Chapter 3 Operational issues

Introduction

3.1 Sound operational practices are an important contributing factor to safe shipping. This has been acknowledged by the worldwide adoption of the International Safety Management (ISM) Code and other codes of practice. This chapter begins with a discussion of relevant findings of previous parliamentary reports. It goes on to outline developments in this area and continuing issues, and to recommend measures designed to enhance ship safety.

Previous parliamentary reports

3.2 The 1992 report, *Ships of Shame—inquiry into ship safety*, received evidence that poor operational procedures, including loading and unloading practices for bulk vessels, contributed to a decline in vessel quality (HORSCTCI 1992, pp. xv, 41–3).

3.3 That report noted the emergence of the ISM Code which was intended to build a culture of safety in the shipping industry (HORSCTCI 1992, p. 71). As the 1995 report, *Ships of Shame—A Sequel: Inquiry into ship safety*, noted, the ISM Code was incorporated into the International Convention for the Safety of Life at Sea (SOLAS) (HORSCTCI 1995, p. 17). This had the effect of making it mandatory for ships to comply with the code.

Developments

International Safety Management Code

3.4 The International Safety Management Code was mandated in Chapter IX of the SOLAS convention. As such, it became binding on 128 countries and more than 97 per cent of world merchant shipping tonnage.

3.5 It entered into force on 1 July 1998 for passenger ships, high speed passenger craft, oil, chemical and gas carriers, bulk carriers and high speed cargo craft. It is to be implemented in July 2002 for other cargo ships over 500 tonnes, and mobile offshore drilling units.

Purpose

3.6 The ISM Code is intended to provide an international standard for the safe management and operation of ships and for pollution prevention. It aims to support and encourage the development of a safety *culture* in shipping, by:

- providing for safe practices in ship operation and a safe working environment
- establishing safeguards against all identified risks
- continuously improving the safety management skills of personnel, including preparing for emergencies (International Maritime Organization 1996, p. 2).

Requirements

3.7 The Code requires a shipping company to:

- keep a copy of its Document of Compliance aboard each ship to be produced on request
- keep a copy of the ship's Safety Management Certificate aboard
- establish and implement (and regularly review) a Safety Management System
- document procedures in a Safety Management Manual (International Maritime Organization 1996, p. 2).

3.8 The Safety Management System includes:

- a safety and environmental protection policy
- instructions and procedures to ensure safety and environmental protection
- defined levels of authority and lines of communication between and amongst shore and shipboard personnel
- procedures for reporting accidents
- procedures for responding to emergencies
- procedures for internal audits and management review (International Maritime Organization 1996, p. 2).

3.9 The Australian Maritime Safety Authority (AMSA) monitors compliance with the code for all ships in Australian waters. Port state control inspections include a check to ensure that all relevant manuals and procedures are on board. Major breaches of the ISM Code will result in detention.

Code of Practice for the Safe Loading and Unloading of Bulk Carriers

3.10 In 1997 the International Maritime Organization (IMO) adopted the Code of Practice for the Safe Loading and Unloading of Bulk Carriers. Governments were encouraged to implement the code as soon as possible (Sub 1, *Submissions* p. 25).

3.11 The code aimed to improve communication between the ship's crew and the bulk terminal personnel. It provided advice on:

- the suitability of ships and terminals for the intended operations
- relevant information to be exchanged between ships and terminals
- ballast management
- procedures for loading and unloading
- the information that port and terminals should provide regarding their capacity (Sub 1, *Submissions* p. 26).

3.12 AMSA told the committee that it encouraged the use of the code, although its use was not compulsory (Sub 1, *Submissions* p. 26).

Navigation

3.13 The committee received evidence that the Australian Hydrographic Office was developing Electronic Navigation Databases to IMO standards. They were expected to be launched in January 1999 (Sub 22, *Submissions* p. 209).

3.14 The Electronic Chart Display and Information System uses satellites to continuously determine a vessel's position in relation to land, charted objects, aids to navigation and unseen hazards. The committee was informed by AMSA that it was working with the Australian Maritime College to ensure that appropriate training is provided to Australian mariners to enable them to use this technology (Sub 1, *Submissions* p. 52).

