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HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON  
COMMUNICATIONS, TRANSPORT AND  
THE ARTS

**MINISTER FOR TRANSPORT AND REGIONAL SERVICES**

**INQUIRY INTO THE  
AUSTRALIAN MARITIME SAFETY AUTHORITY 1996-1997  
ANNUAL REPORT**

**"SHIP SAFE"**

Government response to  
a Report of the House of Representatives Standing Committee on  
Communications, Transport and Microeconomic Reform

September 1999

*Tabled 31 August 1999*

## Recommendation 1

***The committee recommends that the Commonwealth seeks to have the International Maritime Organization (IMO) give priority to the development of:***

- ***Effective means of ensuring that flag states meet their responsibilities under safety and pollution prevention conventions***
- ***Mechanisms for***
  - ***Flag states to demonstrate compliance***
  - ***IMO to audit and publish regular lists of compliant states.***

## Response

Accepted.

The Australian Maritime Safety Authority (AMSA) has broad responsibilities for representing Australia in the International Maritime Organization (IMO). AMSA provides the Australian focus for ship safety and pollution prevention matters in the IMO.

AMSA will continue to participate in the IMO's Flag State Implementation (FSI) Sub-Committee. AMSA will participate within FSI in monitoring implementation of Assembly Resolution A,847 (20) "Guidelines to assist Flag States in the implementation of IMO instruments". Analysis of the difficulties being encountered by Flag States will help identify needs and appropriate solutions.

AMSA will also seek to have the IMO audit and publish regular lists of compliant states.

## Recommendation 2

***The committee recommends that the Commonwealth expeditiously introduce legislation requiring ships visiting Australian ports to have protection and indemnity insurance.***

***Further, the committee recommends that this legislation also require that ships crews are insured for occupational illness, injury, disability and death.***

## Response

Not accepted.

Most ships visiting Australia carry third party risk insurance, primarily through Protection and Indemnity (P&I) Clubs. P&I insurance generally provides crew cover for occupational illness, injury, disability, death and repatriation. The Commonwealth does not propose to legislate to make this general insurance compulsory.

Proposed amendments to the *Protection of the Sea (Civil Liability) Act 1981* will implement the 1992 Ships of Shame recommendation in respect of P&I insurance covering third party claims arising from a pollution incident. The proposed amendments will:

- (i) require proof of possession of adequate insurance cover as a prior condition of entry of any foreign vessel into an Australian port; and
- (ii) clarify the liability of a shipowner and the ability of the Commonwealth to recover costs in certain circumstances.

### **Recommendation 3**

***The Committee recommends that:***

***(a) all trading vessels operating in Australian waters, regardless of the nature of the voyage, come under Commonwealth jurisdiction;***

***(b) the Commonwealth***

***- review the legislation relating to floating production storage and offloading platforms operating within the Australian Exclusive Economic Zone, for the purposes of clarifying jurisdictional responsibilities;***

***- communicate its findings to relevant players in the Australian and international shipping industry;***

***- ensure that adequate inspections are undertaken.***

### **Response**

(a) Not accepted.

The Commonwealth, States/NT are negotiating revised jurisdictional arrangements so that all foreign flagged vessels, all vessels engaged in overseas voyages and all Australian flagged vessels over 500GRT should come under Commonwealth jurisdiction. Australian flagged vessels under 500GRT will be a State/NT responsibility, regardless of the nature of the voyage within coastal waters. Action is under way to develop the necessary legislative and administrative arrangements to implement this agreement.

(b) Accepted.

The Commonwealth has examined the *Petroleum (Submerged Lands) Act 1967* (the Act) which provides for floating production, storage and offloading platforms (FPSOs) operating within the Australian Exclusive Economic Zone. FPSOs are subject to the provisions of the Act when located more than three nautical miles from the Territorial Sea Baseline. They are subject to mirror State or Northern Territory legislation if located inside the three nautical mile limit.

All operators of FPSOs operating in the Australian Exclusive Economic Zone are licensed under the Act or mirror State/NT legislation and fully aware of these jurisdictional arrangements.

The Act (and the mirror State/NT legislation) provides for the full regulation and management of all offshore petroleum exploration and development activities undertaken in Australia's Exclusive Economic Zone. For FPSOs this includes a stringent safety regime which amongst other things requires regular inspection and survey. The safety systems and performance are subject to regular audit and review.

