, we had a safety distance of, say, two miles. Nowadays, if a digital readout says, 'You are going to miss something by two cables', everybody seems to accept that as gospel. Because it says we are going to miss, the belief is we are going to miss. I am afraid life is not that simple. As a layman you are going to understand that. There is that problem that you believe what you see on a readout, which again is another problem we have come across. There is no easy answer but all of those elements come into it.

Mr McDOUGALL—Mr Briggs, you talked about the inability to transfer training certificates across because of the differences between training. Is there any level in training, whether it be at the master level down, where we recognise anybody else's certificates? If so, at what levels?

Mr BRIGGS—Yes, there are a number of overseas certificates and courses that we recognise. We are in the process of reviewing these at the moment to ensure that our recognition is correct. They are courses such as firefighting courses, those types of smaller prerequisites to sitting for your main examination or going through your main training. There are certain add-on bits and pieces that you need to do.

We are also in the process of reaching agreement with other countries to recognise their certificates, which is a different thing. For example, take the UK. We can recognise a person with a master class 1 certificate obtained in the United Kingdom. We can issue them with a certificate of recognition. We do not give them an Australian qualification; we give them a certificate of recognition which allows them to use their UK masters certificate on board an Australian ship. But they are always identified as having had their qualification from that country, from the UK. They may get two or three certificates of recognition around the world, but no longer will they get a collection of certificates from different countries. That is another form of recognition which we are in the process of coming to agreement with, with various countries.

CHAIR—Is it likely to move from there to a form of international moderation or auditing where one country audits another country so that you could have an international group who cross-recognise each other's

qualifications? Has it reached that stage?

Mr BRIGGS—This has been spoken about quite often, but again it comes back to sovereignty. It is an international thing. Quite honestly, I do not know that I would be happy to have people from different countries telling us whether we could do this or whether this was right or that was good enough.

CHAIR—They accept it in aviation.

Mr BRIGGS—The training regime is now being monitored by people from the International Maritime Organisation. They have their groups of competent persons assessing each country's implementation. That is an international overview of what each country is doing.

CHAIR—But it has not got to a benchmarking stage yet?

Mr BRIGGS—It has not got to a benchmarking stage, but when we issue the certificate it is an Australian certificate, not an international certificate. Our training can be assessed by overseas people, but the certificate itself is issued by AMSA on behalf of the Australian government. It becomes an Australian qualification, which is a sovereign matter, rather than having other countries saying whether we can or cannot issue these certificates.

Mr QUIRK—Just to clarify a point that Mr Briggs made and to re-emphasise it, we need to differentiate between recognition of training standards and recognition of certificates of competency. Australia has not created a steel box within which people from outside Australia cannot come and work. We recognise a large number of international certificates based on the STCW code, as a number of nations overseas recognise Australian certificates.

The stumbling block is with the recognition of equivalent training regimes; we have trouble accepting them for Australian qualifications. So we need to differentiate between the training regimes and the actual certificates of competency. We have not created a barrier to trade in Australia; we recognise a large number of certificates in Australia. It is just that we do have difficulty in recognising the training regimes.

CHAIR—Mr D'Souza, from a TAFE perspective, do we have the right structures in place to ensure that seafarers are adequately trained?

Mr D'SOUZA—Yes, I think we have a very good training regime. We undertake training that I think is top class in the world. Basically, the *Ships of shame* problems are not coming from Australian ships; they are coming from ships that are coming here. It is those ships that lack the necessary competencies, and things like that, and that is a real problem.

Mr COOMBS—This is probably an appropriate time for me to make a comment. This is precisely what we are concerned about: the debate or the comparing of what has occurred previously with the requirements—and the very prescriptive manner in which they are recorded and registered—when considering any change with which we might be confronted as to what we ought to avoid, resulting from our comparison at a similar conference overseas.

Then there is the Navigation Act. I think we have been waiting to draw attention to this section all day. In our submission—and we will not bore you by going through it all—we have substantially drawn attention to our concerns about what is being driven by this current federal government in terms of changes to the Navigation Act. They are not just simply changes to the Navigation Act which can be supported because of modernisation; they are changes which fundamentally deregulate the certification of and the proper training regime for ratings that have existed in this country.

It is proposed to implement that sort of change, without even acknowledging the ILO convention 147 which would provide for a similar level of protection. In fact, in their contribution to this committee, they simply say that a major obstacle to compliance with 147 is the inability to establish full compliance with social security obligations, and they have a few other nonsense objections to it. That is our major concern.

In relation to this question of international certification, as experienced practitioners in this industry would know, it is impossible to acknowledge proper certification. We experience all the time, not only with ratings but with officers, what are called bodgie certificates. There is no capacity to suggest that there is an overseas training regime—and I think Mr Briggs has made reference to this—that does not need appropriate scrutiny.

With all we were talking about this morning—and we did at least have some balance in what we were talking about—it was not just ageing ships that were a problem; it was the question of their inability to be manned competently and maintained effectively, and crewed. That little leaflet I gave you indicated that 80 per cent of those problems are human error. I think a big proportion of the human error is the fact that there has been an inappropriate training regime certification.

Whilst we are quite willing participants in the changes to the industry—and we notice a reference to the SRG in the government's submission from the Department of Workplace Relations and Small Business, and enterprise employment—it does not follow automatically, and it certainly should not be accepted in this industry, that the trigger or the appropriate way to do deal with certification and training is to just deregulate and say that it is up to the enterprise to register, record and ensure that people are certificated, that they have received the appropriate training and that they are properly and competently equipped to go to sea.

CHAIR—But I would like the MUA's view on what the standards of training and competency should be. Should it be at a TAFE level, a Maritime College level; should it be a form of apprenticeship? What other forms are there that you recognise as a union; and where is that out of kilter with the industry, or out of kilter with the government? Could you just show us those delineations.

Mr COOMBS—I think the question of the diversification into TAFE, and so on, from the college is accepted as the reality of where things are at in terms of training.

CHAIR—For ratings as well?

Mr COOMBS—Yes, of course. I do not think we are at any great odds in that area. What we are at odds with is that the fundamental basis for the certification, the acknowledgment and the registration of seafarers has been articles of agreement. The changes that are being pursued with the Navigation Act, as I

understand, seek to remove that requirement. In removing that requirement, our understanding or interpretation of what will occur is that we will then lose the very strictly adhered to and complied with registration and articles of agreement that need to be entered into to ensure that Australian seafarers are competent when they go to sea, as opposed to the circumstance that we find as a daily occurrence in respect of Third World seafarers on that 'not to be mentioned' open register.

We would challenge and seriously question the series of amendments and changes to the Navigation Act. We would ask whether they are an appropriate and proper consideration of what is a very important act—and I do not think there would be any argument on this from any side of the table—in terms of the safe operation of shipping, whether it be in coastal shipping or in international waters with Australian seafarers and Australian flag vessels.

On my interpretation of what is occurring here, I feel quite safe in saying that the changes that are being pushed for at the moment with the Navigation Act are more an act against the union than a proper evaluated consideration of what the Navigation Act requires in the future. I am quite happy to place that on the record again if it was missed the first time around.

CHAIR—I can understand the perspective you are coming from: that the union wants to see those things occur. But I do not see the causal link between that and the maritime operators. You have not given us any evidence that they are putting on less than competent staff.

Mr COOMBS—We are still operating under the arrangements that we want to be see preserved as such, in respect of training competencies, articles of agreement, compliance with the Navigation Act as it stands. We are not suggesting that there is not a requirement, as there is with any form of legislation, for it to be reviewed. It needs to be reviewed on a tripartite or appropriate basis. It needs to be reviewed also on the basis that ensures provision for argument and debate so that it does not become a political act, a political instrument, but it becomes something that ensures the integrity of the act and all that it provides for in safety and training, and that certification and articles are maintained. We are not arguing about—

CHAIR—Perhaps we should get a response from Dr Feeney on this.

Mr COOMBS—That is what we were hoping for.

Dr FEENEY—I think Mr Coombs has raised a number of issues. One is in relation to ILO 147. By and large, 147 addresses crew welfare issues rather than qualification type issues. Its relevance in relation to Australian operations is limited in that Australian operators would, by and large, meet those requirements under 147. In relation to foreign vessels, even under 147, the ports state that the only avenue they have, when they identify violations of those standards, is to refer that to the flag state country. So there are limited direct opportunities for Australia to change foreign practice there.

With the changes to the Navigation Act, by and large, these are a consequence of the move to company employment and the government's desire to regularise employment arrangements amongst seafarers. Where the Workplace Relations Act appropriately covers the engagement of seafarers, then the Workplace Relations Act should apply and, therefore, provisions in the Navigation Act would be removed. Some

measures that are peculiar to and practical for the shipping industry are not proposed to be changed in the amendments that have been put before the parliament.

With the production of certificates, the amendments repeal section 17, which covers the production of certificates covering the qualifications of seafarers employed under the system of articles of agreement. The articles of agreement, as such, will no longer be necessary. There is still a basis for having an agreement between employer and employee, but not necessarily in the prescriptive form that currently applies in the Navigation Act. The requirement to produce qualification certificates to AMSA will still be able to be covered through marine orders made pursuant to section 15 of that act.

So those things will be delivered in a different way. But the qualifications issue is still being addressed.

Mr PETER MORRIS—Mr Chairman, I had difficulty in following all of that—a broad presentation, a broad response. Is it possible for us to get some detailed comparison on a bit of paper by the end of the week?

Dr FEENEY—Yes, I assume so.

Mr PETER MORRIS—I had difficulty listening to you about articles of agreement. Articles of agreement are inherent in the industry. Again, if Australia shoots down the track on a one-off kind of operation, we are talking about an international industry and we were talking earlier about the employment of Australians abroad. I have a great deal of difficulty understanding where we are at.

CHAIR—That was my concern before, and I do not know if I expressed myself clearly enough. Could you give us a note on that by next Monday?

Dr FEENEY—Yes, it is not a problem.

Mr QUIRK—Just to complement what Dr Feeney has said—and perhaps there is some misunderstanding about the changes on the part of Mr Coombs, and obviously I cannot talk on policy—

Mr PETER MORRIS—You must not speak on policy—never.

Mr QUIRK—The standards for seafarers on Australian ships—whether they be mates, engineers or decorated ratings—are prescribed in Marine Order part 3. A new issue of that came out last August after protracted—and I stress the term ‘protracted’—discussions with the shipowners, the unions and AMSA. They laid down the standard to which Australian seafarers shall be qualified and certificated.

Below that, in the past there has been a tripartite arrangement between the unions, AMSA and the shipowners at various levels and at various sectors involved in how seafarers will achieve those standards in terms of industry based training, including the former seamen’s engagement system which provided a degree of proscription in terms of the way MUA members were employed.

