

The future for Coastwatch

Introduction

- 7.1 In Chapter 1 the Committee has provided a detailed history of the coastwatch function. In summary, the function was initially the responsibility of Defence but has since been moved from portfolio to portfolio, from agency to agency, often as a result of 'crises'. The most recent change was in 1999 which was prompted by the unexpected arrival on the eastern seaboard of two illegal entry vessels.
- 7.2 As a result of the Prime Minister's Task Force Review, Coastwatch was changed from being a sub-program within the Customs Border Program to a separate program within Customs. The organisation is now headed by a seconded officer from Defence.
- 7.3 The Committee has received much evidence concerning whether there should be further changes to the coastwatch function. The underlying reasons appear to be twofold—the belief that:
- the current Coastwatch is too close to one of its major clients—Customs, hence there is a bias towards Customs in its activities; and

- border surveillance and response has become sufficiently demanding to become beyond Coastwatch's ability to cope.
- 7.4 Several options for change have been presented in evidence:
- merge Coastwatch with Australia's search and rescue organisation—AusSAR;
 - Defence should take over the coastwatch function; and
 - create an independent stand-alone agency.
- 7.5 To these options must be added the 'no change option'—that the current arrangements for the coastwatch function should remain.
- 7.6 In assessing the merits or otherwise of these four alternatives the Committee has adopted the two criteria below:
- does the proposal represent effective use of scarce resources; and
 - is the proposal likely to result in improved performance?

Merge Coastwatch with AusSAR

Introduction

- 7.7 AusSAR, Australia's search and rescue organisation, is a business unit of the Australian Maritime Safety Authority (AMSA). Coastwatch and AMSA were both created as a result of decisions in the late 1980s which resulted in the transfer of their respective responsibilities from the then Department of Transport and Communications. Coastwatch assumed the civil surveillance function while AMSA took over the majority of the functions performed by the department's Marine Operations Division.¹ In 1997 AMSA assumed responsibility for aviation search and rescue.²
- 7.8 Besides coordinating aviation and maritime search and rescue (AusSAR's role), AMSA is also responsible for promoting the safety of seafarers and shipping; and protecting the marine environment from ship-sourced pollution.³

1 AMSA, *Submission No. 21*, Volume 1, p. S145.

2 AMSA, *Transcript, 8 September 2000*, p. 100; *Transcript, 30 January 2001*, p. 293.

3 AMSA, *Submission No. 21*, Volume 1, p. S144.

- 7.9 The area for which AusSAR is responsible is the internationally agreed Australian Search and Rescue Region comprising the east Indian, south-west Pacific and Southern oceans. The area is some 53 million square kilometres, about 10 per cent of the world's surface.⁴ Operations are controlled from a 24 hour Rescue Coordination Centre in Canberra.⁵
- 7.10 AusSAR provides equipment and training to 42 selected aviation operators around Australia including Coastwatch's aerial surveillance contractors.⁶ Ms Rowena Barrell, General Manager, AusSAR told the Committee that Coastwatch assets were only called upon when its civilian assets were unable to undertake a task.⁷ The submission from AMSA advised that the costs of searches undertaken by Coastwatch and the training of its contractors were borne by AusSAR.⁸

The reasons to merge Coastwatch with AusSAR

- 7.11 The proposal to create an independent agency by merging Coastwatch with AusSAR was put to the Committee by Mr Lofty Mason, a retired Chief Inspector of Coastwatch.
- 7.12 Mr Mason argued that Coastwatch had an inherent Customs bias citing examples where Coastwatch aircraft had been diverted to serve Customs' interests. Placing Coastwatch within any other agency would not remove the tendency for it to become biased towards its 'home agency'. He also commented that in the regions Coastwatch officers were Custom personnel seconded for three year terms, and the training and familiarisation they needed impacted on efficiency and professionalism.⁹
- 7.13 Mr Mason also told the Committee that Coastwatch was too small to operate as a stand-alone group, but could be combined with AusSAR because:

... there are many parallel requirements in aircraft, aircrew and operational staff. Indeed the Coastwatch aircraft and crews are already suited for, and used in Search and Rescue (SAR). With the addition of drop capability the Dash8 aircraft would be ideal SAR platforms. ... The search planning techniques and the Operational

4 In contrast, Coastwatch is responsible for 9 m square kilometres.

5 AMSA, *Transcript, 8 September 2000*, pp. 100, 107.

6 AMSA, *Submission No. 44*, Volume 3, p. S591.

7 AMSA, *Transcript, 8 September 2000*, p. 102.

8 AMSA, *Submission No. 21*, Volume 1, p. S147.

9 Mr Lofty Mason, *Submission No. 31*, Volume 2, p. S302; *Transcript, 18 August 2000*, pp. 33, 34, 36-7.

Control of Surveillance and SAR are closely aligned which would lead to a group of long term, professional Operations Staff and knowledgeable senior Directors.¹⁰

The response from AusSAR

7.14 Responding to the suggestion AusSAR's Ms Barrell commented there was no theoretical basis why Coastwatch and AusSAR should not be amalgamated. Mr Clive Davidson, Chief Executive AMSA, noted that the sea safety and coastwatch functions were combined in the 1980s within the Department of Transport. He added that within the Sea Safety Centre there had been 'the fisheries group, the coastwatch group and marine rescue coordination.'¹¹

7.15 Other evidence provided by Mr Davidson was that in conducting search and rescue, AusSAR first uses commercial aircraft 'mainly because of the area of operation', and in fact in 1999–2000 only 5.6 per cent of search hours used Coastwatch aircraft.¹² He commented that:

Coastwatch are tasked principally in areas where search and rescue events do not seem to occur because of the nature of where pleasure craft and so forth operate.¹³

7.16 A supplementary submission from AMSA showed that the 5.6 per cent amounted to 112 hours flight time (a total of 1943 hours were used by non-Defence aircraft). The submission also advised that slightly over 42 per cent of searches were maritime in nature, the rest being aviation and land related.¹⁴

The Committee's conclusion

7.17 There appears to be little overlap in AusSAR and Coastwatch operations. AusSAR uses commercial aircraft as and when needed, and the 112 hours using Coastwatch aircraft for search and rescue represents a mere 0.7 per cent of Coastwatch aircraft surveillance hours in 1999–2000.¹⁵ If Coastwatch aircraft had undertaken all of AusSAR's non-defence search and rescue flying in 1999–2000—some 1943 hours—this would have

10 Mr Lofty Mason, *Submission No. 31*, Volume 2, p. S303.

11 AMSA, *Transcript, 30 January 2001*, p. 293.

12 AMSA, *Transcript, 30 January 2001*, p. 293.

13 AMSA, *Transcript, 30 January 2001*, p. 294.

14 AMSA, *Submission No. 44*, Volume 3, p. S591.

15 The Customs annual report for 1999–2000 indicates that Coastwatch aircraft flew 16 125 hours, p. 50.

represented 12 per cent of Coastwatch's non-Defence flying hours. However, this would have resulted in Coastwatch aircraft being diverted from their normal area of operations thereby compromising Coastwatch's effectiveness.