#### **Recommendation 4**

***The committee recommends that marine pilots be required to report all serious safety deficiencies to the Australian Maritime Safety Authority.***

#### **Response**

Accepted.

There is already a strong formal and informal relationship between AMSA and port pilots on the reporting of safety deficiencies. However, the requirement to report defects is also a feature of IMO resolution 'Training, Qualifications and Operational Procedures for Maritime Pilots other than Deep-Sea Pilots A.485 (XII)'.

In relation to coastal pilots, the codes of conduct of two of the three coastal pilotage associations also require the reporting of defects to AMSA. AMSA will require a similar inclusion in the third code of conduct. This requirement will also be incorporated in the intended review of Marine Order Part 54 - Coastal Pilotage, making it mandatory.

## Recommendation 5

***The committee recommends that the Commonwealth, in consultation with the States/Territories and appropriate parties, establish a national training and selection framework for port pilots.***

### Response

Not Accepted

While AMSA will cooperate with the Association of Australian Ports and Marine Authorities Incorporated (AAPMA) and State authorities on proposals they may wish to bring forward to achieve consistency in training and selection for port pilots, the Commonwealth will not support the development of a single mandatory national pilotage selection and training.

More broadly, 'Guidelines for Australian Marine Pilotage Standards' have been prepared jointly by the National Maritime Safety Committee (NMSC) and AAPMA and have been endorsed by the Australian Transport Council. The Guidelines have been adopted by the Commonwealth and States/NT as a basis for the development of uniform legislation regulating pilotage of commercial vessels in Australia. These Guidelines will be reviewed every two years.

## Recommendation 6

***The committee recommends that the Commonwealth support action at the IMO requiring ships to be fitted with automatic identification systems.***

### Response

Accepted.

The requirement to fit automatic identification systems (AIS) is included in the draft text of the revised chapter V of the *International Convention on Safety of Life at Sea (SOLAS)* which is under consideration by the Safety Of Navigation sub-committee of IMO. AMSA, as the lead agency representing Australia at IMO, is supporting the inclusion of AIS in the revision.

## Recommendation 7

***The committee recommends that AMSA continues to initiate action through the Asia Pacific Memorandum of Understanding to achieve a consistently high standard in port state control inspections in the region.***

### Response

Accepted.

AMSA has continued to play an active role in the operation of the Asia-Pacific Memorandum of Understanding (MOU). The annual meeting of the MOU's Committee was hosted by AMSA at Cairns in April 1999. This meeting was chaired by AMSA's Manager of Ship Inspection Programs, who is chairman of the Committee until 2001.

AMSA will continue to provide surveyors for training of PSC inspectors in developing countries in the region.

### **Recommendation 8**

***The committee recommends that AMSA monitor more closely ships visiting our ports.***

***Further, the committee recommends that AMSA develop and implement a strategy to maximise the likelihood that harbour masters at our ports will report defective ships.***

### **Response**

Accepted.

AMSA is in the process of developing a comprehensive ship-targeting scheme, which will enhance its ability to monitor and make informed assessments of the quality of the ships coming to Australian ports. This will include access to greater amounts of information about the ships and their condition, which will be particularly useful for monitoring those visiting remote ports.

AMSA is also developing procedures for Area Managers to regularly visit harbour masters, pilots and private surveyors at ports that have no AMSA surveyors. This will enhance relationships with local authorities and industry, which will lead to improved communications and reporting on defective ships.

### **Recommendation 9**

***(a) The committee recommends that AMSA continues to maintain its high standard in its port state control program.***

***(b) Further, the committee recommends that AMSA, in its implementation of port state control, investigate initiatives to substantially offset any commercial advantage accrued by the operation of substandard ships, and report the results of its investigation to Parliament by June 1999.***

### **Response**

(a ) Accepted.

AMSA continues to maintain its high standard in its port state control program. The Tokyo Memorandum of Understanding set a 50 per cent inspection target by the year 2000. During 1997-98, AMSA recorded a 63 per cent inspection rate for eligible foreign ships.

(b) Not accepted.

AMSA is a safety regulatory authority and, as such, can only police compliance with the relevant international safety conventions.