I can assure Mr Coombs and the committee that the changes proposed by the government to the Navigation Act in no way undermined the safety standards to which Australian seafarers will achieve certification or be certificated or recorded. What is changing is the whole realm of historic practice which the government has deemed to be open for review and reform—and that is prescribed in the changes to the Navigation Act. But the bottom line is that the safety standards will not be in any way impacted and, as Dr Feeney has said, clarifying everything in marine order 3 will strengthen some of the regulatory framework.

Mr SHORT—Mr Chairman, I would go off on a slightly different tack, if I may. I want to talk about the relationship between Australia and its neighbours with respect to maritime training.

Mr PETER MORRIS—Chairman, before we go off to that, can we come back to just finish that off? The other parties to this are silent at the moment—Mr Chambers and Mr Campbell. There were tripartite discussions that led to this change in the relationship—and, essentially, that is what it was to me—between employee and employer which involved safety implications.

CHAIR—Do you want to comment on that?

Mr McARTHUR—I want to raise the problem of where and how the pay rates of the personnel involved are set on the international scene and how that relates to encouraging training to take place. Has the insurer got any part in ensuring that the crews are competent to protect very valuable vessels?

CHAIR—Mr Chambers, you might take that point, as well as the earlier one, on board as well. How does the industry in general respond to the statements of Mr Coombs, Mr Quirk and Dr Feeney?

Mr CHAMBERS—In the move to company employment of ratings, there have been lengthy negotiations with the Maritime Union, which, on 1 July this year, entered into an implementation phase. The matter has been before the Industrial Relations Commission, and there are ongoing discussions. In fact, there will be another meeting on that very subject tomorrow morning.

In terms of the Navigation Act amendments, the Australian Shipowners Association—speaking on behalf of the indigenous industry, if I can, for one moment—do not have any major concerns with the changes. They normalise the process of collective agreements between employers and employees. In terms of articles of agreement, Australia is a signatory to ILO convention No. 22. If you read ILO convention No. 22 very carefully, for a start, it does not apply to the coasting trade. That means that the majority of Australian flagships are not affected by ILO convention No. 22. But the Navigation Act amendments do not remove the need for agreements. They simply ensure that the definition of ‘agreement’ is widened to include collective agreements between the employer and the employee under the Workplace Relations Act.

Going on to Mr McArthur’s second question: again, international wages for seafarers are set through collective agreement between the employees and the employers or the representatives of the employees of the maritime unions around the world. There are collective agreements under national law requirements in various countries. Wages and conditions are set in that way.

Mr McARTHUR—Can you add to that? How is the wage level set? It seems to me that if you do not

get reasonable wage levels, you will then have difficulty getting people trained competently. How are these levels set—especially in view of the earlier comments today that one area that shipowners can back on is the terms, conditions and wage levels or, vice versa, they can improve the wages and conditions so the vessels will not run aground or run into difficulty?

Mr CHAMBERS—The wage conditions in many countries are reflective of the country of origin of the seafarers. The ITF have their own views on minimum wage levels, as does the International Labour Organisation. A minimum international wage level is established by that organisation. Negotiations are very complex on vessels where the majority of the crew is of a particular nationality and wage levels are set relative to wage levels in that particular country.

Mr PETER MORRIS—You are not asking us to believe that, are you?

Mr CHAMBERS—Yes.

Mr PETER MORRIS—The wage levels are set in relation to what is available in the international market, what you can get away with. That is really the situation. Would you care to expand in that area a bit?

Mr HOLLIS—Your argument is really a nonsense because, increasingly, crews are composed of people from three or four different countries. You may have people from the Philippines, Burma, one or two from South America and someone from another country. Are you, therefore, saying that not only have you got this polyglot crew but also you have got a polyglot group of wages: if you come from the Philippines, you are paid the going rate in the Philippines; if you come from Myanmar, you are paid what the going rate is there. You would have about six or eight different rates of pay, to say nothing of what the officers are being paid. Surely you are not suggesting that?

CHAIR—Mr Chambers, you might just explain that point a bit more fully.

Mr CHAMBERS—That may be the case—maybe not necessarily on a particular ship or a particular enterprise—but, for example, if you have a ship that is crewed entirely by people from Bangladesh or from India, the rates of pay may very well reflect the social conditions in those countries.

CHAIR—What about mixed crews?

Mr CHAMBERS—Some of the studies done on international wage rates have found that there is a large fluctuation between the wages that might be paid, say, to an Indian second mate in a particular enterprise compared to an Indian second mate in another enterprise where he might be being paid double the amount. It really depends on the enterprise that he is working for, the ship, the trade and various other conditions.

Mr CAMPBELL—Quite a range of issues have been raised here. Firstly, I will take the Navigation Act changes. We believe that it is not necessary to have two contracts of employment—one being the articles on the ship, and the other one with the particular enterprise and the employees. It is not necessary to have the articles on the ship. We believe that seafarers in our fleet work for the whole fleet; they are not serving on

one particular ship with articles as we did in the olden days.

We are quite happy to make the first change. Repatriation can be covered. We are a company that operates throughout the world and do not have problems in repatriating sick and injured people, whether they are seafarers or other company employees from anywhere in the world. They are covered by their contract of employment with us from whenever they start work with us. That is the Navigation Act.

I want to take up Mr Hollis's point about having a mixed crew. We do not believe that that is the most efficient way to run an operation. If you really wanted to have a cheap operation, yes, you could take the cheapest crews from all over the world.

CHAIR—Can I just interpose there? You might cover this point because we had it listed for comment, but to what extent is language part of that problem?

Mr CAMPBELL—Language is an extremely important part. One criterion we use with our vetting system is, in fact, the number of nationalities that are sailing on a ship at a particular time. When you get past two—or three at the outside—different nationalities, we do not believe that you are going to get some meeting of the minds, particularly in an emergency situation. Our preference is certainly to have one nationality. Where we do operate foreign flag vessels, they are Filipinos who have a very good working knowledge of English. We have also backed that up in recent times. Our experience with foreign flag shipping is fairly recent and, as part of our learning experience, we have put some of our own Australian masters and chief engineers on the ships to embed our safety and quality culture and also to learn where the issues or problems may come from.

CHAIR—Mr Short, you have been cut short a few times. Now is your chance to explore this other tangent you mentioned.

Mr SHORT—Reading the submissions to this inquiry, it is quite clear that crew competence is a major concern. In fact Torres Pilots say in their submission that it is the greatest concern. Balanced against that, in my opinion, Australian maritime training is the best in the region—probably amongst the best in the world. It is also very comprehensive. It extends into maritime education generally, not just the training of seafarers. This gives Australia the opportunity to assist regional development. Australia already has considerable respect in the Asia-Pacific region. For little resource input, it could reinforce that respect and assist its neighbours considerably with the major difficulties that many of them have in ensuring that they have appropriate maritime education and training.

If I may, I would like to extend it a little perhaps beyond the terms of reference of this inquiry and talk about the ocean policy area and maritime education generally. Seafarer training and safety is a part of it. But the International Maritime Organisation really has two thrusts to its mandate; one is safe ships and the other is cleaner oceans. In training seafarers, I certainly think the former has been very well dealt with in Australia but more needs to be done, perhaps, about the cleaner oceans aspect.

Over the last two years, we have formed in Australia a network of maritime education institutions—not just training—which is going very well. It is getting excellent support from Canberra and from AusAID

and it has seven projects in hand at this stage in Indonesia and in the Philippines. It is running into some difficulties, particularly in Indonesia with the economic crisis, but these difficulties can be overcome.

I would like to ask this: that this initiative be supported by a high-level expression of Australian interest in providing maritime educational expertise to its neighbours. It does seem in a way that, in initiating these projects in the region, we are pushing from the bottom upwards. If the way could be cleared—perhaps with a high-level expression of interest to countries like China and so on—we would be able to assist in overcoming some of the major problems that some of them have.

The other aspect I would like to address is the formation of the regional network which Dr Lewarn referred to earlier—the Association of Maritime Education and Training Institutions in Asia Pacific, which is two years old. That is an Australian initiative. It now has 33 members. There is a meeting coming up at Shanghai Maritime University in October. The International Maritime Organisation is indicating that it will support a joint IMO-AMETIAP project. That project will be for training the maritime trainers in the region—basically pedagogical training—because a survey that the association did identified that as having by far the greatest priority as a need in the region.

I would also ask that Australia express support for the initiative that has been taken with this regional organisation and perhaps channel some of the support that it could give its neighbours in the region into the development of their maritime education.

CHAIR—Mr Bohn, have you found that in Vanuatu? Have you found in Vanuatu that specific nations are looking to Australia as a base for training?

Mr BOHN—Certainly, the Pacific islands—I do not want to speak for the whole of the Pacific—do look to Australia and to New Zealand to provide guidance in this area.

CHAIR—I would like to pick up the point—this is off at a bit of a tangent—that Mr McDougall raised about the human factor in accidents: whether that is a reflection of training and competency or just bad discipline on board or whether it is a matter of fatigue or whatever. Captain Cole, in your experience from going to salvage operations and obviously picking up anecdotal evidence of how something happened, where would you see—I suppose no two cases are the same, but this is broadly speaking—the blame lying? In which one of these fields: training, competency, fatigue or bad discipline on the ship?

Mr COLE—My response would be probably all four. You identified quite rightly that no two accidents are the same. With the accidents that we become involved in, whilst we do not research the causation to the same degree as Kit Filor does, we certainly get the anecdotal evidence of what the cause was and I would have to say that training, competency and probably the lack of funding in maintenance are very much to the fore.

My response would be that we are seeing today two classes of ships. We do not see a lot of the well-run ships but we certainly have a degree of experience with the not-so-well-run ships. It is difficult for us to be objective and say that all ships are run like the ships that we see. We recognise that there are very-well-run ships out there, but certainly the ones that we see are deficient in all of the areas you have mentioned.

CHAIR—Captain Filor, you might like to pick that up and then I will come to Mr Charles.

Capt. FILOR—I was afraid you were going to ask me that, Mr Chairman. People make mistakes all the time. I am sure we all do.

CHAIR—What I would like you to do, if you can, is bring it back to the terms of reference and try to find this link between accidents, training and competency. Or are there other factors that are more predominant?

Capt. FILOR—I think there are other factors that are equally as dominant, not more. Accidents occur within a system when malign factors come together when people are vulnerable as well as the ship. So what we have to look at is how good the system is, and part of that system is training and the quality of the ship. I go back to the original point that I made: no accident occurs for one particular reason. I have never come across an accident where it occurred just because somebody was incompetent. There are other factors which run into it as well.

Very often, when you meet something which you might call incompetent, you find the rest of the system—such as the quality of the ship—is also lacking. It is an onion effect. There are so many layers to these things that it would be very simplistic just to say, ‘It is training’ or ‘It is competency.’ It is far more complex than that. I am sorry about that because we can never give you a pat answer.

CHAIR—Mr Charles, do you have a comment?