- 7.18 It might be argued that savings could be achieved through combining the two organisations' operational centres. The Committee has inspected Coastwatch's National Surveillance Centre and considers that if a search and rescue incident and a surveillance tactical operation occurred simultaneously, both response efforts would be hampered. Consequently, it is likely that any combined organisation would retain separate operations centres.
- 7.19 There would also be little savings in merging Coastwatch's support services, such as its corporate function, with AusSAR because Coastwatch support services are currently undertaken by Customs.
- 7.20 Therefore, in the Committee's opinion, the proposal does not meet the criterion of representing more efficient use of scarce resources.
- 7.21 The Committee questions whether combining Coastwatch and AusSAR would improve the performance of either, because both entities do not have significantly overlapping operational areas and would be likely to retain separate operations centres.
- 7.22 In the regions, an independent Coastwatch/AusSAR would not have ready access to Customs information unless it was collocated with Customs. The ability to adequately staff independent regional offices might become an issue and could detract from performance. The Committee notes that the current Coastwatch arrangement would allow Customs officers to assist Coastwatch officers during personnel-intensive tactical operations.
- 7.23 On the side of information gathering, it could be argued that Coastwatch might have improved access to AMSA information about ship movements, but this may not be the case for an organisation independent of AMSA. (If Coastwatch was to be absorbed within AMSA the problem of client bias remains, but with AMSA as a beneficiary not Customs). On the other hand, Defence might not be so willing to provide classified intelligence information to the new organisation if it was likely to become available for non-surveillance activities.
- 7.24 Therefore in the Committee's opinion, the proposal does not meet the criterion of improving performance.

Defence assume the coastwatch function

Introduction

- 7.25 The report of the Community Consultation Team, which canvassed public opinion as part of the Defence Review 2000, commented that the adequacy of Australia's coastal surveillance capability was 'the subject of a great deal of comment, especially in the north and west of the country.' The report added that two strands of opinion emerged—that there should be a separate coastguard; and that Defence should have 'an increasing role in control and coordination of all aspects of coastal surveillance operations.'¹⁶
- 7.26 The following section examines this second suggestion and it is followed by a consideration as to whether an Australian coastguard should be created.

The reasons for Defence to assume the coastwatch function

- 7.27 The submission from the Returned and Services League (R&SL) and its witness to the inquiry, Captain William Owen provided the following arguments in favour of Defence assuming the coastwatch function:
- the operational control structure for EEZ surveillance which would be required in wartime should be the same structure as that operating in peacetime;
 - Defence's emerging strength is its intelligence surveillance and reconnaissance capability. With JORN virtually operational together with other intelligence resources, Defence is the only organisation equipped to process this information;
 - the aerial surveillance presently carried out by civilian contractors would be inappropriate in times of war or national emergency due to lack of operational flexibility and shortcomings in communicating with the RAN maritime assets or RAAF aircraft; and
 - guarding the northern sea frontier is basically a Defence responsibility which is the reason for the JORN radar and the airborne early warning and control aircraft projects.¹⁷

16 Department of Defence, *Australian Perspectives on Defence: Report of the Community Consultation Team*, September 2000, pp. 11, 13.

17 RS&L, *Submission No. 26*, Volume 1, pp. S269–70; *Transcript*, 8 September 2000, p. 126.

- 7.28 While the R&SL submission acknowledged that the current contractor arrangement for air surveillance was 'a comparatively low cost solution and an improvement on earlier regimes', it advocated that Defence acquire short to medium range patrol aircraft optimised for coastal surveillance to replace the civilian aircraft.¹⁸
- 7.29 The suggestion was also supported by Mr R G Stevens who argued that the current coastal monitoring role 'spread between Coastwatch the RAN, the RAAF, and to some extent Customs' was not desirable as it created duplication of effort and gaps in operation and control.¹⁹
- 7.30 To these arguments might be added:
- a significant proportion of Coastwatch response operations in the north and north west of Australia are conducted by RAN patrol boats;
 - some 80 per cent of patrol boat time is spent on Coastwatch activities;
 - Defence spends far more on Coastwatch related activities than Customs (in 1999–2000 Defence spent \$130m on Coastwatch compared to \$50m provided by Customs²⁰); and
 - it is only the Defence assets which currently have the offensive capability to enforce any order for a foreign vessel to stop and be boarded.

Arguments against the proposal

- 7.31 The Committee raised the issue of whether Defence should assume the coastwatch function with Defence witnesses. Mr Allan Behm, Head, Strategy and Ministerial Services, responded that the responsibilities of Coastwatch impinged on the responsibilities of several portfolios for which Defence did not wish to take responsibility. It would not be the best use of Defence resources, he said.²¹
- 7.32 The Committee pursued the matter, and in a supplementary submission Defence confirmed it would be inappropriate for it to take over Coastwatch. The submission stated:

Defence is primarily responsible for the defence of Australia, and available resources must be directed first and foremost to that purpose. In the final analysis this involves the concerted use of

18 RS&L, *Submission No. 26*, Volume 1, p. S270.

19 Mr R G Stevens, *Submission No. 20*, Volume 1, p. S141.

20 Customs, *Annual Report 1999–2000*, p. 51.

21 Defence, *Transcript, 18 August 2000*, p. 41.

high levels of violence, under the authority of the Government, to destroy an enemy. Coastwatch involves, by contrast, the use of policing powers with minimal use of force.²²

