

# Chapter 4 Port state control

## Introduction

4.1 Difficulties in maximising flag state compliance mean that port state control is a crucial line of defence against substandard shipping. Australia's port state control program is widely acknowledged to be of a very high standard (see paragraph 1.11). The Maritime Union of Australia commented that '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.' (*Transcripts*, p. 110)

4.2 Nevertheless, the committee heard that there were port state control measures which could enhance the quality of shipping in Australia and the Asia Pacific region.

4.3 This chapter begins with a discussion of the relevant findings of previous parliamentary reports. It goes on to outline developments and continuing issues in port state control and recommends measures to address these issues.

4.4 International maritime safety and pollution prevention conventions permit a state to inspect a foreign ship in one of its ports to ensure that it substantially complies with the standards for the international certificates it is required to carry.

4.5 Such inspections are supplementary to flag state control. They are primarily concerned with ship safety equipment rather than major structural faults. In Australian ports, the Australian Maritime Safety Authority (AMSA) is empowered to conduct these inspections. In 1996–97, AMSA inspected 3050 foreign ships, detaining 241 ships until serious safety deficiencies were rectified. This represented an inspection rate of almost 60 per cent of eligible foreign vessels. An eligible ship is one that has not been inspected in the previous six months (AMSA 1997 (a), p. 25).

4.6 The purpose of port state control inspections is to establish that foreign ships '...are seaworthy, do not pose a pollution risk, provide a healthy and safe working environment and comply with relevant international conventions'. (Exhibit 4, p. 1)

4.7 Port state inspections involve an initial examination of the ship's documentation and areas critical to safety. A more detailed inspection is undertaken where documentation is invalid or '...where there are clear grounds to suspect that a ship and/or its equipment or crew may not be in substantial compliance with the relevant convention requirements'. (Exhibit 4, p. 1) Inspections have primarily been concerned with ship safety equipment rather than major structural faults. Since 1996 port states also have been empowered to examine crew competency.

## Previous parliamentary reports

4.8 The 1992 report *Ships of Shame—inquiry into ship safety* noted that regional port state control inspection schemes '...achieve a much higher effective rate of inspection than does a single nation on its own.' (HORSCTCI 1992, p. 70) The report noted that fifteen Asia Pacific nations agreed in 1992 to form a regional scheme.

4.9 The 1995 report *Ships of Shame—A Sequel: Inquiry into ship safety* noted that, as of 1996, port states would be empowered to examine crew competency (HORSCTCI 1995, p. 14).

## Developments

### Regional port state control arrangements

4.10 The first regional port state control arrangement was established in 1982 by twelve European countries. The Paris Memorandum of Understanding (MOU) was intended to '...improve the effectiveness and efficiency of port state control activities of the individual countries through the sharing of information on ship inspections and cooperating in action taken against ships found to be in an unsafe condition or which posed a threat of pollution'. (Sub 1, *Submissions* p. 35)

4.11 Since then, regional agreements have been made for the Asia Pacific region (see below), Central and South America, the Caribbean, Mediterranean countries, Indian Ocean countries, and West and Central Africa. Talks have been held regarding a Persian Gulf MOU (Sub 1, *Submissions* pp. 35–6).

4.12 In 1993 sixteen nations of the Asia Pacific region signed a MOU in Tokyo concerning the development and implementation of regional port state control procedures. Key elements included the establishment of a target inspection rate and the development of a regional database in Canada linked to other regional databases. The committee received evidence that: 'It is by far the second most advanced of the regional MOUs in the implementation of port State control inspections, training of surveyors from developing countries, information exchange and cooperation between administrations.' (Sub 1, *Submissions* p. 36)

4.13 Details of AMSA's inspections are lodged daily in the database in Canada. According to AMSA: 'The exchange of on-line data intelligence and inspection results enables members to better target their inspection efforts and so deter the operations of unseaworthy and/or substandard ships in the region.' (AMSA 1997 (a), p. 26) Plans are underway to connect this database with the Paris MOU database (AMSA 1997 (a), p. 26).

4.14 After the implementation of the Asia Pacific MOU, the inspection rate in the region rose from 32 per cent (1994) to the target rate of 50 per cent (1996) (Sub 1, *Submissions* p. 18).

4.15 AMSA informed the committee that it had taken a lead role in advancing the Asia Pacific MOU (Sub 1, *Submissions* p. 19). As well as providing technical, financial and logistical support, it also provides training and advice to member countries (Sub 1, *Submissions* pp. 18–19).

### **Access to regional databases**

4.16 In 1992 the United States proposed that the International Maritime Organization (IMO) establish a database in which member states would record the details of port state control inspections. Other members, as well as interested organisations would have access to the findings. This has not proceeded, due to financial constraints. However, the United States intends to make its database compatible with regional database systems. When this is achieved, members of the Asia Pacific MOU and the Paris MOU will have access to the United States database and vice versa (Sub 1, *Submissions* pp. 22–3).

### **Review of Australian port state control arrangements**

4.17 In 1997 AMSA conducted an internal review of its inspection program in order to determine the level of uniformity and standard of inspections (Sub 1, *Submissions* p. 33).

4.18 In response to the findings of that review, AMSA standardised inspections, developed a training program to facilitate uniformity and began to develop an auditing program (Sub 1, *Submissions* p. 34).

### **Tracking ships**

4.19 The committee was informed that '...there are moves within the IMO... for ships to be fitted with Automatic Identification Systems... which are similar to aircraft in terms of their radar identification.' (Transcripts, p. 48) This would assist AMSA to identify vessels in Australian waters.