Mr CHARLES—To follow on from the last couple of answers, and maybe this is adding another layer to the onion, the reduction in manning levels has now been extended, in particular, to a lot of the older vessels which are now sailing with half the crew they were initially designed to carry. Captain Filor, has that impacted on the area of accidents? Given that you were talking about the ingredients that make an accident happen, how much of an impact has that had, particularly in respect of fatigue?

Capt. FILOR—As for fatigue, there are suggestions about it. Australia has recently put a paper to the IMO on this sort of issue. Fatigue is a factor that is very subjective. It is very difficult to quantify. One of the places where it is self-evident is with people flying from Europe to join ships in Australia where there are minimal lookouts on the ships. Officers join after a 36-hour flight, say, from mid-Europe. They go straight on the ship, start work, get into a watch routine—usually six on and six off—and then sail.

We have had a number of cases where we are reasonably satisfied that people have just fallen asleep in their first watch hour. It is just human nature. It is not a lack of moral fibre or a lack of discipline; it is purely that they are jet-lagged and tired. We have to recognise that, and Australia has taken this up at the IMO—it is early stages yet. In that sort of area, where you are down to single person failure and the whole safety of the ship is relying on one person, you increase the risk dramatically.

CHAIR—Is that your experience too, Mr Cole?

Mr COLE—I accept the arguments that Captain Filor puts forward as being valid. I have no doubt

that he has the research to support his findings, but I think one area that we have not touched on—and it is quite evident from where we sit—is the tendency nowadays to cut back on maintenance. We have touched the human side of it, but coupled with the human side is the tendency in these hard economic times to limit the expenditure on maintenance. That is one area that, from where we sit, we are very conscious of.

Mr CAMPBELL—On this area of training, one of the major training thrusts that we have is in the safety area. We believe that, if we can maintain the safety at extremely high levels, that will be a major benefit to our total operation and obviously end up on our bottom line. Over the last 12 years, because of the safety training aspects and trying to lift the awareness—and we believe it is a mind-set problem—we have improved our lost time injury frequency rate from 48, which was 12 years ago, to 5.5 last year. That is nearly half of what was in some of the benchmarking studies that we have carried out with other operators around the world. So we are certainly making some inroads.

Nevertheless, we are not pleased with that. There are other areas of the industry where we believe we can do a lot more to raise their level of awareness to look after themselves on board. The DuPont organisation tell us that some 96 per cent of accidents are errors by human beings and not failures of some mechanical piece of equipment.

The human mind is something that we all have to come to terms with. I am not suggesting that we have 100 per cent of the answers, but we certainly believe there is a connection between the mind-set of the people in the work force and the safety results that we are getting.

Mr MacGILLIVARY—I would like to expand on what we have been hearing for the last 15 minutes to do with human factors. If we accept that 80 to 100 per cent of all accidents are a result of human factors or procedural errors, from their experience DNV have determined that 80 per cent of those accidents are directly controlled by management. These are all management issues. We base that on experience from when DNV took over the International Loss Control Institute in Atlanta in 1990. They had 30 years of experience from that. It was a huge database of examination, say over 30 years, of incidents and accidents which had taken place in a very wide spectrum of industries, ranging from transport through mining to manufacturing.

What those studies have come back with is always the same. The dynamics are always the same for any incident or accident, whether it is in the marine industry, the mining industry or whatever you are looking at. They determined basically that there are only three areas that it really comes down to. If you get right down to the root causes of any accident, there are three areas where control is lacking. First of all, there is an inadequate program. That includes things like maintenance and all of the things that we are talking about, like training, maintenance and emergency preparedness—all of those issues which are identified in the ISM code. Within that realm, there may be inadequate standards. They have put standards in place, but the standards are not effective or adequate enough, or there is a lack of compliance with the standards which are there. Those are all directly controlled by management. As I said, that has been found to be true in at least 80 per cent of the cases involving accidents and incidents.

Mr CAMPBELL—I have a couple of points, certainly backing up what Mr MacGillivray said—

CHAIR—Can I just interpose there? We have gone over our time. You are obviously very keen on

this bit. Is it your wish that we go for another 10 minutes on this issue? That will cut back the last segment by quarter of an hour. Does that suit you? Do you agree? Okay, keep going.

Mr CAMPBELL—I have two points to back up what Mr MacGillivray said. In relation to root cause analysis, when we do have incidents and accidents, we really do have to drill down and make sure that we get cooperation of everybody who was involved in the incident, so that we do in fact get the real story, and we have to do a lot of trend analysis as well to make sure that we are not repeating the same mistakes over and over. To ensure that that happens, we have to have absolutely dedicated leadership who are committed to this whole process.

Mr RICHARDSON—I have been picking up the comments that have been happening here. But, from a person who has spent considerable time in hospital with seafarers who have been injured and talking to the seafarers about how the injury occurred—the circumstances behind it—it is without doubt that the majority of these instances happen on substandard shipping. If you are going to cut back on the ship's costs—on the materials, the maintenance, wages, et cetera—you are going to cut back on the equipment that is needed to do the job properly. That in itself creates a human error and you cannot really attribute that down to the seafarer because he is ordered to do a job that he has not the equipment to do that job with. Inevitably, that person will have an accident. In many cases it becomes quite a serious accident.

We have to look at the types of ships that we are looking at these accidents occur on. I have found that ships that comply with Australian standards—Australian shipping—have a very low rate of accidents and a high rate of standards of safety protection, with notices and things all around the ship on safety. The lower class of ship that comes onto our coast with lower standards has no regard for the person on board the ship.

To highlight one instance, there is a ship at present in Brisbane to load wheat, the *Pinkenbah*, that did not pass inspection. The crew are down in the holds. They have got to scrape and paint—with scrapers and brushes, not modern equipment—and clean those holds and paint them. They are coming out of the holds with their eyes burning, skin rashes, feeling nauseous from the paint fumes. There is no ventilation to pump the air out, and the crew are doing that job. These are the sort of things that are happening today and these are actions that could be prevented. The simple hire of equipment could prevent it.

Dr LEWARN—I wanted to add to what John Campbell and Paul MacGillivray have said. If you took a group of 30 overseas seafarers who have just arrived at the Australian Maritime College and ostensibly have just completed two to three years of a cadetship, I would guarantee you that there would be between two and five of them who you would swear blind have never seen a ship in their lives. I do not blame the individuals on this. It is my very simple belief that what Paul MacGillivray has said and what John Campbell has said are in the root causes of one of the problems.

Training is essentially a three-way partnership between the individual, the training institution and the employer or manager. It is what happens to people on board the ship and the systems under which they operate, which certainly, in our view, have the greatest influence upon the value of the training. We can train to a very high standard. We can inculcate into individuals high professionalism and most of those individuals will then go and work for reputable organisations, but if they are not in an organisation where there are already high standards, then the whole thing will break down.

Mr COOMBS—We have just heard explained again—and I do not think it is argued by anybody—the excellent standard of training and competency that has been achieved. So we could be approaching this from two directions. We could be a Third World developing country concerned about the lack of competence in training of seafarers and trying to change legislation and processes to improve it, or we could be enjoying the position that we do enjoy and not opposed to change. But I think we need to be even more cautious about what the result of any change is, because we are there. Whatever changes we make, whether they are in respect of the Navigation Act or articles or AMSA, my understanding at the moment is that the role of AMSA, complemented through the Navigation Act, ensures that there could never be a circumstance where people could arrive at the college and never have been on a ship.

Either we are talking about people being trained to load supermarket shelves of an evening or we are talking about people being trained to operate in shipping. I suggest that the latter is the case, and it is far more important than the former. It cannot simply be dismissed on the basis of ‘Everything is fine, we have investigated everything, there is no problem’—the very simplistic approach of BHP, the big shipowner, that everything is fine. Everything was fine with the *Giga II* too, was it not? There was a bit of self regulation there, but it did not work too well.

One of the big problems that we find on a daily basis as a result of this deregulation, as a result of this lack of an AMSA type body—the lack of articles—is the fact that we have seafarers who have not been repatriated for 15 months or 16 months, kept captive on ships until they come to an Australian port. Who guarantees that? The industry is not going to be manned—and I think we all agree on this—by permanent employees in every circumstance. There is going to be a casual work force.

The casual work force that mans open register shipping comes from labour hire companies who have no articles, who have no guarantee of repatriation. Is that what we are going to turn into? Is that how we are going to supply our backup labour to the ship owners, or are we going to have a circumstance where we have a guarantee because of articles of repatriation of sea service being counted in terms of people’s competencies? That does not get figured in, in the Third World seafarers that you welcome to the college, because no one keeps a record of it. All this is very easy to dismiss on the basis of legislative changes, which I think are political changes which arose out of a fairly well distributed government document, as being a process of—

Mr PETER MORRIS—That is unspoken, that word.

Mr COOMBS—instigating a dispute with the Maritime Union of Australia. It needs to be carefully considered and monitored and discussed before they accept it as being legitimate amendment.

Mr PETER MORRIS—That will take place in another forum I would imagine, John.

Mr COOMBS—Of course, but it does suggest, Mr Morris, that they are talking about promoting a dispute.

Mr PETER MORRIS—Yes, Mr Coombs, we all understand that, but can you come back to the sharp specific point?

Mr COOMBS—The sharp specific point is the impact of simply endorsing changes to the Navigation Act that impact on AMSA and training and competency. It is a very relevant aspect of what we are discussing. We have the best system of regulation. It does not interfere with your enterprise employment. It does not interfere with a wider scope of training. But it should not be allowed to interfere with the process of registration and documentation and record of Australian seafare, something that we have spent plenty of time—

Mr PETER MORRIS—I think it would help us, Mr Coombs, if, given that we are not across—

Mr COOMBS—Get back to the informal bit, Peter.

Mr PETER MORRIS—John, all right. Am I in the club? Remember that, despite the accusations of the chairman! The point we asked you and Dr Feeney about earlier was a dot point comparison of the provisions of changes in the Navigation Act and where they impact upon some of these provisions. That would help us a great deal, and promptly, so we know then precisely where we are going. That would certainly advance what we want to do.

CHAIR—We are coming up on time and Mr Morris has two or three short questions.

Mr CHARLES—Just a short follow-up to Mr McDougall's question of Mr Chambers in respect of training, and also the level of wages on overseas owned vessels, and what type of seafarers we are going to get on them and what we can expect. I will make one point and then ask a couple of questions.

It has generally been very well accepted here today, particularly this morning, that the level of freight rate is set at an international standard. That is available to all shipowners to avail themselves of a set rate. Obviously, it fluctuates up and down. Why, then, should a shipowner who wants to exploit the seafarers on board his vessel, who is availing himself of this international freight rate, be able to avoid paying an internationally accepted standard of rates that should be set by the shippers themselves—shipowners? Why will they not move into that field? Why is it acceptable, or why is it a practice of some shipowners, to get away with paying nothing for as long as they can?