- 7.33 This view that there is a fundamental difference between military and policing philosophy was supported by the submission from Australian Defence Association (ADA), which advocates the creation of a coastguard. The submission from the ADA drew attention to the fact that Coastwatch activities may in some instances be directed towards Australian citizens who are presumed innocent until proved otherwise. The submission added that there was also a strong constitutional tradition dating back to Charles I and the English Civil War that the armed forces of a nation should not be used against its own citizens.²³
- 7.34 The difference between officers of the armed forces and the police has also been discussed by Associate Professor Hugh Smith, Australian Defence Force Academy. He has made the following points:
- the soldier has no powers beyond that of a citizen, so ‘special measures are needed to confer police-type powers on military personnel’;
 - as soldiers often serve as members of a formed unit they have additional responsibilities when compared with the citizen or constable, so may have good reasons not to exercise the powers of a citizen or constable in particular situations;
 - police normally act as individuals in dealing with the public so are able to use their judgement or initiative in dealing with breaches of the peace;
 - while soldiers are bound to conform to national and international laws, their ‘obligation in response to unlawful orders is simply to refuse obedience’; while
 - in contrast, police are ‘positively required to uphold the law of the land and to follow the requirements of the judiciary in the face of orders to the contrary’.²⁴
- 7.35 Beyond the philosophical objections, Mr Michael O’Connor, Executive Director ADA, provided a practical objection when he appeared before the

22 Defence, *Submission No. 50*, Volume 3, p. S640.

23 Australian Defence Association, *Submission No. 5*, Volume 1, p. S15.

24 Exhibit 1, *Policing Australia’s Offshore Zones – Problems and Prospects*, Wollongong Papers on Maritime Policy No.9. Centre for Maritime Policy, University of Wollongong, Ed. Doug MacKinnon & Dick Sherwood, Associate Professor Hugh Smith, *The use of armed forces in law enforcement*, pp. 83–4.

Committee. He commented that as the technologies of war develop, the gap between the RAN's ability to conduct war fighting operations and its ability to conduct law enforcement activities in Australia's EEZ will become ever wider. He believed that the RAN would become 'increasingly focused on missile based operations, war fighting operations and amphibious operations in a traditional naval sense' and so the law enforcement task would take lower priority. He also predicted that the RAN was likely to opt for a vessel 'more attuned to a war fighting capability than to a policing ability' when it replaced the Fremantle class patrol boats.²⁵

The Committee's conclusion

- 7.36 When considering this issue, it is important to be aware of the implications of Defence taking over the role of Coastwatch. While Coastwatch is currently just an organisation conducting surveillance and coordinating responses using the assets of other organisations, its officers being Customs officers, have a law enforcement role. The proposal would therefore mean that Defence personnel would be moving into law enforcement.
- 7.37 For the philosophical reasons outlined above, the Committee would be uncomfortable if this was to eventuate.
- 7.38 Regarding the use of resources, the Committee would expect:
- operations to be directed from a dedicated operations room similar to Coastwatch's National Surveillance Centre;
 - an increase in capital and running costs if Defence acquired short to medium range patrol surveillance aircraft to replace those currently provided by Coastwatch's contractors; and
 - an increase in costs if the Bay Class Customs vessels currently used by Coastwatch were replaced by RAN vessels. This would be represented by increased capital and running costs as well as the cost of under-utilisation of the Customs Bay class vessels.²⁶
- 7.39 The Committee considers that provided Defence just assumed the Coastwatch management role, and continued to use air surveillance

25 Australian Defence Association, *Transcript*, 17 October 2000, pp. 162, 164.

26 Customs indicated that about 70 per cent of the Bay Class vessel time would be expected to be spent on Coastwatch tactical operations (*Transcript*, 30 January 2001, p. 273.). The audit report provides figures for the costs of the RAN patrol boats as \$61 738 per day and the Customs Bay Class as \$13–17 000 per day (Auditor-General, *Audit Report No. 38, 1999–2000*, pp. 74, 77).

contractors and Customs vessels when needed the effect on use of resources would not be significant. In this case however the proposal does not represent 'more efficient use of scarce resources'.

- 7.40 Regarding performance, the Committee believes a Defence-based organisation:
- may receive increased or faster access to Defence classified information, although the Coastwatch National Surveillance Centre currently receives Defence classified information;
 - would possibly have reduced or slower access to Customs intelligence;
 - would, if Defence maritime assets were exclusively used, be able to provide increased assurance that illegal vessels could be coerced to stop and be boarded;
 - might experience increased recruitment because of the focus on law enforcement and civilian surveillance; but
 - may become distracted from its 'core business' of preparing to defend the nation against foreign threats.
- 7.41 The Committee does not believe increased performance is guaranteed and in fact would be concerned if Defence became distracted from its core defence function.
- 7.42 The Committee therefore does not support the view that Defence should assume the coastwatch function.

Create an independent stand-alone agency

Introduction

- 7.43 In considering the issue of whether there should be a stand-alone agency to undertake the coastwatch function, the Committee is aware there can be a range of models. At the minimal-change extreme there can be an agency within a portfolio directly responsible to a Minister. This model was recommended in the Hudson Report where it was suggested that Coastwatch should be directly accountable to the Minister for Transport and Communications.²⁷ At the other extreme is a fully independent paramilitary organisation based on the US Coastguard model.

27 DTC, *Northern Approaches*, pp. 58, 60.

7.44 The Committee has received evidence on these two models—a Commonwealth Coastal Control Service from Mr John Simmons—and a fully paramilitary coastguard in a number of submissions.

An independent agency responsible to a Minister

7.45 Mr Simmons told the Committee that regarding Coastwatch operations there was a perception that Customs ‘runs the show’. However, he did not necessarily agree with this view, commenting that many people in Customs believed Coastwatch had been separated too far and was not giving Customs enough support. Indeed, he quoted a comment made to him that ‘Coastwatch has gone feral’.²⁸

7.46 Mr Simmons criticised the current Coastwatch on the following grounds:

- detection performance was satisfactory, but surface response was inadequate due to the lack of sufficient vessel numbers;²⁹
- the surface functions were in a fragmented state comprising naval, Customs, state agency and chartered vessels;³⁰
- the ability to coordinate responses was ‘limited by having to negotiate with vessel managers, who guard their prerogative to control their resources’;³¹ and
- the need to organise representatives from client agencies to be present during tactical operations hindered efficiency.³²

7.47 To overcome these problems Mr Simmons proposed the creation of an independent Commonwealth Coastal Control Service directly responsible to a Minister. He acknowledged that it was:

... unlikely the proposed entity would be big enough to warrant a stand-alone administration, or that the capital and administrative costs of setting it up separate from an existing agency could be justified in the foreseeable future.