4.20 The committee believes that this technology could enhance ship safety and should be universally adopted.

### **4.21 Recommendation 6**

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

## **Continuing issues**

### **Uniformity and quality of inspections in the Asia Pacific region**

4.22 The committee heard from several sources that there was a need for greater uniformity of inspections in the Asia Pacific region (Sub 1, 16, *Submissions* pp. 19, 152).

4.23 The committee supports AMSA's active participation in the Asia Pacific MOU. In assisting other countries in the region, Australia makes a significant contribution to raising the quality and uniformity of port state control inspections, and therefore to improving ship safety.

#### **4.24 Recommendation 7**

**The committee recommends that the Australian Maritime Safety Authority 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.**

### **Out ports**

4.25 The committee heard that the objectives of the port state control program could be enhanced by paying more attention to some Australian out ports. Stella Maris informed the committee that: 'There are ships that are below standard that are getting through the smaller ports.' (*Transcripts*, p. 47) This might occur over the weekend, or because the inspector was on a break. For example, Stella Maris reported a ship in Albany to the port authority on a weekend. It was not inspected, reportedly because it would return in three months and could be inspected then (*Transcripts*, pp. 47–8).

4.26 Stella Maris recommended that '... AMSA, without diminishing their inspection rate of larger ports, increase the numbers of inspections on smaller ports, especially in bulk loading facilities.' (Sub 7, *Submissions* p. 93)

4.27 The committee also heard that there have been instances at out ports where there was pressure on the harbour master not to report defective vessels (*Transcripts*, p. 49).

#### **4.28 Recommendation 8**

**The committee recommends that the Australian Maritime Safety Authority (AMSA) monitor more closely ships visiting out ports.**

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

### **Addressing the human factor in inspections**

4.29 The committee heard that approximately 80 per cent of incidents are due to the human factor. Similarly, AMSA told the committee 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. (*Transcripts*, p. 45)

4.30 While vessel quality is still an important component of ship safety, it is vital that inspections reflect the growing recognition of the impact of crew competency and welfare on ship safety (see chapters 5 and 6 of this report).

## Market signals

4.31 Shipowners and operators face competitive pressures to reduce costs. Significant savings can be made by *not* complying with relevant international standards. The following explanation was presented in a report by the Organisation for Economic Cooperation and Development (OECD) in 1996.

- Shipowners face constraints when determining safety expenditure. Demands are made by flag states, insurers, classification societies, financiers and port states (OECD 1996, p. 13).
- Nevertheless, there remains considerable scope for the shipowner to decide the level at which the ship will operate (OECD 1996, p. 13).
- Standards could be classified as falling into five categories.  
*Ceiling* standards represent the maximum level of expenditure.  
*Good practice* is less costly but still a high level of expenditure.  
*Common practice* indicates the average expenditure.  
*Standard practice* indicates the minimum level of expenditure required to meet basic safety standards.  
*Floor* level of spending keeps the vessel operational only (OECD 1996, p. 10).
- Depending on the type of vessel, a shipowner operating at the inadequate *floor* level in 1994 could have saved the equivalent of 15 per cent of the annual running cost of the vessel at the *common practice* level (OECD 1996, p. 12).
- These savings would be reinforced by a low cost of subsequent compliance. For every day that the ship operates at a cheap and unsafe level, money is saved. The level of penalties and the policing of standards are important factors in minimising the financial benefit of operating unsafe ships (OECD 1996, pp. 17, 20–1).
- Penalties are currently insufficient. Higher penalties should be applied to detained ships, both as a deterrent and as a transfer of cost from the port state to the owner (OECD 1996, p. 20).
- The existence of such benefits is primarily due to deficiencies in flag state compliance (OECD 1996, p. 18).
- The effectiveness of flag state inspections is due to such factors as the frequency and thoroughness of inspections, the qualifications and experience of inspectors and whether non compliance is reported and followed up (OECD 1996, p. 19).

4.32 The OECD argued that existing penalties for substandard operations were no deterrent. This low level was '... almost an encouragement to operate substandard' because '... savings by operating below international norms and standards by far outweigh any penalty.' (OECD 1996, p. 21)

4.33 In the 1992 report it was recommended that AMSA '... impose a penalty surcharge on substandard shipping to fund the increased level of operations generated by these vessels.' (HORSCTCI 1992, p. 81) In 1993 this recommendation was not accepted by the Government.

4.34 During this inquiry, it was suggested to the committee that there should be a scheme which recognised and rewarded responsibly operated ships and placed substandard operators at a commercial disadvantage (Subs 9, 12, *Submissions* pp. 106, 138, *Transcripts*, p. 50).

4.35 The committee was informed that such a scheme has been operating in northern Europe but has not been investigated by AMSA (*Transcripts*, p. 50).

4.36 In view of the substantial financial benefits to be gained by some from operating a substandard vessel, the committee believes that any mechanisms which penalise irresponsible owners and operators and/or recognise and reward responsible owners and operators should be considered.

4.37 Such a scheme might make detention 'prohibitively expensive', as suggested by Lloyd's Register (Sub 12, *Submissions* p. 138). Alternatively, the scheme might extend privileges to ships of owners, operators or flag states with a good safety record.

#### **4.38 Recommendation 9**

**The committee recommends that the Australian Maritime Safety Authority (AMSA) continues to maintain its high standard in its port state control program.**

**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.**

## **Conclusion**

4.39 The committee notes the high regard in which the Australian port state control program is held. It also notes that the Australian Maritime Safety Authority (AMSA) is sharing its expertise with other countries in the Asia Pacific region.

4.40 In view of the substantial commercial benefit to be gained by some from operating substandard ships, the committee believes that AMSA should investigate and, if appropriate, implement a strategy to offset this benefit.