If anyone wants the evidence of that, it is in my submission; it is there. Why should they be allowed to get away with paying nothing until they are pulled up, and why should it vary from \$250 a month to as high as \$1,500 a month? Why is it not, given that the international freight rate is set? Why is it not morally right and responsible for the ship owners to agree on a wage scale that is relevant and set in respect of the international freight rate? That is one question. The other is: is it not also a fact that—

CHAIR—Mr Charles, I respect your point of view but the term of reference is training and competency. I can understand there is a link and I invited you and Mr Coombs earlier to show that causal link.

Mr CHARLES—The link is that I prefaced the question by asking what type of seafarers and what type of training will a shipowner get who attracts somebody by paying them as little as \$200 a month as against an internationally set figure? No properly trained seafarer would accept that. They are there. That is

accepted.

Mr PETER MORRIS—I think you could summarise it, Mr Charles: ‘You get what you pay for.’

Mr CHARLES—That is right.

Mr PETER MORRIS—The bearing upon safety of that is that poorly paid people do a lower class of work and have a poorer performance. Mr MacGillivray, you wanted to carry something? Otherwise we will come back to you in the welfare section.

Mr MacGILLIVARY—That is fine.

Mr PETER MORRIS—I want to quickly ask somebody here about ILO 1. Maybe you, Dr Feeney? I know 147 is not ratified by some states, as you say in your submission on page 181. Which states are they? If you have not got it quickly we can have it in writing, because I am a bit suspicious about that. On page 182 (page 10 of your submission), it states:

. . . not all State and Territory jurisdictions have formally agreed to ratification. . .

Then, in the last paragraph of your submission, you refer to ILO convention 9 and you are saying that that is in process of being denounced, and that has implications for our accession to ILO 147. Are you or somebody here able to respond to those? Mr Briggs? That is in your area too, isn't it?

Dr FEENEY—Mr Morris, on ILO 147, I will be able to give you a list of the states where it has not been ratified.

Mr PETER MORRIS—And why. This an old story; it has been going around the mulberry bush for a long time.

Dr FEENEY—In relation to ILO 9, the standing committee on treaties had a hearing roughly a month ago and made a decision to recommend the denunciation of ILO 9.

Mr PETER MORRIS—If you could give us some elaboration on ILO 9 and its relationship one to the other, we would be grateful.

Dr FEENEY—I will provide that.

Mr PETER MORRIS—Mr Quirk, the certificates that AMSA hold as authentic certificates for comparison in the inspection of crew's certificates of qualification when you go on board—do we hold those for all nations now that are relevant?

Mr QUIRK—We are still developing that portfolio, Mr Chairman.

Mr PETER MORRIS—This is six years after the event.

Mr QUIRK—Yes, we are still developing that portfolio. Nations are changing their certificates in relation to STCW 95 and it is still a tool we use, but it is a very crude tool.

Mr PETER MORRIS—How much have you got—10 per cent or 20 per cent?

Mr BRIGGS—We have 80 something countries. But may I say that it is becoming slightly irrelevant now with the introduction of STCW 95. We are now checking with every country. We take the details of the certificates. We do not need to physically look to see if they are forgeries, are properly done or anything like that because we can go straight to the country by fax. We can get an answer—quite often within a few hours—that that is a genuine certificate that has been issued or it is not a genuine certificate. In that way we have found quite a few forgeries.

Mr PETER MORRIS—Can you tell us about the case of the *Neptune Storm* in the latter part of last year, in which, as I understand it, the certificates of the officers and the engineers were false? Was that confirmed by AMSA?

Mr QUIRK—I do not recall that ship but I will be able to access that information, hopefully, during the break. I can contact Canberra and get some information.

Mr PETER MORRIS—There is the other case of the *Queeny Margreth* where the engineers on board the vessel did not have gas tanker endorsements.

Mr QUIRK—That is right. That was a gas tanker in Brisbane and we detected a false certification on board the ship.

Mr PETER MORRIS—If you would advise us of those as quickly as you can, thank you very much.

CHAIR—We will break now for afternoon tea. The thing I would like you to consider over afternoon tea is that, when we get to the plenary session, I will be asking you to give us two or three big issues that you have felt have come out of today's proceedings or are big issues for your organisation in this field.

Proceedings suspended from 3.21 p.m. to 3.36 p.m.

Focus area 5: Crew welfare

CHAIR—This is the final part of the afternoon. We went over quite a bit in focus group 4. I do not in anyway want to diminish the importance of crew welfare. What I propose—so that it is not cut back—is that the time between now and five to five is halved between crew welfare and our plenary session. That should give us a fair coverage of both. On that note, I will now call on Mr Ted Richardson from Stella Maris to give us a two- or three-minute introduction to this part of the afternoon.

Mr RICHARDSON—Our organisation, not only in Australia, but also internationally, has been concerned with the welfare of seafarers for near on 100 years. The state of shipping worldwide has declined, as we already know. The conventions that have been put in place to protect the seafarer and make their lives a little bit easier in many cases have not been ratified by a lot of countries, including our own in some areas. I point to one ILO convention in particular, that is ILO convention 163 and recommendation 173, which points directly to the welfare of seafarers, not only in port, but at sea. I have copies of those two documents here.

The various cases that we have come across can range from physical abuse and sexual abuse to the deprivation of liberties of seafarers. Many of the Third World seafarers have great fears of going to various authorities about conditions on board the ship. The nature of mixed crews on board the ships have political overtones.

In one case in particular here in Sydney, we have a seafarer who has just been granted residency status. He came to us in fear of his life on going back to the ship, because he spoke up against his particular country and somebody took that off the ship to somebody on the waterfront. That seafarer was scared to go back to the ship.

There are incidents where accidents occur on board the ships, which we have already covered. I got a notice just before I came to the meeting where a seafarer fell 40 feet and broke his leg. He was seven days on board the ship with a splint with only aspirin for medication. If that was a serious break, after seven days infections and other things could set in and it could be a life threatening accident. That ship came down the coast, by the way. It could have stopped in at any of the ports and dropped the fellow ashore or he could have been medivac-ed.

Mr PETER MORRIS—What flag was it?

Mr RICHARDSON—I have not got the information. I have just got a quick note that was faxed to me. I will chase that information up when I get back. These are the types of things that are occurring on a daily basis around our coastline. I think we need to be aware of it and put in place certain mechanisms to prevent it or at least try to slow it down.

There are two mechanisms that I have put in place so far this year. One is a national survey throughout all of the various missions involved in seafarers' welfare on the types of accidents that occur and how they occurred—to get as much detailed information as possible on those accidents, so that in 12 months time we will know what type of ship it was, how the accident occurred, how it could have been prevented

and what action was taken—those sorts of things. Again, I will be feeding that information through various members of the industry.

On another perspective, I have sent documents out to various members in the industry seeking their cooperation about possible establishment of a national seafarers welfare committee. This is basically to bring the industry together on the issue of seafarers' welfare to see what things we can put in place to communicate between each other. A lot of these things happen within our particular industries. They are not spread out in a wider circle. A lot of things happen that somebody is aware of but no-one else is. We can share that correspondence and information backwards and forwards. It makes the industry focus more on the welfare of seafarers.

Another area that we want to improve upon is recreational facilities on board ships. A lot of ships do not even allow the use of a radio. Making a phone call at sea is quite an expensive ordeal for a seafarer. It is something like US\$12 a minute to make a phone call. A lot of these things can be cured with technology, but it is a matter of encouraging the companies to look at the human person on board the ship, rather than the profit margin as such. The technology is there. It cannot be beyond us to put those things into place. That is about all I can say.

CHAIR—What would say was the most significant welfare problem?

Mr RICHARDSON—The most significant welfare problem would be crew safety as far as drug abuse and substance abuse are concerned. Lower numbers of seafarers means that seafarers are using more drugs to stay awake for longer hours. Numbers of seafarers come ashore and ask the chaplains for a chemist because they want to buy drugs. In a lot of Third World countries they can buy all sorts of drugs to stay awake.

CHAIR—Amphetamines and that sort of thing?

Mr RICHARDSON—Yes. They come looking for that sort of stuff just to keep awake and keep their job going. They usually work 12 hours on and 12 hours off. They put in some long hours and a lot of overtime as well. Again, that comes in to the factor of accidents that occur on board the ships as well. I am talking about most of the FOC ships, the lower quality of ships. I think the Australian fleet is excellent. I have not seen or had any indication on Australian ships and Australian manned ships that this problem occurs. It is mostly on foreign owned ships.

CHAIR—Mr Quirk or Mr Briggs, do you have an answer perspective on this?

Mr QUIRK—Yes. I can add to the discussion. Under Marine order part 11 under AMSA's jurisdiction, we implement the safety and health aspects of ILO convention 147. We look at sanitation, food, water and living conditions which are an element in the ship board safety equation, and that is the rationale why we are used as a safety agency.

We do take an interest in all crew issues on a ship, but, as previously commented at these committee hearings, there is a line past which we cannot go because we do not have jurisdiction. That comes in to

salary issues, payment issues and general social welfare issues—for instance, no mail for the ship for three months. We are sympathetic, but it is not an issue we can take action against a shipowner for.

We work closely with the seafarer welfare organisations. We have worked closely with the ITF reps in the various ports in quite an objective fashion to try to sort out some of these issues, but there is not always an easy solution. An example would be an accusation of physical abuse by the officers of the ship towards the crew, often on a racial basis. We cannot intervene.

The police and the state or federal governments here quite understandably do not want to get involved, because it is a jurisdictional nightmare of international law. The welfare organisation can only go so far in moral persuasion. There is a real gap there. There is a dark side to this industry. We do not see the worst of it in Australia by any stretch of the imagination, but occasionally there are glimpses in Australia and it is not very flattering to the industry in general.

For example, in relation to the comment made before about the accident on the ship where the chap was in a splint for seven days, I believe that those incidents still occur on ships trading to Australia more than we realise. They are not reported to us. It is a dark side of the industry. I do not think we see the worst of it here, because we do have good controls in Australia, but it does go on. I believe it is in manageable proportions in Australia, but overseas it is really a bit of a problem.

CHAIR—What do you see are the implications of ship safety on crew welfare, Mr MacGillivray?

Mr MacGILLIVRAY—They are the very things I allude to in my submission. In November 1997 I delivered a paper to the Ship Safe conference here in Sydney, and that was its very focus. My paper was on the social issues and the aspects of that, some of the very things that Patrick Quirk and Ted Richardson have talked about. Obviously, those things have a direct and negative impact on safety.

Patrick Quirk has talked about some of these very things, such as the crew's wellbeing in terms of motivation. If the crew are ignored or mistreated and then are expected to implement procedures on board with respect to the international safety management code, how motivated are they in order to do that after being mistreated in that fashion? Obviously, it has a direct and negative impact on safety.

One of the issues I have noted with the STCW is that in some respects, as far as concerns fatigue and so on in conjunction with working hours, I do not think the STCW goes far enough. A man may have been on a ship for 12 months or more, working in substandard conditions with very short turnaround times, having no recreation, not being able to contact his family on a routine basis, perhaps even not having been paid. The fact that he has worked the previous day in accordance with the STCW in terms of hours of work pales into insignificance. As far as safety management goes, these are all issues that I think have to be taken into account.

