

OPENING STATEMENT

THE MINASA BONE ARRIVED AT MELVILLE ISLAND AROUND 12.30PM LOCAL TIME (CANBERRA TIME 2PM). ACCORDING TO A LOCAL RESIDENT THE VESSEL BEACHED AT SNAKE BAY AND 6 MALES CAME ASHORE. THE LOCAL RESIDENT ORDERED THE MEN BACK ON TO THE VESSEL AND TOGETHER WITH ANOTHER LOCAL RESIDENT THE VESSEL WAS TOWED BACK TO A POINT OFF SNAKE BAY ABOUT 400 METRES INTO EIGHT FATHOMS OF WATER.

THE LOCAL RESIDENT INFORMED CUSTOMS THROUGH THE 1800 NUMBER.

AFTER HEARING OF THE VESSEL'S ARRIVAL THE PSTF MET ON THE AFTERNOON OF THE 4 NOVEMBER. THE INITIAL MEETING WAS DESIGNED TO ASCERTAIN AS MUCH AS POSSIBLE DETAILS ABOUT THE VESSEL'S ARRIVAL AND TO INITIATE ACTION TO MANAGE THE VESSEL AND PEOPLE ON BOARD.

OPERATIONAL COMMAND WAS ASSUMED BY COMMANDER NORCOM UNDER OPERATION RELEX. AN AIR EXCLUSION ZONE WAS REQUESTED BY CUSTOMS AND GRANTED BY AIR SAFETY AUTHORITIES TO ENSURE SAFETY OF AIR SURVEILLANCE ASSETS OPERATING AT LOW LEVEL IN THE VICINITY OF SNAKE BAY. THE AIR EXCLUSION ZONE WAS APPLIED FOR NO OTHER REASON.

THE HMAS GEELONG ARRIVED AT SNAKE BAY AT ABOUT 8.45PM AND TOOK CONTROL OF THE VESSEL. THE VESSEL WAS TOWED THAT NIGHT TO A POINT IN INTERNATIONAL WATERS PENDING FURTHER INSTRUCTIONS FROM THE PSTF ON THE PREFERRED HANDLING ARRANGEMENTS FOR THE VESSEL.

THE NAVY ASSESSED THE VESSEL TO BE SEAWORTHY ALTHOUGH SOME SABOTAGE HAD APPARENTLY OCCURRED WITH BOTH ENGINES AND THE STEERING DAMAGED. THE NAVY ASSESSED THAT REPAIRS TO THE STEERING AND ONE ENGINE WERE POSSIBLE AND COMPLETED THE REPAIRS IN THE EARLY AFTERNOON OF 5 NOVEMBER. THE VESSEL WAS ASSESSED TO BE SEAWORTHY.

EXCISION REGULATIONS WERE MADE ON THE 4 NOVEMBER TO EXCISE AUSTRALIAN ISLANDS TO THE NORTH OF AUSTRALIA BETWEEN 23 DEGREES SOUTH IN WESTERN AUSTRALIA AND 21 DEGREES SOUTH IN QUEENSLAND. THE REGULATIONS WERE GAZETTED ON 4 NOVEMBER AND CAME INTO EFFECT IMMEDIATELY ON THE EXPIRY OF 3 NOVEMBER.

FROM THAT POINT ON THE PSTF WAS CONCERNED TO DEVELOP OPTIONS FOR THE MANAGEMENT OF THE PEOPLE ON BOARD THE VESSEL CONSISTENT WITH BOTH OUR DOMESTIC AND INTERNATIONAL LEGAL OBLIGATIONS.

DURING THE FOLLOWING DAY (5 NOVEMBER) HANDLING OPTIONS FOR THE PEOPLE WERE DISCUSSED WITH MINISTERS. HAVING REGARD TO THE POTENTIAL FOR FURTHER ILLEGAL ARRIVALS SHOULD THIS VENTURE BE SEEN TO BE SUCCESSFUL THE GOVERNMENT'S PREFERRED OPTION, IF POSSIBLE, WAS RETURN TOWARDS INDONESIA FOR HANDLING OF THE PEOPLE UNDER THE REGIONAL COOPERATION ARRANGEMENTS. THE SECOND OPTION WAS PROCESSING OF THE PEOPLE IN EITHER MANUS OR NAURU, WITH THE LATTER PREFERRED.

ONCE THE PREFERRED OPTIONS WERE SETTLED THE PSTF'S FOCUS WAS ON ENSURING THAT THE NECESSARY LOGISTICAL AND DIPLOMATIC REQUIREMENTS WERE PUT IN PLACE. BOTH OPTIONS WERE PURSUED AT THE SAME TIME TO ENSURE THAT FALLBACK PLANS WERE IN PLACE.