7.48 Mr Simmons discussed the various options for locating his agency but offered no opinion.³³ However, he provided information on its charter and

28 Mr John Simmons, *Transcript, 8 September 2000*, pp. 119, 118.

29 Mr John Simmons, *Transcript, 8 September 2000*, pp. 118, 122.

30 Mr John Simmons, *Submission No. 16*, Volume 1, p. S94.

31 Mr John Simmons, *Submission No. 16*, Volume 1, p. S94.

32 An example was provided where officers from fisheries, quarantine and immigration had to be helicoptered on board a Customs vessel conducting a drug raid. Mr John Simmons, *Transcript, 8 September 2000*, p. 120.

33 Mr John Simmons, *Submission No. 16*, Volume 1, pp. S96–7.

area of operations which would extend from the outer limits of Australia's EEZ to 'the hinterland of the coast including waterways connected to the sea.' The agency:

- would conduct aerial and surface surveillance, undertake control and enforcement action, collate and disseminate information to other agencies;
- could be created by 'transferring the personnel, equipment, and financial resources currently committed of the functions by Commonwealth agencies';
- could then rationalise the resources and conduct the functions more cost effectively;
- 'could be modelled so that it would cost roughly the same as the current arrangements, when all the hidden costs are taken into account';
- would need to train and authorise its officers 'to administer relevant Commonwealth legislation and to take enforcement action without consultation with agencies whose legislation is being monitored'; and
- would have to have its funds quarantined from those of the department or agency in which it is located to prevent seepage of funds to the corporate pool.³⁴

7.49 While Mr Simmons did not specify whether he considered the agency's vessels should be armed, his comment in a supplementary submission implied that armaments were unnecessary.³⁵

The Committee's view

7.50 In essence, the proposal to create a Commonwealth Coastal Control Service is similar to the organisation envisaged by Mr Hudson regarding being directly answerable to a Minister. It differs from the present Coastwatch because it would control all its assets and its officers would assume the tactical roles currently performed by officers from its client agencies.

7.51 The Committee observes that there seems to be an inconsistency in the proposal—airial surveillance would continue to be provided by contractors, yet surface assets would be controlled by the new agency. The

³⁴ Mr John Simmons, *Submission No. 16*, Volume 1, pp. S95-8.

³⁵ He commented that he would like the opportunity to convince the Committee that 'offensive weapons are neither appropriate nor necessary for enforcement of fisheries regulations.' *Submission No. 45*, Volume 3, p. S600.

Committee would see the new agency facing pressure to outsource the provisions of marine assets, for example by leasing RAN patrol boat time, or a cheaper alternative. Because of the high costs of using RAN patrol boats, the Committee believes that soon they would not be used at all.

- 7.52 Alternatively, as suggested in the proposal, if the RAN patrol boats were reassigned to the new agency there would be a significant cost to the new agency incurred in replacing them.³⁶ (The Committee makes further comment regarding the impact on the RAN of the loss of its patrol boats below.) If the RAN chose to continue with its own patrol boat replacement project there would be significant duplication and under-utilisation because currently 80 per cent of patrol boat hours are spent on Coastwatch duties.
- 7.53 Regarding the Customs Bay Class vessels, Rear Admiral Shalders told the Committee he expected that 70 per cent of operational hours would be used for Coastwatch activities. The Committee believes that it is not possible to transfer two thirds of the vessel fleet to the new agency and still maintain the same coverage for both the agency **and** Customs that is currently provided. Consequently, if vessels were to be transferred to the new agency, new vessels would be needed to make up any shortfall in coverage especially in the Customs area. If the new agency leased vessel steaming time from Customs the criticism levelled by Mr Simmons regarding the need to negotiate with vessel managers remains. Indeed negotiating with Customs managers might be made more difficult if the new agency was not under the wing of Customs but under the wing of a Minister.
- 7.54 The Committee therefore does not see the proposal as offering more effective use of scarce resources.
- 7.55 Turning to performance, the proposal would probably lead to unarmed non-military surface assets being deployed. Although the Committee does not agree wholeheartedly with the concerns of AFMA regarding the need for more coercive power in the northern and north western waters, it would be concerned if the option of calling on military patrol boats was denied future operational managers.
- 7.56 The Committee also notes that the success of current Coastwatch operations is influenced by the intelligence provided by client agencies. The clients have an incentive to provide Coastwatch with accurate and timely intelligence because it is the client that is responsible for the

36 The Fremantle Class patrol boats are nearing the end of their operational lives and are being replaced.

outcome. If as proposed, the new agency was responsible for 'control and enforcement action' there might be reduced incentive for current client agencies to provide accurate and timely intelligence. Either the new agency would have to duplicate the intelligence gathering of other agencies or it would have to face the risk of reduced performance.

- 7.57 The recent amendments to the border legislation has enabled Customs officers 'to exercise powers in relation to other Acts prescribed by legislation; in particular, the *Immigration Act*, *Quarantine Act* and the *Fisheries Management Act*.'³⁷ As a consequence, the example provided by Mr Simmons of inefficiencies due to the need to accommodate a myriad of agency officers on tactical Coastwatch operations,³⁸ has at least in part been addressed by changes to legislation.
- 7.58 The Committee therefore does not see the proposal as providing improved performance.

A paramilitary coastguard

Introduction

- 7.59 The proposal for the creation of a paramilitary coastguard has attracted support in a number of submissions to the inquiry.³⁹ The concept has been tested at some length by the Committee. The model upon which these suggestions appear to be based is that of the US Coastguard. There is some validity for this comparison because Australia has a similar land mass to the US and a similar length of coastline to patrol. However, it is fair to say that the coastal surveillance and response demands for Australia are currently not as great.
- 7.60 The US Coastguard has an annual budget of about US\$4 billion,⁴⁰ and while an organisation of a similar size could never be contemplated for Australia on the grounds of cost, lessons can be learnt from its use of resources and performance.