CHAIR—Mr Coombs, when you come across abuse of seafarers from other countries, as an Australian what mechanisms do you have? Can you use moral persuasion, or do you have more enforceable mechanisms that you can bring to bear on overseas shipping?

Mr COOMBS—I am sorry; I thought you were talking to Mr Charles.

CHAIR—I was going to ask Mr Charles something similar. You can both answer that question, if you like.

Mr CHARLES—You can make representations; there is not much else. It depends on the type of abuse, obviously. We do have access under admiralty law to the Federal Court of Australia in respect of non-payment of wages and other matters to do with contractual arrangements on board the vessel. But that is very limited. Because of the short time that vessels are now staying in ports, it also limits your ability to trigger that process. There is quite a bit of preparation work that needs to go into arresting a vessel. The main element is to make sure that you have the story right, before you go ahead and arrest a vessel.

Mainly I suppose all we have is gentle persuasion or a twist of the arm here or a twist of the arm there, possibly. But one of the things I think we need to look at, and I think it is something that is patently clear, and I suppose the thrust of the ITF's submission is pointed in this direction—is that, while we have made massive strides over the last 10 years in respect of the structural difficulties, the impact on safety of vessels and putting in a regime to counter that, we are still seeing not just monthly but weekly and sometimes daily on the coast of Australia occurrences of abuses of one form or another to seafarers.

I really think that is an area that cannot stand in isolation from the structural problems in respect of safety. It impacts—as Mr MacGillivray has said quite rightly—on the question of what is happening on the home front in respect of not being able to talk to home or having problems with officers abusing you. It is an issue of sheer desperation. There was the case of the *Hunter* off Newcastle. One of those seafarers, out of absolute sheer desperation, jumped overboard and attempted to swim 4½ miles into the shore at Newcastle to alert the authorities about what was happening on board that vessel. Those things do not just happen. That was his only way out. The only way he thought he could bring the attention of the Australian authorities to what was happening on board that vessel was to make a little makeshift raft, jump over the side of the ship in the middle of the night and try and get to shore.

I do not know what we are going to do, but I think there has to be a lot of thought and a lot of constructive effort put into deciding what we can do as enlightened individuals in this area. We cannot continually wash our hands of it and say, 'That's fine, the industry can take care of itself. It is a normal contractual arrangement between an employer and an employee.' That is fairyland stuff. It is not happening.

Who is going to take responsibility? Why should it be left to the people from Stella Maris or the ITF or the MUA or one of the other maritime unions to take up the cudgels and do these types of studies? I have asked for two papers to be incorporated. They have been prepared by the ITF. One concerns the legal rights of abandoned seafarers. The other is a case study during 1996-97 of ships that have, for one reason or another, abandoned their crews in various ports around the world.

CHAIR—We will vote on that after this section.

Mr CHARLES—We have to address that question, but it cannot be done in isolation. We cannot continually hide behind the fact that there are other countries that have not ratified 147 for various reasons,

such as the social implications. Isn't that what we are about? We are an enlightened country. We should be leading the way. We should not be hiding behind other countries. Why shouldn't we be doing something more to help seafarers?

Because of their economic circumstances at home they go to sea for \$5 a day more than what they might get if they stayed at home. They are economic refugees. I do not want to take up any more time. I am fairly passionate about this. We have to grasp the nettle and have a look at what we can do. What can we do to assist them? As a port, why turn our backs on it? The flag states turn their backs on them. The port state turns its back on them. Who can they turn to?

Mr QUIRK—I understand what Mr Charles is saying but as a port state we would never turn our back on a problem. I have said that before in committee meetings. Our influence, and the influence of the seafarer organisations, can bring about a change in the circumstances on the ship, but we are operating in a grey jurisdictional area.

As I said before, there are people who keep a very close eye on AMSA to ensure that if we step outside our area of responsibility we are sanctioned in the Federal Court. They are commissioned by some overseas shipowners. It is a very grey jurisdictional area. We, at AMSA, agree that there is a social problem there, but it is not only the shipowners. If you come into a port like Hay Point or Abbott Point you are not allowed ashore unless there is a special bus there. You are a prisoner on a ship.

As a seafarer myself until not so long ago, I have been to ports where you are not made welcome, where you are seen as an unnecessary visitor. There is nothing there for you. You are a prisoner on the ship. Such is the life of a modern seafarer. There is no romance these days out there. The issues which have been raised in this session are real issues and need to be addressed, but they need to be addressed by the industry rather than by AMSA or by Stella Maris or by the ITF.

Mr McDOUGALL—Am I hearing correctly from both Mr Charles and Mr Richardson that the industry, as a group, has no records of all these problems that you raise in relation to accidents, mistreatment and all the other problems? Have there been no studies? You are calling for a study now but has there not been one before. Is that correct?

Mr RICHARDSON—That is correct.

Mr McDOUGALL—Why would it be that after all these years of operation the industry has never studied itself to come to grips with these problems before, whether they be shipowners, operators or organisations who supply crew to them? I cannot understand that. I find this an astounding comment that has been made here today. I find it astounding that this has not happened in the past.

Mr QUIRK—You must understand the nature of the industry in terms of its globalisation. If we take away the Australian fleet and the remaining US fleet and the remaining British fleet and look at the real world shipping organisation, a ship may be owned by one company and one nation, chartered to another nation, sub-chartered to a company or another nation, managed by a company in another country, with crew supplied by a company in the Philippines. At the end of the day you do not know who is responsible for that

ship. Where is the beneficial owner of that ship? Who, at the end of the day, takes responsibility?

We in AMSA have been down that loop in terms of compensation claims, in terms of pollution prevention. You go around and around in circles. A good example is the *Kirki*. We are still waiting to finalise issues associated with the *Kirki* investigation. That incident happened six years ago.

As an industry there is a lack of accountability in terms of some of its operations. That stems from the global nature of the industry, and from the lack of accountability of flag states. There is a wealth of information out there within the industry, within AMSA, and within the other maritime safety authorities about these situations, but there is a lack of a political or legal framework whereby it can be addressed on an international basis.

Mr McDOUGALL—What you are telling me is that even within the Australian shipping operation along the Australian coast, this information is not available. Are you telling me that shipping companies of the size of P&O and Conrad that have been around for years do not have this basic information about how to operate a business?

Mr QUIRK—No, if all ships ran like Shell or P&O Nedlloyd or other reputable, long established European and Japanese companies, there would not be a problem. But the nature of shipping these days is the fact that the competitive nature of shipping forces operators to go to the lowest cost alternative. That means registration in Honduras, crew managed by the Philippines, chartered out of Monaco, and managed out of Geneva. At the end of the day you do not know who is accountable. It is that rump of the industry, the dark side of the industry, that causes 80 per cent of the problems. It is the old 80-20 rule.

Ships, whether they are Australian or British or Japanese, will occasionally have problems. That is a fact of life. It just mirrors society in general. There is a rump in the industry that goes out of its way to avoid compliance with international convention requirements. They cause 80 per cent of the problem.

CHAIR—Mr Richardson, if you want to jump in at any time with the human dimension, just give me the nod.

Mr HOLLIS—Mr Quirk, I appreciate the legal difficulties there are in this area. I also think that you more adequately summed it up when you said that the police did not want to get involved, as was witnessed in Dampier the year before last. What would happen if a seafarer went missing on an Honduras registered vessel, crewed by Bangladeshis, on a voyage from Sydney to Brisbane? What would happen? Would the New South Wales or Queensland police get involved? Would the Federal Police? Would it be reported?

Mr QUIRK—Let us assume that the ship knows the crew member has gone missing. An alert would come into the Maritime Rescue Coordination Centre in Canberra—

Mr PETER MORRIS—Gone missing or dropped over the side?

Mr QUIRK—I take it he just fell over the side in an industrial accident, Mr Morris. We would, through the MRCC in Canberra, alert nearby shipping or overflying aircraft, or activate a search program for

that seafarer. If we were unfortunate enough not to be able to locate that seafarer, and he was missing, assumed dead, we in AMSA would notify the flag state of that ship. If it was Honduras, we can virtually guarantee that there would be no response. We would automatically notify Kit Filor and the maritime investigation unit. Whether or not he does an investigation is up to his own rules of procedures. In relation to police action, either New South Wales or Queensland would mark it down in terms of their search and rescue, but I doubt if they would proceed any further than that, particularly if the ship was on a voyage outside the 12-mile zone, which are international waters.

Mr HOLLIS—I meant that you were too generous, that you were assuming it would be reported. But I was assuming that, say, there were 20 seafarers on board when that ship left Port Botany, and there were only 18 or 19 when it arrived in Brisbane and someone said, ‘Someone’s gone missing’—that the master had not reported it, no-one had reported it. I am more interested to know what the procedure would be then. Would people just say, ‘Tough’? Would there be an inquiry? There would most certainly be an inquiry if someone fell out of an aeroplane travelling from Sydney to Brisbane.

Mr QUIRK—Obviously I can only surmise what would happen in that case. We would notify the flag state and the police, but given past experience of police reluctance to get involved in an overseas flagship situation, particularly at sea—

Mr PETER MORRIS—Captain Quirk, why don’t you tell us what was not done in respect of the seafarer who died in the water off the *Glory Cape* on 31 October 1995? He was beaten by ship’s officers, went over the side and died in Australian waters. The ship still sails the world merrily. Mr Chairman, this is one of the worst cases in the history of maritime trading to Australia. What have you done about that?

Mr QUIRK—That was handed to the Western Australian police, who did an investigation and chose not to prosecute the incident further. It was a criminal case. AMSA has safety jurisdictions under the Navigation Act; we cannot get involved in criminal jurisdictions. We do not have that authority.

CHAIR—The officers of that ship were not extradited?

Mr QUIRK—No. It is still up to the flag state, and I forget the flag of that vessel.

Mr PETER MORRIS—Panama.

Mr Quirk—It would be open to the flag state to take action under international law. But that situation was well investigated by the Western Australian police and, for reasons best known to themselves, they did not pursue a prosecution.

Mr PETER MORRIS—There was a post mortem carried out on the body of that sailor—the radio operator—and, remarkably, the post mortem showed that there were no lesions or injuries to his body after he had been beaten by iron bars and died in the water a few hours later.

Mr COOMBS—I think the answer does not lie in prosecution, obviously for all of the reasons that are associated with actually doing that. The answer lies with providing some form of deterrent by way of

presence and scrutiny. This is why the ITS flag of convenience campaign celebrates its 50th anniversary this year, because there has been this enormous gap between port state control, shipowners, missions and other interested parties to provide the sort of protection that these people need.