AMSA's publicly stated requirement for ships visiting Australia is that they comply with the provisions of the conventions to which their Flag State is a signatory. Ships that do not comply are detained until they can demonstrate an acceptable level of compliance. AMSA applies this policy across the board without fear or favour and has developed a reputation internationally as having a rigorous but fair port state control regime.

Universal compliance with the applicable conventions removes any advantage an owner might seek to gain by operating a substandard, non-compliant ship.

AMSA will continue to work to further enhance its port state control regime, seeking to develop better, more precise targeting and inspection methods. This, coupled with the impact of the ISM Code for safety management and its accountability systems, and the work in progress supported by Australia to secure a greater degree of Flag State responsibility, will prove an effective deterrent to sub standard operators.

## **Recommendation 10**

***The committee recommends that:***

***(a) AMSA promote international monitoring of seafarers' excessive hours of work in the interests of ameliorating and alleviating fatigue; and***

***(b) the Commonwealth investigate and report to Parliament on ratifying ILO Convention 180.***

## **Response**

(a) Accepted in principle.

While the hours of work for seafarers set out in the 1995 amendments to the International Convention on Standards of Training and Watchkeeping (STCW 95) cannot be described as excessive the problem of fatigue has been recognised internationally. AMSA will continue to participate in the work of an IMO working group on fatigue which is tasked to examine the problem further and develop fatigue management strategies for adoption by member states.

The group reported in mid 1999, and as a result expanded the work to developing a code of practice for fatigue management for the maritime industry. This group is due to report again in May 2000. AMSA's contribution to the work of the IMO working group will have particular regard to the analysis of marine incidents within Australia's maritime jurisdiction in which fatigue has been shown to be a factor, as well as the outcome of its port state control function.

The requirement for minimum daily and weekly hours of rest for ships' watchkeepers set out STCW 95 has been given effect by AMSA through Marine Orders Part 28.

STCW 95 includes, in its provisions dealing with inspections by port states, a requirement that the watchkeepers required for the first and subsequent watches after the vessel has sailed be adequately rested and fit for duty. Failure to meet this requirement is included in the convention as grounds for detaining a vessel.

(b) Accepted.

On 9 December 1998 the Government tabled a report in Parliament on ILO Convention 180 (and other ILO maritime instruments adopted in 1996).

#### **Recommendation 11**

***The committee recommends that the Commonwealth evaluate and, where appropriate, address deficiencies in the existing regulatory framework and related processes with particular reference to the MV Glory Cape incident.***

#### **Response**

Accepted.

The Commonwealth will evaluate and, where appropriate, address deficiencies in the existing regulatory framework and related processes with particular reference to the MV Glory Cape incident.

#### **Recommendation 12**

***The committee recommends that the failure of the flag state (Panama) to investigate the circumstances surrounding the death of the radio operator of MV Glory Cape off Port Hedland on 1 November 1995 be referred by the Commonwealth to the IMO's Flag State Implementation subcommittee for information and investigation.***

#### **Response**

Accepted.



AMSA, as the lead agency for Australia at IMO, will provide details of the incident to the Flag State Implementation sub committee for its information and noting the details of the incident that are on record.

### **Recommendation 13**

***The committee reaffirms the recommendation in Review Inquiry into ship standards and safety – Progress Report (1994) and Ships of Shame - A Sequel: Inquiry into ship safety (1995) that Australia ratify ILO Convention 147.***

### **Response**

Not accepted.

Australia cannot currently demonstrate compliance with the provisions of ILO Convention 147, Minimum Standards (Merchant Shipping), 1976, for reasons which have been put to the Committee on several occasions, most recently in a submission to the 1996-1997 Ship Safe inquiry.

### **Recommendation 14**

***The committee recommends that the Commonwealth:***

- (a) provide interim financial assistance on an annual basis for approved seafarers' welfare organisations; and***
- (b) investigate the establishment and annual funding of a National Seafarers' Welfare Network, and report the findings to Parliament by June 1999.***

### **Response**

(a) Not Accepted.

The Commonwealth does not consider that seafarers' welfare organisations should operate, or receive benefits, in any way differently to other welfare organisations.

(b) Not Accepted.

The Commonwealth does not believe it would be appropriate to investigate the establishment and funding of a National Seafarers' Welfare Network.