ON 5 NOVEMBER OUR AMBASSADOR IN JAKARTA ADVISED A DFA SPOKESMAN AND THE SECRETARY-GENERAL THAT AUSTRALIA INTENDED TO TAKE THE VESSEL INTO INTERNATIONAL WATERS IN THE DIRECTION FROM WHENCE IT CAME. WE ASSURED THEM THAT AUSTRALIA WOULD PROVIDE WHATEVER ASSISTANCE IT COULD, DIRECTLY AND THROUGH IOM AND OTHER INTERNATIONAL AGENCIES TO INDONESIA IN HANDLING THE 14 PASSENGERS ON BOARD. THE DFA REPRESENTATIVES EXPRESSED APPRECIATION FOR THE ADVICE. ON THE FOLLOWING DAY (6 NOVEMBER) A THIRD PERSON NOTE WAS DELIVERED TO THE INDONESIAN GOVERNMENT IN JAKARTA AND IN CANBERRA ADVISING FORMALLY AUSTRALIA'S INTENTION TO RETURN THE VESSEL "IN THE DIRECTION FROM WHENCE IT CAME".

AN IMMIGRATION OFFICIAL AT THE EMBASSY SPOKE TO THE HEAD OF IOM JAKARTA ON THURSDAY 6 TO ADVISE HIM THAT ONE OF THE OPTIONS UNDER CONSIDERATION WAS TAKING THE VESSEL TO A POINT IN INTERNATIONAL WATERS WHERE THE NEAREST LANDFALL/PORT IN INDONESIA WOULD BE SAUMLAKI ON THE ISLAND OF YAMDENA. THE IOM CHIEF WAS ADVISED AT THAT POINT IN TIME SO THAT HE COULD GIVE THOUGHT TO THE STAFF DEPLOYMENT AND RESOURCE DEMANDS SHOULD A RETURN TO INDONESIA EVENTUATE.

THE GOVERNMENT DECIDED TO COMMENCE THE RETURN ON THE EVENING OF 6 NOVEMBER. THE TOW COMMENCED AT APPROXIMATELY 1AM ON THE MORNING OF 7 NOVEMBER.

OUR AMBASSADOR CONVEYED INFORMATION TO DFA ON 7 NOVEMBER ABOUT THE ESTIMATED TIME OF THE BOAT'S RELEASE IN INTERNATIONAL WATERS AND THAT THE INDONESIAN PORT OF SAUMLAKI WAS THE NEAREST PORT TO THAT POINT. HE ALSO AGAIN NOTED THAT, SHOULD THE BOAT RETURN TO INDONESIA, AUSTRALIA WOULD PROVIDE WHATEVER ASSISTANCE IT COULD, INCLUDING

DIRECTLY AND THROUGH THE INTERNATIONAL AGENCIES, TO ASSIST INDONESIA IN HANDLING THE PASSENGERS. THE DFA REPRESENTATIVE EXPRESSED APPRECIATION FOR THE INFORMATION.

AN IMMIGRATION OFFICIAL AT THE EMBASSY SPOKE TO INDONESIAN IMMIGRATION OFFICIALS ON FRIDAY AFTERNOON 7 NOVEMBER TO ADVISE THEM OF THE POSSIBILITY THAT THE BOAT WOULD ARRIVE IN SAUMLAKI AND TO GIVE THEM ASSURANCES THAT THE REGIONAL COOPERATION ARRANGEMENTS FUNDED BY AUSTRALIA WOULD APPLY SHOULD THE ARRIVAL OCCUR. WE ALSO ASKED WHETHER THEY WISHED TO SEND AN INDONESIAN IMMIGRATION OFFICER TO ACCOMPANY IOM STAFF TO SAUMLAKI IN ANTICIPATION OF A POSSIBLE ARRIVAL. THEY DECLINED THIS OFFER SAYING THAT IT COULD BE LEFT TO POLRI TO MANAGE THE OFFICIAL RESPONSE ON YAMDENA.

AN AFP OFFICER AT THE EMBASSY IN JAKARTA SPOKE TO A SENIOR POLRI COUNTERPART ON FRIDAY EVENING 7 NOVEMBER TO ADVISE HIM OF THE INTENDED RETURN OF THE VESSEL TOWARDS INDONESIA.

AT APPROXIMATELY 7.30AM CANBERRA TIME ON 8 NOVEMBER THE HMAS GEELONG RELEASED THE VESSEL WITHOUT INCIDENT. THE REQUIRED SAFETY GEAR, FOOD AND WATER WERE ON BOARD.

AT SOME TIME THAT DAY THE PASSENGERS WERE DETAINED BY POLRI IN SAUMLAKI. ON THE SAME DAY A SMALL GROUP FROM THE PSTF MET TO DRAFT A PRESS RELEASE SIGNALLING THAT THE VESSEL HAD BEEN RETURNED.

ON SUNDAY A JOINT PRESS RELEASE WAS ISSUED BY MINISTERS DOWNER AND VANSTONE TO ADVISE THAT THE VESSEL HAD BEEN RETURNED AND AMONGST OTHER THINGS THAT PASSENGERS HAD NOT CLAIMED ASYLUM IN AUSTRALIA.