I was going to raise that very example because that was the classic example. Patrick Quirk talks about the various types, but that vessel, the *Glory Cape*, was not your absolute bottom of the harbour flag of convenience vessel; it was a Korean crew. There are hundreds of vessels in the *Glory Cape* category out there, hundreds of them, yet we had the worst possible example of abuse of a seafarer, which resulted in the loss of life. So it does not have to be the absolute scoundrel ship owner. Even though they have disappeared and can no longer be traced, to all intents and purposes they no longer inhabit the planet.

CHAIR—Outside AMSA's role, there is sanitation and so on.

Mr COOMBS—I wanted to come to that.

CHAIR—What other regulatory or industrial action can be brought to bear on a ship that has a record of mistreatment of crew? Has that ever been exercised in Australian waters?

Mr COOMBS—Yes, it has.

CHAIR—Of recent times? Would you shut down services to the ship until they had complied?

Mr COOMBS—I will just defer to my colleague.

Mr CHARLES—The *Glory Cape* was arrested by the remaining Indonesian crew. They and the deceased seafarer's family took action in the Supreme Court of Western Australia for punitive damages and payment in respect of the death and what had occurred. Most of the Indonesian crew went overboard, but two remained on. One was beaten so badly with an iron bar that he was a hospital case. Unfortunately, one seafarer died in the water.

CHAIR—With those officers, was no effort made to—

Mr CHARLES—No, Patrick Quirk is right: there was a police investigation over a period of time. For whatever reason, there has not been a coronial inquest as yet. I do not know whether there will be one; I am not quite sure of that.

The difficulty we now have is that the seafarers have mounted a legal case. There was a promissory note of a bond entered into with the Supreme Court of Western Australia, and that bond was never honoured. So there is no deposit. The vessel was released from arrest on the provision of the bond, and that bond was never honoured. I suppose we are three-quarters of the way through a legal case where we probably will get a judgment in favour of the seafarers, but we will not be able to enforce it. The owner no longer exists. It was a one-ship company. It now has gone, and the vessel is plying the world under a different name. When the seafarers get their judgment, the only ability they will have is to find a jurisdiction to re-arrest the vessel to enforce the Australian judgment.

It is one of these emotive things—a worst case scenario, I suppose. It just shows how convoluted the whole thing can be. Those seafarers by themselves could not do anything. But they were able to come to members of the MUA in Dampier and the mission. They all got involved in it. I suppose it was through the offices of the ITF in Fremantle that they were able to institute these legal steps.

Apart from that, there is no other legal or industrial forum in Australia to which a seafarer can go to seek assistance. The admiralty law is very narrow in respect of what action they can take. It is only to do with wages; it is not to do with any other mistreatment that may occur on board. That is the dilemma.

I would just make this point: a seafarer coming to Australia is lucky. If we are saying that that is all we can do, that is a lot more than most other jurisdictions can or will do—but it still is not enough.

CHAIR—Have you anymore comments, Mr Coombs?

Mr COOMBS—In relation to the *Hunter* off Newcastle, the vessel that was mentioned previously, at present the union is still in the Federal Court with the potential of massive damages being found against it because of the action we took in what I think were probably the most defensible circumstances of all because of a person having gone over the side. So there are enormous problems, and I do not pretend to have the answer.

But in respect of Australia, I thought one of the answers was the adoption of your recommendation that Australia sign off on that 147 and not accept the government submitting as a fact that it would not really empower the port state control to do anything. The simple fact is that we were signatories to it and that they were able to say that they could actually check on the welfare of seafarers, because the welfare of seafarers is the important part of 147.

Here we are, a First World developed country, signatory to ILO conventions—but not this one, and still not this one because of some transparent excuse that we are not able to implement all aspects of it and so we should not take it on. The simple fact of our being a signatory to it would encourage other countries in our region to become signatories. That is the way this ILO convention issue works. This is how they defend their non-compliance: ‘Australia’s not a signatory, so why should Indonesia, the Philippines or Korea become a signatory?’

The other question is more subjective, and this is a quantum leap. Just to give you some idea of the protection that is afforded to Australian seafarers who could be confronted with this same dilemma, as Patrick Quirk says, in a distant port, we have the Navigation Act. We have in the Navigation Act the marine council, which is also up for the high jump. The marine council provides an effective mechanism to check on the standard of accommodation and the welfare of seafarers on Australian ships. Again, under the name of enterprise employment, it is being argued that this is no longer required, that we can leave it all up to the employer.

Let us assume that the quality of Australian seafarers is good, and I will be magnanimous and say that the quality of the employer is good as well. This is where we have to be extremely careful about what we do in this country, because what we consider is appropriate in respect of the position of our seamen affects other

foreign citizens. You can see the difference.

What happens on foreign flags of convenience shipping could not happen on Australian flag shipping for a whole range of reasons, not the least being the Navigation Act and all that it means to the protection for Australian seafarers. There is a huge difference, an enormous difference. But any modernisation or change to the arrangements covering Australian seafarers should always be discussed and considered in light of what we are trying to achieve as an objective in other areas as well. We must consider not just our own operations and our relationship with employers or whatever; it is a question of trying to maintain and spread the conditions, because these are tragic circumstances. There would not be anyone listening today who is hearing this for the first time who would not be astounded at the lack of accountability and the treatment that is afforded to Third World seafarers and flag of convenience shipping.

We do not get too concerned about it. We can be arm's length to human rights abuses in faraway countries, but these are human rights abuses that are occurring in Australian territorial waters on a daily basis. This is not a plea; I simply want to shore up the existing position of Australian seafarers. I want to say to the Australian government and to everybody else that has an input that whenever you consider changes to the conditions applicable to Australian seafarers and protections, consider what it means in respect of lowering the standard or removing the standard for the rest of the world. Try and formulate and implement change on the basis of not losing sight of the objective of having the rest of the world come up to our standard.

Capt. FILOR—Trevor Charles has already said what I wanted to say. A lot of the problem which we face, particularly in crew welfare in tracing ships, is the corporate legal walls that can be raised around Asia. Patrick Quirk just mentioned that the *Kirki* was still an issue six years later on because it was a one-ship company. That was clearly a nonsense because there was a whole fleet of ships within that company, but because, legally, they can create these walls, create these companies, that is one of the major difficulties, and we find it all the time.

The first people to a shipping accident are usually the solicitors acting on behalf of the ship. We arrive there and often one of the first things disputed is our jurisdiction to be there. That takes up energy and time which we could be using more usefully.

Mr PETER MORRIS—Your jurisdiction to investigate?

Capt. FILOR—Yes, the investigation's jurisdiction.

Mr PETER MORRIS—Your presence is disputed?

Capt. FILOR—Yes, it is disputed, although usually without foundation. But this is one of those hurdles—

CHAIR—They slow up the process.

Capt. FILOR—Yes, it will slow up the process. It does not happen all the time, but it has happened. On one occasion we were able to go to the flag state and tell them what was happening and they just turned

around and said, 'Investigate on our behalf.' So that overcame that problem.

There is another wheel going on which is that legal wheel which involves keeping a very close eye on the fact that we do not overstep our own jurisdiction, and that is dangerous ground to get into.

Mr RICHARDSON—It comes back to what I was saying earlier about the physical abuse that is going on on board ships. If you want the documents regarding the *Glory Cape*, I have them here and I can table them for you so you can read them.

CHAIR—We will get them from you in a minute.

Mr RICHARDSON—That type of incident is still occurring, and it will continue to occur unless we as a group focus our attention on this issue of bringing about control over our own territorial waters in relation to seafarers who are travelling those waters.

CHAIR—It comes back to the point raised this morning.

Mr RICHARDSON—Yes, it does.

CHAIR—Not just in relation to navigational regulations but in relation to human circumstance as well.

Mr RICHARDSON—Exactly. I have always thought that with any ship that is inside our territorial waters, regardless of what flag state it is, the crew and the welfare of those seafarers should come under our jurisdiction. Whether the government needs to look at legislation to enforce that or bring that about, or particular ILO or IMO recommendations or regulations, then that is where we need to go. But we need to do it as a body, not as individuals.

CHAIR—I have a question to AMSA. To what extent will this new ISM code deal with crew welfare issues?

Mr QUIRK—There is a link, as previous speakers have said, regarding the safety performance and the social-cultural structure on the ship. From AMSA's perspective, if we came across an issue of a social-cultural nature which we believed interfered with the safety performance of the vessel, we would have no hesitation in intervening on that ship. Every case would need to be examined closely by our senior management as an incident developed because, as I said and as Captain Filor mentioned, there are people out there who are just waiting to stamp on us if we go outside our jurisdiction. We need to tread very warily.

In summary, there is a connection between ISM and social welfare matters. The ISM code will help us in those areas of a ship's operation but it is not the total solution by any stretch of the imagination.

Mr PETER MORRIS—Mr Campbell, BHP is in this trade internationally. You are a very large charterer of foreign flag ships. Is this the way you operate? If it is not, why don't you?

Mr CAMPBELL—Yes, we are involved in the trade as an owner, an operator, as well as a large charterer. I have to say that after having been in the industry for a number of years, I would have to agree with John Coombs that it is always very disturbing to keep hearing that these cases are still occurring in the industry. None of us condone that, that is for sure.

In our own operations offshore, we have had a number of instances where we have had illnesses and injuries that have resulted in us deviating vessels quite long distances. We have also sent nurses with people on international flights so that they can get back to the Philippines. We have a lot of respect for these people and we like to care for them as we do in Australia. We do not see any difference in our standards. What we apply in Australia we apply to our people working offshore. There is no doubt about that.

Mr PETER MORRIS—What we are hearing about we have heard about before and know about. Isn't this going on in the pursuit of more competitive rates, to use a euphemism? Isn't that what it is all about?

Mr CAMPBELL—I would imagine that is the whole reason.

Mr PETER MORRIS—How are you able to run your business and still avoid those kinds of practices? Do you beat up your seafarers or starve them or not pay them if they complain? Seriously, you are a major operator and you are able to conduct your global business in a proper fashion. Where should we be focussing our attention? Where should government be focussing its attention?

Mr CAMPBELL—Mr Chairman, we are obviously a quality owner and operator and we see ourselves as that in the world. We certainly do not condone that sort of operation by any other owners. In fact, we would like them to leave the scene and let the good operators get on with it. But we are competing with them. They are our competition out there and the only way we can remain in these trades is to be niche players. We do not take on the whole world. We do stay in particular trades where we do have some particular advantages. It becomes very commercial for us, but we do not have to go to the lengths that other owners do to stay commercial.

CHAIR—Colleagues, we are cutting very much into our plenary time, but there is a quick question from Mr Hollis and a comment from Mr MacGillivray.

Mr HOLLIS—The question is to you, Mr Quirk. I know you should not have to defend all government policies but what always amazes me is the difference between regulations concerning sea and air. I particularly like what Mr Richardson said. It is an argument that I have used before: when they are in Australian territorial water, they really should come under Australian domestic law. I will give you an example of that—airplanes flying over here. Now that Australia has nationally banned smoking on airplanes, it does not matter what aeroplane you are flying on—KLM or whatever it is—immediately you come into Australian air space, you cannot smoke if you are on an international aeroplane. When these ships come into Australian territorial waters, why cannot they be subject to Australian domestic laws?