37 Customs, *Submission No. 25*, Volume 1, p. S250.

38 Mr John Simmons, *Transcript*, 8 September 2000, p. 120.

39 Mr Bill Willcox, *Submission No. 4*, Volume 1, pp. S7-10; Australia Defence Association, *Submission No. 5*, Volume 1, pp. S11-28; Mr William Watson, *Submission No. 6*, Volume 1, pp. S29-32; Centre for Maritime Policy, University of Wollongong, *Submission No. 12*, Volume 1, p. S71-82; The Company of Master Mariners of Australia Ltd, Western Australia Branch, *Submission No. 29*, Volume 2, p. S282-91.

40 Customs, *Transcript*, 30 January 2001, p. 274.

- 7.61 The Committee has again included in its assessment of this proposal its 'effective use of scarce resources' and 'likelihood of improved performance' criteria.

An Australian coastguard

- 7.62 The submission from the Maritime Policy Unit of Wollongong University suggested that the evolution of the coastwatch function has been characterised by 'an excessively reactive approach' which had distorted the changes 'towards one threat or another.' What was needed was for there to be a holistic view of Australia's requirement for maritime surveillance and enforcement, rather than the previous 'piecemeal and sectorial approach' which was 'hardly worthy of a sophisticated and wealthy nation.' The submission concluded that it was:

... inevitable that Australia will eventually move to an autonomous, professional, paramilitary organisation with responsibility for coordinating maritime surveillance and response operations in our offshore area.⁴¹

The reasons for a Coastguard

- 7.63 The submission from the Australian Defence Association (ADA) suggested that the challenges for Australia's coastwatch and response function are likely to increase:

The challenge which may not be far off will be to cope with offenders who will themselves be well-equipped and increasingly well-armed. Law enforcement officers will be faced with offenders using sophisticated electronic equipment and weapons of considerably more power than basic small arms.⁴²

- 7.64 Submissions from both Wollongong University and the Company of Master Mariners of Australia, Western Australia Branch also raised the risk of piracy and possible threats to oil and gas infrastructure in northern waters.⁴³

- 7.65 The ADA stated that these threats were faced by a 'Heath Robinson' structure comprising of a 'multitude of agencies including private sector contractors, each with the exception of the ADF specialising in a particular

41 Centre for Maritime Policy, University of Wollongong, *Submission No. 12*, Volume 1, p. S75, 79.

42 ADA, *Submission No. 5*, Volume 1, p. S17.

43 Centre for Maritime Policy *Submission No. 12*, Volume 1, p. S74; Company of Master Mariners WA, *Submission No. 29*, Volume 2, p. S282.

field.' That such a structure was effective was 'surely by accident coupled with the commitment and commonsense of the people involved.'⁴⁴

7.66 The ADA argued that a single law enforcement agency was necessary but the AFP was too small, under resourced and focussed on shore-bound operations; and Customs was inadequately equipped and trained to meet the looming threat. It was also inappropriate for Defence to be the agency responsible (the arguments in support of this view can be found above).

7.67 What was needed was:

A paramilitary force, that is not quite military but more than a lightly armed police force ... When dealing with ships or aircraft, that force may involve the use of weapons heavier than small arms and it follows that the users must be trained in the use of medium firepower conventional weapons as well as being disciplined to use only sufficient force.⁴⁵

Role and structure of a coastguard

7.68 The role envisaged for a coastguard included the activities currently undertaken by AMSA, AFMA, Coastwatch, the states search and rescue function, the RAN oceanography task, and the RAN patrol boats.⁴⁶ However, Mr Michael O'Connor, Executive Director ADA, told the Committee that long range Southern Ocean search and rescue capability would essentially remain the task for the RAN and RAAF because such instances would be 'a rare and remote, 100-year flood type of task for them.'⁴⁷

7.69 The ADA had researched the requirements of an Australian coastguard and its submission provided the following:

- some 50 vessels would be required, including 'short and long range patrol vessels, survey and oceanographic ships and lighthouse and buoy tenders';
- 'most, if not all vessels, would be armed' with weapons ranging from light automatic to a 76mm weapon and a 'ship-borne helicopter for search purposes';

44 ADA, *Submission No. 5*, Volume 1, p. S17.

45 ADA, *Submission No. 5*, Volume 1, p. S18.

46 ADA, *Submission No. 5*, Volume 1, pp. S18, 21, and *Transcript, 17 October 2000*, p. 166. Company of Master Mariners WA, *Submission No. 29*, Volume 2, p. S286.

47 ADA, *Transcript, 17 October 2000*, p. 166.

- 'aircraft would include short and medium range search aircraft, both fixed and rotary wing, for surveillance, and for search and rescue';
- operations would be conducted from a headquarters (in Perth or Brisbane), perhaps two larger bases for the larger vessels and aircraft in the north and south east, and from smaller bases around the coast;⁴⁸
- the organisation would comprise 'around 4 000 regular personnel including those under training as well as civilian support staff';
- the Commandant 'would have to be responsible to a Minister and derive his authority from an Act of the Parliament ... in the same relationship to government as a Commissioner of Police';
- state-based volunteer search and rescue groups 'boast some 3 000 members' and 'could be incorporated into a Coastguard' in much the same way as with the US Coastguard; and
- 'the ability of an Australian Coastguard to provide a combat capable naval reserve in time of war represents a significant benefit and should not be ignored.'⁴⁹

7.70 The ADA suggested that a coastguard could be created through transferring equipment and personnel from existing enforcement agencies on condition that 'only suitably trained and motivated persons would be considered for transfer to a coastguard.'⁵⁰

7.71 However, the submission from the Master Mariners envisaged a longer transition to a coastguard achieved through initially expanding AMSA's present responsibilities, renaming the organisation and acquiring vessels to support maritime patrol functions. Agencies presently charged with enforcing Australia's maritime and border law would in the transition phase continue their role, but using coastguard assets because it was impractical to retrain their present personnel for secondment to the new coastguard.⁵¹

Costs of a coastguard

7.72 The ADA suggested that the annual gross costs of a dedicated coastguard based on its suggested model would be 'unlikely to exceed \$500m at

48 The naval facilities in Cairns could be transferred to the coastguard and form one of the large bases. The smaller bases would be for search and rescue and other small operations and would comprise only one vessel. *Transcript, 17 October 2000*, p. 168.