MEDIA REPORTS CONTRADICTING THE STATEMENTS MADE IN THE PRESS RELEASE EMERGED ON THE AFTERNOON OF MONDAY 10 NOVEMBER. MINISTER VANSTONE INSTRUCTED THE PSTF TO CONFIRM THE ADVICE GIVEN.

ON THE AFTERNOON OF TUESDAY 11 NOVEMBER FURTHER ADVICE WAS RECEIVED FROM THE ADF AND AFP. THAT ADVICE INDICATED THAT SOME PEOPLE MADE STATEMENTS OF A KIND THAT POTENTIALLY RAISED REFUGEE ISSUES. FOR EXAMPLE,

- WE ARE FROM TURKEY, DON'T WANT TO GO BACK, NO GOOD
- ONE UNAUTHORISED ARRIVAL INDICATED THE WORD "REFUGEE" IN AN ENGLISH/TURKEY DICTIONARY
- CLAIMS TO BE KURDISH REFUGEES

SIMILAR STATEMENTS WERE MADE ON THE 6 NOVEMBER TO THE AFP/DIMIA INTERVIEW TEAM DURING INTELLIGENCE AND EVIDENCE GATHERING INTERVIEWS CONDUCTED WHILST THE VESSEL WAS IN INTERNATIONAL WATERS PRIOR TO THE RETURN TOWARDS INDONESIA COMMENCING.

THE PRESS RELEASE WAS PREPARED BY A SMALL DRAFTING TEAM TO SIGNAL THAT THE VESSEL HAD RETURNED TO INDONESIA. THE STATEMENT IN THE MEDIA RELEASE THAT THE PEOPLE DID NOT MAKE ASYLUM CLAIMS WAS MADE ON THE BASIS OF THE FULL INFORMATION THAT THE PSTF HAD AVAILABLE AT THE TIME. WITH THE BENEFIT OF HINDSIGHT THE PSTF ACCEPTS THAT THE STATEMENT SHOULD NOT HAVE BEEN INCLUDED IN THE MEDIA RELEASE.

WHAT THE PEOPLE DID OR DID NOT SAY WAS IRRELEVANT TO THE HANDLING OF THE PEOPLE IN TERMS OF THE LEGAL POSITION FOR 3 REASONS:

1. THE PEOPLE COULD NOT MAKE A CLAIM FOR A PROTECTION VISA UNDER THE MIGRATION ACT AND REGULATIONS BECAUSE MELVILLE ISLAND HAD BEEN EXCISED
2. THE PEOPLE DID NOT MAKE A CLAIM FOR A PROTECTION VISA IN THE TERMS REQUIRED BY THE MIGRATION ACT AND REGULATIONS
3. AND THE PEOPLE WERE ABLE TO HAVE ANY CLAIMS TO ASYLUM ASSESSED UNDER THE REGIONAL COOPERATION ARRANGEMENTS IN PLACE IN INDONESIA OR IN THE EVENT THAT OPTION WAS NOT POSSIBLE, THROUGH ADMINISTRATIVE PROCESSES IN PLACE IN NAURU. BOTH HAVE BEEN PROVEN TO PROVIDE A RELIABLE AND ROBUST MECHANISM FOR HAVING ANY ASYLUM CLAIMS ASSESSED, BOTH WITH THE INVOLVEMENT OF IOM AND UNHCR.

I SHOULD STRESS THAT THE REFUGEES CONVENTION DOES NOT OBLIGATE A STATE TO PROVIDE A STATUS DETERMINATION PROCESS IN-COUNTRY. NOR DOES THE CONVENTION CONFER ANY RIGHT TO ENTER OR CHOOSE A COUNTRY IN WHICH A PERSON MIGHT HAVE ANY ASYLUM CLAIM HEARD. THE CORE OBLIGATION IS NOT TO REFOULE – IT COULD NOT BE SUGGESTED THAT HAS OCCURED HERE.

AS TO THE CURRENT SITUATION, THE 14 PEOPLE ARE NOW IN DETENTION IN JAKARTA. THEY ARE UNDER THE CARE OF IOM AND WE ARE ADVISED THAT UNHCR PROCESSING HAS COMMENCED. WE UNDERSTAND THAT 6 OF THE PASSENGERS HAVE ASKED TO RETURN TO TURKEY. WE ARE WORKING WITH THE UNHCR AND THE IOM TO

ENSURE THE REGIONAL COOPERATION ARRANGEMENTS OPERATE AS THEY HAVE IN THE PAST.

I SHOULD NOTE THAT THE REGIONAL COOPERATION ARRANGEMENTS HAVE BEEN IN PLACE SINCE JULY 2000. SINCE THEN 3912 PEOPLE HAVE BEEN PROCESSED; 672 OF THOSE ASSESSED AS NOT REFUGEES HAVE RETURNED TO THEIR COUNTRIES OF ORIGIN OR OTHER COUNTRIES VOLUNTARILY, INCLUDING 2 TURKS, 1093 HAVE BEEN FOUND TO BE REFUGEES BY THE UNHCR.