Mr QUIRK—Obviously, I cannot talk on government policy, Mr Chairman, but there are occasions when we do apply regulatory regimes to suit our domestic objectives. Two examples would be the soon to be

implemented ballast water regulations and the existing implementation in Australia of the bulk cargo—BC code—which mandates certain precautions to be carried out in terms of certain cargoes. In most nations that is just recommended. In Australia we mandate that through legislation. So there are examples of where we do impose domestic legislation in excess of international legislation.

On the matters that we are discussing now, from AMSA's perspective, we are the servants of government. Government has not, I believe, yet directed enough attention to this matter, but in the government's policy deliberations in the future, it may be a matter for discussion. That is all I can say. It is an area I cannot comment on. Maybe Dr Feeney, who is closer to policy formation—

Mr PETER MORRIS—Give him a go.

Dr FEENEY—Well, I have just one comment in relation to it. I do not think it is a general legal issue. I think aviation is regulated on a bilateral basis, whereas the maritime industry is done on a multilateral basis. I think that is the reason for the ability of the Australian regulations to limit smoking.

Mr McDOUGALL—I have just one quick question and maybe the people representing the shipowners will be able to answer it. We are seeing a great increase taking place in the last couple of years in relation to piracy. I think it is predominantly in the South China Sea. I see these sorts of things as similar. What are the shipowners doing in the world in regard to handling this increase in piracy? Surely it is of interest to the shipowners not only on the basis that it is their vessels, but also on the basis that there is obviously the crew at stake.

Mr CHAMBERS—I will address that. Certainly at an international level amongst the operators, we continue to lobby governments to address the issue, especially the littoral states that are close to the areas of high piracy. It is a policing issue in some of these areas. Apart from that, shipowners have instructions on how to conduct themselves when they are in areas of high risk. We can only implement operational procedures as far as is possible with the number of crew on board the particular vessel.

Mr QUIRK—The IMO is taking a very keen interest in this issue and AMSA will be part of a working group which is touring South China Sea nations and Malacca Strait nations in October, to canvass this issue of the increased instance of piracy. We are also participating in a workshop in Singapore in February to develop strategies to combat piracy and Captain Briggs will be on that working group in both instances. It is a serious problem. Australia has a commitment as a flag state and also as a port state in that many of the ships trading to Australia ply through those waters. It is a serious issue and we are addressing it through the IMO as well as through our foreign affairs department.

CHAIR—Do any of the other operators want to comment on that?

Mr CAMPBELL—From our point of view, certainly it is of great concern to us, and a number of our vessels actually traffic through areas of known piracy. Our discussions to date with many of our officers—at least on board our own vessels and on the way they manage the vessels—has revolved around being alert in those particular areas and not really resisting the boarding, if in fact it does take place. Our officers are now coming back with ways and means of securing the accommodation from the inside to stop surprises during

the night-time passages. So there is work on it. We do not have the final answer, but it is happening.

Mr MacGILLIVARY—I will just go back to what Graeme McDougall was pointing out before about the statistics or keeping information on these occurrences of abuse. There are a certain number of statistics which have been maintained on fatalities at sea vis-a-vis ship accidents. That information is readily available, but the other side of the coin, the more human face, as it were, is not so readily available. In 1995, DNV completed a study where they tried to capture that, basically. Those were the injuries which occurred on board the ship as a result of work related incidents on board the ship and also those which are related to social factors. The results that they came up with were quite astounding. They said that, of the total fatalities at sea, 25 per cent of those were attributed to ship accidents. Those numbers are actually decreasing but the number of fatalities that were related to injuries on board the vessels that were work related were 25 per cent.

They said over 50 per cent of the fatalities at sea were related to social factors. With that, we are dealing with issues like homicide, drug abuse and suicide. Obviously, there is a great need in this industry for something to be done. The recommendations that came out of the DNV study were, firstly, as Graeme McDougall pointed out, that there is a need for more detailed information on which to base decisions, and a centralised body to collect that information—some kind of reporting system that would capture those types of fatalities that does not exist today. And then some kind of punitive measures could be put in place to capture the operators of these vessels which are doing this with impunity.

Quite obviously this is what has come out of the study. We are all here, we are all going in the same direction and our aims are very much the same. What has not occurred in the past is greater cooperation between the regulatory bodies and the organisations which Ted Richardson represents and clearly the ITF and the MUA. There needs to be much more cooperation and exchange of information to capture the operators. That is where these bad guys slip through the cracks basically. No-one of any official capacity takes an interest in these—not the flag states, not the port states, not IMO, nobody. That is why it continues to go on today.

CHAIR—On that sobering note I will draw that fifth focus area to a close and thank all those who have participated in that segment.

Resolved (on motion by **Mr Peter Morris**):

That this committee receives as evidence the documents entitled *Abandoned seafarers* prepared by the International Transport Workers Federation, London, and *The legal rights of the abandoned seafarer* by Dierdre Fitzpatrick, Legal Officer of the ITF, London, as exhibits Nos 7 and 8 respectively to the inquiry into the role of shipping.

Mr PETER MORRIS—May I have a copy personally tomorrow please?

CHAIR—It is so ordered.

Plenary session

CHAIR—We will now open the plenary session. I regret it is so short. We lose our quorum at five to five, so we have to finish sharp on five to five. For those in the gallery, if you wish to participate would you come to the corner. There is a mobile microphone if you want to make a comment or ask a question of one of the participants.

For this last period, could you briefly outline perhaps two or three major issues that have arisen under the five focus areas that are important for you. It will help us because we want to have this report for the parliament in August. If we can capture the flavour of what you consider important, that will assist us in putting our report together. Who would like to commence?

Mr McARTHUR—I would like to raise the issue of the enforcement of AMSA's deliberations or findings, both in a legal sense in the first instance and in a practical sense.

Mr QUIRK—Could you repeat that please?

Mr McARTHUR—With regard to the enforcement of your findings and activities in a legal sense, how are you going about that? Is that working or is it causing difficulty? Secondly, in a practical sense, what are you doing to bring about change in all of the areas we have talked about today?

Mr QUIRK—In a legal sense, there are provisions in the Navigation Act for us to take legal action against shipowners found to be in violation of the required safety requirements. We found that, in practice, the best sanction was to detain the ships. As has been commented on today, the term 'detention' seems to raise some emotion. Our experience in the courts is that the legal process is cumbersome, as it needs to be in terms of due process, and the penalties provided by the judiciary do not always meet our expectations of the potential problems those ships have caused.

In other areas of our act, we now administer the Occupational Health Maritime Industry Act and we presently have three cases with the Director of Public Prosecutions in terms of Australian owners who may have breached provisions of the OH&S act. We do have a progressive legal enforcement. The minister has announced a review of the Navigation Act and we would see that over time perhaps introducing a more streamlined legal process. The current process is steeped in history rather than practical outcomes.

In terms of practice at the coalface, as I said this morning, I believe our safety and environmental protection message is getting through to the industry. Most industry sectors within Australia now accept that they have a role to play in the overall safety equation of Australia's maritime transport task. We find that refreshing. There are occasional problems in terms of ship quality, which we accept. But, as I think discussions showed this afternoon, there are still issues remaining in terms of the social and cultural aspects of overseas shipping. Australia is not unique in that situation, but I think we have the elements of consultation to ensure that the issue is better addressed in the future, with a more cohesive approach to the core issues.

CHAIR—I do not want to anticipate what you are going to say but would it be fair to say that a

common theme that arose from late this morning until this afternoon was a feeling, if not a recommendation to the Commonwealth, that the Commonwealth should exercise jurisdictional power over safety operations and criminal law with regard to vessels exercising transit rights through Australian and territorial waters? Is that a common theme? It was raised in relation to safety and operations and it was raised later in terms of criminal law. What do you think?

Mr QUIRK—I think there is an indifferent shake between two classes of ships. With vessels which were exercising innocent passage through our waters from point A to point B and happened to go through our waters—that is a fact of life under international law—it would be difficult to implement or even enforce that on those vessels. Where policy could perhaps be looked at is in terms of vessels which have a connection with Australia through a charter arrangement or by carrying Australian cargo. There is already provision in the Navigation Act for foreign vessels to come under the jurisdiction because of a commercial attachment of a voyage to or from Australia. That could be expanded upon in terms of what you are suggesting. But there are some serious legal issues which would need to be investigated by the policy departments of government in that area.

CHAIR—What do you think of that, Dr Feeney? Is that a possibility?

Dr FEENEY—As Patrick Quirk mentioned earlier, the minister has announced a comprehensive review of the Navigation Act. The terms of reference have not been set for that. That is one area that could be looked at in a possible review.

CHAIR—I saw that wicked blink in your eye, Mr Coombs. On this occasion, we are talking about positive aspects of the act. Would anyone in either of the two galleries like to comment on any of the proceedings today?

Sister MARY LEAHY—I suppose we have heard the stories of particular incidents that have occurred, and everybody knows something of them. From my experience every day, abuse on ships is gross and there does not seem to be any place for the seafarer to go. They will not tell anybody if they feel that anybody is in authority. They might tell me because I happen to be sitting in a cabin with them, but I do not know where to go with that sort of thing. It is happening every day, even as we sit here probably. It is a bit frustrating. I know I go to Trevor or the MUA, but they have already got enough on their plates. Often, it is an individual seafarer; it might not be a total consensus. Sexual abuse and physical abuse are happening all the time.

CHAIR—Is there any comment on that from around the table? Sister, we will take that on board. Thank you very much for that comment. Would BHP like to talk on two points that came through most forcefully to them today under the terms of reference? They need not have been addressed fully today, but under the terms of reference what two things would you like us to take on board?

Mr CAMPBELL—There is no doubt about the quality aspect of vessels trading to Australia, as well as trading in other parts of the world. Certainly we feel that, in the Pacific Basin, the quality has improved. We endorse the work that AMSA are doing in terms of port state control and we think that is certainly paying some dividends. We, obviously as a private company, also strongly believe that we should be

maintaining our stance on this, which we are. We are continually improving our system to try to charter only the best tonnage that can do the job for us. In our owning operation, we look at the quality of the vessels that we do own and the quality of the people that we have manning them. That is very important to us.

CHAIR—That would be your first point. What would be your second?

Mr CAMPBELL—The second point is that, with Australia being an export nation, an area of interest to us is looking at the other charterers in Australia to see if they cannot show more concern about the types of ships that they are chartering in coming to Australia. The balance of the cargo—the major part of it—is certainly FOB, so there are some shippers involved.

CHAIR—Is there a charterers club or association?

Mr CAMPBELL—Not essentially, no. We do need to do a lot more work in that area to get everybody to understand this issue.

CHAIR—Thanks, Mr Campbell.