49 ADA, *Submission No. 5*, Volume 1, pp. S18–22.

50 ADA, *Submission No. 5*, Volume 1, p. S22.

51 Company of Master Mariners WA, *Submission No. 29*, Volume 2, p. S288.

current dollar values'.⁵² When he appeared before the Committee Mr O'Connor, however, acknowledged that the \$500m was not a firm figure.⁵³

7.73 The ADA's submission drew the Committee's attention to the need to balance the costs against the:

... less quantifiable costs of not enforcing Australian laws in some quite critical areas which are likely to come under increased pressure soon, or not providing a more cost-effective search and rescue capability.⁵⁴

The Committee's view

7.74 There appear to be two underlying premises upon which the call for an Australian coastguard is based:

- that there is an increasing and changing threat to Australia's borders and this threat involves the potential for violence to be used against Australians; and
- the current arrangements for Australia's surveillance and response are intrinsically inefficient and likely to become increasingly ineffective.

7.75 The Committee has received no sustained evidence that there is an increased threat of violence. The possible increased level of aggressiveness from illegal fishing vessels was discussed in Chapter 6 and while the Committee noted there have been instances of aggressiveness in the past, it concluded on the evidence before it that the level has not increased.

7.76 The Committee is reassured that the changes to the legislation permitting the hot pursuit of vessels into international waters would allow sufficient time for appropriate coercive force to be brought to bear, provided that surveillance contact is maintained. A good example of this was the *South Tomi* incident in April 2001. The Patagonian toothfish poacher was hot pursued for over 4 000 km towards South Africa. Meanwhile Defence personnel were flown to South Africa to await the arrival of the *South Tomi*. It was subsequently apprehended in a combined Australian-South African defence forces operation.⁵⁵

52 ADA, *Submission No. 5*, Volume 1, p. S22

53 ADA, *Transcript, 17 October 2000*, p. 168.

54 ADA, *Submission No. 5*, Volume 1, p. S22.

55 Hon Peter Reith MP, Minister for Defence, *Minister congratulates ADF and AFMA on successful mission*, Media Release, 12 April 2001.

- 7.77 However, even maintaining contact has been shown to be unnecessary. For the example, contact was lost with the Falklands registered illegal fishing vessel detected in the Southern Ocean in September 2000, but the vessel was still apprehended and crew and owners punished.
- 7.78 The Committee was also told by Mr Behm that governments continually undertake threat assessments. He said:
- Successive governments—I have been around this business for 29 years ... have weighed up the risks associated with all sorts of threats to Australia, whether it is illegal immigration or AQIS and quarantine risks and so on. They look at the costs of managing those risks absolutely. Again, successive governments have made prudential judgments as to how much it is worth investing in having a much higher level of capability against a much lower probability of circumstances occurring.⁵⁶
- 7.79 The Committee provides further comments concerning the threat of terrorism when it discusses duplication of resources below.
- 7.80 Regarding the second premise—that current surveillance arrangements are intrinsically inefficient and increasingly ineffective—this is also discussed below when the Committee considers whether the present Coastwatch arrangement is really the ‘Heath Robinson’ organisation that has been suggested.

Effective use of scarce resources?

The costs involved

- 7.81 The suggested cost for an Australian coastguard is an annual cost of \$500m. This figure was acknowledged by Mr O’Connor to be a ‘back of an envelop figure’ based on what was understood to be the size of the operation.⁵⁷ Nevertheless, the Committee compares this with the cost of Coastwatch for 1999–2000 which was \$180m (including the Defence contribution)⁵⁸ and the annual Defence cost of some \$12bn.⁵⁹
- 7.82 The Committee notes that the cost of Australia’s involvement in the 1999 Interfet operation in East Timor was \$645m. The proposal for an Australian coastguard therefore amounts to approximately an East Timor sized operation each year. The Committee recalls that the Government

56 Defence, *Transcript*, 30 January 2001, p. 276.

57 ADA, *Transcript*, 17 October 2000, p. 167.

58 Customs, *Annual Report 1999–2000*, p. 51.

59 Defence, *Transcript*, 30 January 2001, p. 275; Defence, *Annual Report 1999–2000*, p. 21.

contemplated applying a taxation levy to finance the operation, but rejected the idea as Australia was in budgetary surplus. The Committee questions whether the Australian public would support the extra pressure on the Budget represented by the establishment and running of an Australian coastguard based on the suggested model.

- 7.83 When challenged, Mr O'Connor was unable to point out where Coastwatch had let Australia down sufficiently to warrant the spending of another \$350m a year.⁶⁰
- 7.84 While the Committee acknowledges comparisons with the US Coastguard may be unfair, some comments are warranted. The US Coastguard costs the equivalent of A\$8bn annually and employs 40 000 personnel. The A\$500m would proportionately provide for just 2 500 personnel, which compares with the 4 000 personnel envisaged for an Australian coastguard. (The US Coastguard equivalent cost if 4 000 personnel were employed is A\$1.6bn.) The Committee concludes that either:
- an Australian coastguard will be 'leaner and meaner' than its US counterpart;
 - the Australian coastguard will employ a significant number of volunteers; or
 - the costings are unrealistic.
- 7.85 The Committee has not attempted to cost the creation or running costs of an Australian coastguard but considers the capital costs of purchasing or refitting the 50 vessels envisaged to be substantial, as would be the annual costs for maintenance, replacement, staffing and organisational infrastructure. In effect a second navy would be created.⁶¹

Duplication of resources

- 7.86 As with previous proposals the Committee has highlighted the possibility that resources would be wasted by duplicating assets. Mr Woodward told the Committee:

If you look at the US experience, what has tended to happen ... is a tendency for agencies, including US Customs, to complement the capability of the US Coastguard by building up their own capability. I think US Customs has something like 20 vessels and

⁶⁰ ADA, *Transcript*, 17 October 2000, p. 168.

⁶¹ At page 275 of the transcripts Mr Behm provides a list of the vessels in the US Coastguard and a comparison with Australia's defence assets. The US Coastguard on paper represents a significant fighting force.