Mr RICHARDSON—There are two aspects that have come through very strongly to me today. One is the level of standards of inspections of ships. I find this very high, commendable, and I would like to see it encouraged and increased. On the aspect of the seafarers and the human relations between the industry and the person on board, I would like to see perhaps a more collective approach from the industry towards the person on board the ship. It is not something that this committee can order, but it is something that the industry can take on board—to focus their attention on those seafarers, not only Australian, but internationally as well.

CHAIR—We will come back to you to wind up perhaps. Mr Sturt, anything from Torres pilots?

Mr STURT—It would only be my own observations about training.

CHAIR—Let us hear them. What are the two areas?

Mr STURT—The training of officers these days seems to be a little bit up in the stratosphere and not enough on the basics. I find that it is very annoying to go on ships and the officers cannot even correct, or do not even think to look for, minor errors.

CHAIR—So you are saying you would make that aspect of further training?

Mr STURT—Yes, it should be very much drummed into them. They could do a lot of work on that. The fact also that officers rely entirely almost these days on electronic instruments and yet they have no idea whatsoever how to fix them.

CHAIR—Basic navigation.

Mr STURT—The only electronics officers that we used to rely on, the radio officers, have been taken off the ships. The instruments are much more reliable nowadays but the officers should have more hands-on training of how to fix minor problems anyway.

Mr CHAMBERS—I have two points. Firstly, on the minimisation, or the continuing minimisation, of the opportunity for substandard operators and substandard ships to profit from cutting corners in terms of safety and pollution prevention and the human aspect. I thought, when Graeme McDougall asked the question about who was keeping statistics on crew welfare, that there is no-one sitting around the table here who represents substandard operators. So if you found somebody, then you could ask the question of them. If they did, then you might get an answer. But there is nobody around the table representing substandard operators.

From a quality operator's point of view on crew welfare, for example, the International Shipping Federation is in discussions with the ITF about the production of a code of best practice for good employment practice. This comes on from some policies that were developed at that level about the use of manning agents and also industrial relations. From a quality aspect, we can highlight what those quality practices are, make them available, make them transparent, so that they can be used as a benchmark against those who are not meeting those standards. That is one area that needs to be continued.

Secondly, we have to continue to focus on the adequate implementation of existing regulation internationally rather than coming up with new regulations. We are still in the early days of implementation of both the ISM code provisions and the STCW convention amendments that will affect training. There is a long way still to go. We even acknowledge that in Australia. Even from the Australian flag point of view, there is a long way to go. It is an ongoing process in terms of quality control with, say, the ISM code. There is still a lot of work to be done in that regard and we should be focussing on that rather than thinking about new regulation in the industry.

CHAIR—Keep things a little shorter, colleagues. We have got about 10 minutes.

Dr LEWARN—This will be short. I want to talk about two issues which are important in terms of training. Firstly, if possible, I would like to see AMSA's processes of recognising competency and prior training in short courses speeded up, and, more specifically, for them to inform those of us who are involved at the other end of that process of their decisions in writing.

Secondly, we have said today that Australian maritime education and training appears to be certainly regional, if not world, best practice. Again, I would like to see the government being a little more proactive in supporting Australian maritime education and training in trying to raise maritime education and training standards in the Asia-Pacific region.

Mr SHORT—I want to make two points, which I will just state and not comment on. Firstly, the most effective way of assisting in raising the competence of crews is through increasing the provision of Australian expertise to assist Australia's neighbours which are major providers of manpower to the global fleet—for example, Indonesia, the Philippines and China—in the development of their own maritime education and training. Secondly, the opportunity to utilise Australian maritime education and training expertise should be expressed at senior level meetings in the Asia-Pacific region and incorporated in

Australian aid programs.

Mr D'SOUZA—As I said earlier, we have a very good system of crew training and competency in Australia. We tend to concentrate on knowledge and skills. But clubbed with the associated human problems, which everybody is talking about, is the major issue of attitudes of the individuals in general, even at the time of the accident or incident itself. The side effects are also fatigue and stress related problems. We cannot address those issues, because they can be faked in an examination. That is an issue that needs to be taken on board as well.

Mr COLE—I have two issues. I am going to fudge them because I am going to try and get three into two. Firstly, I would like there to be an ongoing dialogue with AMSA over some salvage issues that we identified in our paper. Secondly, I would like to continue that dialogue with AMSA in terms of the STCW 95 requirements for certifications. We—and I am talking now with a shipowner's hat on—have a concern that Australia may be too far ahead of the pack. It is nice to be world's best practice, but not to be winning by 10 furlongs.

The other issue that Mr Quirk raised earlier in the morning, and it has not been touched on, is requiring compulsory liability insurance or P&I club entry. From a national perspective, one of the problems is that it would cause tremendous harm to the Australian economy if we had a major oil spill in this country and the person or the vessel responsible for that spill was with a reputable P&I club. That is an area, again, that requires ongoing discussion with AMSA. It is extremely important.

Dr FEENEY—I think the desire to eliminate substandard shipping around the world is unanimous. While recognising that there are a lot of complex issues there and that there is no real consensus about how to go about it, there is a recognition that the multilateral process is a useful mechanism for achieving that end. In that context, I point out that Australia has been actively involved in APEC, OECD and IMO. I think it is generally considered to be fighting above its weight in that regard.

The other issue is harmonisation of standards and certification internationally and also within Australia. We can do something about that latter one. That is being progressed by Australian transport ministers for the next meeting.

Mr RIDLAND—Firstly, I would like to mention the focus on overseas seafarer training qualifications and the ultimate effect on the safe operation in ships and the protection of the environment. Secondly, I note that we have heard the importance of crew welfare from the missions and also from the ITF. A lot of these are funded by donations, bequeaths and shipping companies. In my experience as director of the Seamen's Mission of New South Wales, it is getting more and more difficult to actually provide that range of service based on donations and that type of thing.

Mr BOHN—Without appearing to be presumptuous, we would appreciate Australia continuing its focus on improving the measures to ensure flag state compliance—that is, reporting to IMO—and also on review of the criteria in assessing flag state performance.

Capt. FILOR—Firstly, the issue of crew welfare is undoubtedly tied up with safety and performance

on the ship. That has a direct bearing on accidents. Secondly, in his paper, Mr Charles mentions the new code for international investigations. It is a small step, but it is encouraging greater cooperation from what we call 'substantially interested states', which would include the states of the crews on board. We have taken one step down the path. We have got a long way to go in the accident field, but at least we are trying to incorporate that into our thinking.

Mr CHARLES—I have two fairly quick comments; I think I have had enough of the floor already today. Firstly, I think we all agree that now is not the time, given the drop in freight rates, to take our eye off the ball in enforcement of safety on board the vessel, structural difficulties, inspections and the quality of ships that are coming to Australia. Secondly, I think we have all recognised the important need to have much closer scrutiny in respect of crew welfare. I think, as a first step towards that, the government should finally ratify ILO convention No. 147.

Mr COOMBS—A lot of comments have been made about the standard of the Australian industry. I agree. By any comparison, it is a world-class standard industry. A lot of the debate today has been around the question of flag of convenience and the treatment of international seafarers. It is freely recognised everywhere in the world that we have got the best port state control in the world, outside of the US Coast Guard. The fact that this—and Peter Morris in his efforts in the *Ships of shame*—is recognised means that we do have a capacity to have an influential and positive effect on world shipping. I am very pleased to have participated in the discussion on that area today.

I want to indicate, however, that that will only remain the case while we have an industry of our own. I do not think anyone will listen to us if our own industry disappears. If we are going to make sure that we do everything possible to see that the standard of world shipping that comes to Australia improves, it is important that we maintain our own industry. It is the benchmark that we want to see other industries in other countries reach.

Mr MacGILLIVARY—In line with my very small submission to the committee, recognising that AMSA is considered to be a leader and a trendsetter in international maritime safety, I would like to see them given the legislative tools to be more proactive in enforcing social factor issues on board. That is my first comment.

As for the second one, you asked me sometime this morning to give a small comment on safety culture. To me, having been auditing domestic and foreign flag ships for the better part of 2½ years, safety culture equals the no-blame culture. One of the requirements of the ISM code is that there be a reporting and investigative analysis process for incidents and accidents. Part of the problem with that—and this is something that we can look after on the local scene, never mind foreign flag ships—is that the blame culture is still very much alive.

Although companies have very good systems for reporting incidents and accidents, they do not objectively review the incidents and accidents to come up with the root causes. It usually ends up being 'Joe should have known better' or 'Joe should be more aware' or 'Sack the master.' I would really like to see, in line with the ISM code of requirements, that there be more emphasis on proper investigation and analysis of incidents and accidents, not only as a tool for improving their safety management system but also for

improving the goals and for meeting the objectives of safety management in general.

Mr PETER MORRIS—Mr MacGillivray, listening to all of this, is there a method by which global information on seafarer injuries, casualties and deaths is collected? Does anybody collect this information? Is it the case that only those cases that are the subject of a disaster and are reported to the IMO are recorded? Professor David Gross from Cardiff University made the point in earlier submissions that all we see here is the tip of the iceberg. It seems no-one records the things you are referring to. Is that the case? If it is the case, can you do something about it?

Mr MacGILLIVRAY—That was one of the primary focuses of the paper which I gave before: that up to now the statistics that even the DNV study were based on were old and that, with organisations like the Norwegian Maritime Directorate, these bodies have done this on their own. But it is by no means complete. There is a definite need for more information gathering and reporting of those things.

Mr PETER MORRIS—The last thing I want to say—if I can have my 15 seconds—is that, at the end of the day, the beneficiaries have to accept responsibility for the abuses, injuries and dangers that are created. They are the charterers of the ships, the cargo owners, the beneficial owners and everybody else associated with it. There endeth my case and we will continue the crusade.

CHAIR—Before we wind up this afternoon, I think we should acknowledge the role of Peter Morris in this whole process. This is the fourth forum of one sort or another that has arisen from the *Ships of shame*, to say nothing of his many appearances internationally and locally on this issue. Peter, as you are aware, is retiring from parliament in the near future. The exact date—

Mr PETER MORRIS—Is it near? I am waiting for the date.

CHAIR—Nevertheless, we should place on record not only the appreciation of the parliament and the Australian industry but probably that of the whole international community.

Mr PETER MORRIS—Mr Chairman, thank you very much. Delegates, thank you very much. I am honoured. What we have done as a committee we could not have done without the participation of all you and of your colleagues from the past.

CHAIR—Colleagues, just to finalise completion of the evidence today, I thank you all formally for attending. I thank those in the gallery and the media for their patience and cooperation. I would particularly ask those who have volunteered additional information to let us have it by next Monday. All the official groups to the proceedings will receive a copy of today's *Hansard*. We hope to table this report in parliament in August.

Resolved (on motion by **Mr Peter Morris**):

That this committee authorises the broadcasting of this public forum and the publication of evidence given before it at public hearing this day.

Committee adjourned at 5.00 p.m.