60 aircraft. ... My instincts tell me that what has happened in the US would develop in Australia, not just in relation to Customs but perhaps in other agencies, including perhaps the Defence ministry.⁶²

- 7.87 The Committee agrees that Defence would be likely to still have need for military patrol boats. Commodore Rowan Moffitt, Director General Navy Capability, told the Committee that the military role for the patrol boats encompassed 'surveillance, boarding operations and the insertion/extraction of troops between sea and shore—the sort of activity generally restricted to a scenario based on low-level contingencies.'⁶³ The patrol boats were also valuable training vehicles. As Mr Behm said:

The asset that is represented by the patrol boats is a critical asset for the Royal Australian Navy, all the way from the induction of junior staff through to the most senior command of Navy. To get to the top, you have got to start somewhere. As Commodore Moffitt said, for many of our most experienced naval officers the initial operational experience that they get through the patrol boats is integral to the expertise that the Navy brings to much higher levels of operational expertise.⁶⁴

- 7.88 The Committee does not believe that Defence would rely on using an Australian coastguard's patrol boats for military operations in low-level conflict situations.
- 7.89 Turning to counter-terrorism, one of the increasing threats predicted by proponents of an Australian coastguard is that of threats to off-shore oil and gas installations. In such a scenario the Committee believes that a coastguard vessel sporting machine guns and a 76mm cannon would not be a guaranteed deterrent to committed terrorists 'using sophisticated electronic equipment and weapons of considerably more power than basic small arms.'
- 7.90 To meet such a contingency an Australian coastguard would have to create a counter-terrorism unit. However, Australia already has such units—these were mobilised to meet contingencies during the 2000 Sydney Olympics.
- 7.91 Again, an Australian coastguard would lead to the risk of duplication.

62 Customs, *Transcript*, 30 January 2001, p. 274.

63 Defence, *Transcript*, 30 January 2001, p. 272.

64 Defence, *Transcript*, 30 January 2001, pp. 275–6.

Ability to recruit personnel

7.92 The creation of a paramilitary organisation comprising 4 000 personnel would place pressure on Defence recruitment. Commander Graham Harris, President Navy League of Australia, that a major worry to his organisation was the recruitment of personnel into the RAN.⁶⁵ The Committee notes that in the Defence annual report for 1999–2000, RAN enlistments decreased by 7 per cent and only 57 per cent of the RAN target was met. The annual report also advised that the RAN has almost 2 000 vacancies against requirements.⁶⁶ A Defence submission to the Senate Foreign Affairs, Defence and Trade References Committee in May 2001 indicated that recruitment difficulties continued into 2000–01.⁶⁷ However, a ministerial media release in July 2001 indicates an upturn in Defence recruitment.⁶⁸

7.93 It may be the case that an Australian coastguard might attract a different group of people. As the submission from Mr William Watson stated:

I believe that many unemployed people and others likely to reject the idea of military service will be willing to sign on for the Coastguard - especially if it can be demonstrated that it will serve as a humanitarian rescue service as well as a maritime interdiction "police force".⁶⁹

7.94 The Committee received no further evidence on this conjecture.

Effectiveness in time of war

7.95 The Committee questions whether an Australian coastguard would be an effective auxiliary to Defence during modern warfare. Without commenting on the resilience or training of its personnel, the capabilities of the vessels themselves (as described by proponents) would not provide a defensive capability to the types of weapons likely to be deployed against them. To provide that capability would incur significant costs both in equipment and training. The Committee believes those resources would be better spent on Defence itself.

65 Navy League of Australia, *Transcript*, 17 October 2000, p. 171.

66 Defence, *Annual Report 1999–2000*, p. 79.

67 Defence, *Submission to the Foreign Affairs, Defence and Trade References Committee Inquiry into Recruitment and Retention of Australian Defence Force Personnel*, 24 May 2001, p. 8.

68 Hon Bruce Scott, Minister Assisting the Minister for Defence, *Rapid rise in recruiting reflects growing community support*, Media Release, 5 July 2001.

69 Mr William Watson, *Submission No. 6*, Volume 1, p. S31.

Improved performance?

- 7.96 Mr Davidson provided comments to the Committee about the search and rescue performance of overseas agencies. He said that the paramilitary organisations tend to have a preference for dedicated platforms and vehicles.⁷⁰
- 7.97 While it could be argued that an Australian coastguard would be different, the Committee believes there would be a temptation to have dedicated platforms. This would not augur well for **improved** performance—dedicated platforms would be inflexible.
- 7.98 Mr Davidson also compared crewing levels of vessels engaged in AMSA-type activities and told the Committee of an AMSA lighthouse tender vessel which had a crew of 14—a comparable vessel operated by the US Coastguard carried a crew of 50. He also compared AMSA's Omega navigation system staffed by 8 people compared to the US Coastguards system operated by 'hundreds'.⁷¹
- 7.99 The Committee considers that if this was mirrored in an Australian coastguard this would not represent improved performance.
- 7.100 The most compelling evidence regarding performance was provided by Mr Michael Palmer, Commissioner AFP. He said:

My unqualified experience in looking at arrangements in countries where there are coastguard type arrangements ... is that I would gain no comfort at all from those arrangements. Those arrangements have caused a division through the investigative focus and it has caused competition between investigative agencies in a very counterproductive way. I can say, from conversations with my United Kingdom counterparts, that from a law enforcement perspective they would give their right arm to have arrangements similar to those which exist in Australia because [in the UK] there is a competition for intelligence and for investigative supremacy, if you like, that is absolutely counterproductive.⁷²

Is an Australian Coastguard warranted?

- 7.101 The Committee does not believe the premises upon which the Australian coastguard proposal has been based have been sustained. Moreover, the

70 AMSA, *Transcript, 30 January 2001*, p. 294.

71 AMSA, *Transcript, 30 January 2001*, p. 294.

72 AFP, *Transcript, 30 January 2001*, p. 265.

proposal fails on providing more effective use of scarce resources, and is unlikely to result in improved performance.

- 7.102 Indeed, the Committee is aware that the US Coastguard is experiencing problems. It is reported that the US Coastguard is facing a US\$91m budget deficit due to increased fuel costs and salaries and has reduced personnel, air and sea patrols by 10 per cent, and scaled back maintenance and spare part purchases.⁷³
- 7.103 The Committee suggests that an Australian coastguard is not the inevitability that is envisaged. Instead, the Committee argues below that the Coastwatch model, is the way of the future.

The 'no change' option to the coastwatch function

- 7.104 The Committee has considered whether, compared to the alternative models, the Coastwatch model represents an effective use of scarce resources and provides effective performance. This is not to argue that the current Coastwatch is perfect because, as with all organisations, there will always be opportunities to improve.

Effective use of scarce resources?

- 7.105 From the Commonwealth view, because Coastwatch does not own its assets there can be no duplication with other agencies such as Defence and Customs. The potential problem is that Coastwatch does not control those assets. However, this is balanced because:
- the contractor's surveillance aircraft are dedicated to Coastwatch under contract (if used for search and rescue it is with the approval of Coastwatch);
 - Defence benefits from the training and operational command opportunities provided to the RAAF and RAN by involvement in Coastwatch operations; and
 - Coastwatch has leverage with Customs because it is within that agency.
- 7.106 The Committee also expects any MOU with Defence and Customs would address the availability of assets.

73 *Deficits force coast guard to cut patrols, in The Virginian-Pilot (Norfolk, Va.), 9 March 2001.*

- 7.107 Because the assets used by Coastwatch belong to others, the risks associated with those assets are similarly borne by others. Such risks would be under-performance or unavailability which would necessitate an adequate maintenance and repair schedule and adequate crewing levels. The Committee acknowledges that these costs would in part be reflected in the contract prices with Coastwatch's contractors. However, the surveillance costs per area covered are much lower for the civil surveillance contract than the costs using RAAF aircraft.⁷⁴ As well, the Committee considers there would be an incentive to contractors to provide value for money especially when there is no guaranteed renewal of the contract.
- 7.108 An advantage of assets being controlled by other organisations is that when they are not used by Coastwatch they are available for other activities. The use of the RAN patrol boats and the Customs vessels are an example of multiple-use assets. In addition, the Committee notes that in specifying the equipment for the Bell 412 helicopter a whole of government approach was taken and the aircraft was equipped with a winch and rappelling device.⁷⁵ The Committee has been advised by AMSA that nine survivors have been winched to safety on three separate occasions.⁷⁶
- 7.109 The risk to Coastwatch is that it might not have enough of the scarce resources to fulfil its tasks. This has been recognised by the Committee when it discussed Coastwatch's ability to respond to foreign vessels illegally fishing in northern waters.

Effective performance?

- 7.110 The Committee was told by Air Vice Marshall Houston, Head Strategic Command, that ownership of assets was not really important, but instead that 'the capabilities that are presented are prepared properly so that if you need them you can respond appropriately.'⁷⁷ Mr Behm added that coordination was the key:

Certainly, the experience that we have had in areas such as counter-terrorism and emergency management have demonstrated that within the Commonwealth we are extremely

74 Surveillance Australia provided a figure of 21c per square mile covered by its Dash 8 aircraft compared to \$3.30 for the P3C Orions. *Transcript, 17 October 2000*, p. 193.

75 Customs, *Submission No. 41*, Volume 3, p. S578.

76 AMSA, *Submission No. 44*, Volume 3, p. S596.

77 Defence, *Transcript, 30 January 2001*, p. 271.

good at coordination. We understand how coordination works. We understand each other's roles. We understand particularly what each agency brings to the coordination arrangement and we know very well how to allocate responsibilities to the right agency at the right time. ... It is fair to say that the economy that we bring to much of this sort of activity within the Commonwealth is leading edge. It is certainly world class.⁷⁸

- 7.111 Regarding Coastwatch, the Committee has no reason to doubt that the organisation is able to successfully coordinate the assets at its disposal. The Committee notes in this regard the close and cooperative relationship between Coastwatch and Defence. This the Committee is sure, is due in part to the Prime Minister's Task Force recommendation that 'the position of Director General Coastwatch be filled through the secondment of a serving uniformed Australian Defence Force officer'.⁷⁹
- 7.112 In addition, the MOUs entered into with client agencies and asset suppliers would assist coordination. As well, client agencies have an interest in successful operations because they are responsible for the outcomes.
- 7.113 A further aid to performance is that the current Coastwatch is in a position to adapt to changing levels and types of threats. The organisation has not invested in assets and can change the suite of equipment at its disposal by redefining its needs and renegotiating contracts with its private sector air surveillance contractors. In contrast the US Coastguard still uses World War II vessels with consequent demands on maintenance.⁸⁰
- 7.114 As an example of a changing threat, there may in the future be a need to counter unauthorised air movements in northern Australia. Coastwatch would be able to request from Defence the use of different surveillance equipment and/or renegotiate the contract with Surveillance Australia to provide different aircraft and sensors. There would be less reluctance to change because Coastwatch would not be committed to particular assets and surveillance equipment.
- 7.115 On the cost of operations, Coastwatch because it is within Customs is able to call upon its department in the case of short term financial demands
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78 Defence, *Transcript*, 30 January 2001, p. 275.

79 Department of Prime Minister and Cabinet, *Report of the Prime Minister's Coastal Surveillance Task Force*, Recommendation 13, p. 6.

80 *Deficits force coast guard to cut patrols*, in *The Virginian-Pilot (Norfolk, Va.)*, 9 March 2001. The article reported that nine officers were dumped into the Bering Sea when a 1 000 pound steel arm snapped when lowering their small boat into the water. The article commented that maintenance had been reduced on the ship which was of World War II vintage.

due to the need to respond to changing threats.⁸¹ This linkage again raises the possibility that Coastwatch might be too close to Customs and the risk to performance this poses. However, the Committee considers that the secondment of a Defence officer to the Director General position has addressed this concern.

The Committee's conclusion

7.116 The Committee is of the view that the current Coastwatch model is in effect an 'outsourced coastguard'. The core business of coordination has been retained and the provision of services is provided by other entities both private and public sector. Australia has been able to achieve this position without the cost and pain of creating then dismantling a large and cumbersome coastguard. The Committee notes that Canada and England outsource their coastal surveillance operations. As well, the US Coastguard through its Deepwater Project is seeking to replace many of its assets and use commercial assets to bring down the cost of conducting operations.⁸²

Bob Charles MP
Chairman
8 August 2001

81 Customs, *Transcript, 30 January 2001*, p. 263.

82 Surveillance Australia, *Transcript, 17 October 2000*, pp. 190-1.