Continuing issues

Jurisdictional issues

3.15 It is important that there be no confusion in the industry about jurisdiction and associated responsibilities and obligations. In particular, vessels in Australian waters should be subject to necessary checks by relevant Australian authorities.

Foreign ships on intrastate voyages

3.16 Under the present arrangements:

> … foreign vessels on intrastate voyages fall outside the safety regulatory and environmental protection framework of the Commonwealth Navigation Act and the port State control and associated safety oversight programs of the Australian Maritime Safety Authority (AMSA). However, these vessels are subject to the States/Northern Territories inspection regimes. (Sub 19.02, *Submissions* p. 250)

3.17 The committee concurs with the New South Wales Government that the Commonwealth is the appropriate body to regulate and inspect all foreign vessels in Australian waters.

Floating platforms

3.18 According to the Department of Workplace Relations and Small Business, vessels calling at offshore platforms in Australian waters are subject to the *Navigation Act 1912*. If the platform is outside Australian waters, AMSA does not have jurisdiction (Sub 19.02, *Submissions* p. 251).

3.19 However, at the forum, there appeared to be some confusion as to whether tankers visiting floating production platforms are subject to Commonwealth jurisdiction (*Transcripts,* p. 38). This indicated to the committee that elements of the industry were unclear as to the jurisdictional coverage of these tankers, and also that inspections of these vessels might not be carried out.

3.20 Recommendation 3

The committee recommends that:

- **all trading vessels operating in Australian waters, regardless of the nature of the voyage, come under Commonwealth jurisdiction**
- **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.**

Pilotage

Competitive pilotage on the Great Barrier Reef

3.21 The committee was informed that competitive pilotage was introduced after the Commonwealth assumed jurisdiction over coastal pilotage in the Great Barrier Reef and Torres Strait in 1993. The committee heard conflicting evidence regarding its effects.

3.22 AMSA, BHP Transport and the Australian Shipping Federation argued that the new system had enhanced safety (*Transcripts,* pp. 30, 33).

3.23 According to Captain Hay, competitive pilotage on the Great Barrier Reef was flawed for the following reasons.

- Entrance and training standards were lowered.
- Two companies compete, leading to twice the infrastructure being required.
- A price war resulted, leading to prices that did not cover costs.
- If one pilot firm were to go out of business, the other firm would be able to charge as much as it wished.
- If both firms were to go out of business, a government would have to supply the service because pilotage is compulsory. (Sub 5, *Submissions* pp. 80–1)
- 'With competitive pilotage you can come under commercial pressure not to report defects'. (Sub 5, *Submissions* p. 78)

The committee notes that this was the only submission on this issue.

3.24 The committee is concerned at the possibility that safety deficiencies are not being reported. By making such reporting compulsory, no firm should be commercially disadvantaged for acting responsibly.

3.25 Recommendation 4

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

3.26 According to Captain Hay, an independent board should review the standards of selection, entry and training for pilots and set a fee scale (Sub 5, *Submissions* p. 81).

Uniform pilotage standards

3.27 The Queensland Coastal Pilot Service Pty Ltd advocated the development of national pilotage standards. It also argued that there should be a review of the regimes for:

- selection criteria (entry qualifications, including pyschometric tests)
- initial training (competency based standards)
- professional development (courses relevant and applicable to pilotage)
- medical fitness (scope and frequency of assessments)
- fatigue and working patterns (Sub 2, *Submissions* p. 61)

3.28 The Queensland Coastal Pilot Service Pty Ltd noted that the head of the Marine Incidents Investigation Unit, Captain Kit Filor:

> …has commented that he has found human error is evident in many investigated incidents, including those on well found Australian registered and manned vessels. A high proportion of these incidents have involved Australian pilots who are licensed under one of the various Federal or State licensing regimes. (Sub 2, *Submissions* p. 61)

3.29 AMSA argued that reef pilots already met a high standard (*Transcripts*, p. 32). However, it conceded that there were variations in standards for port pilots between different States/Territories. AMSA hoped that a national uniform training and selection framework would be put to the Australian Transport Council in 1998 (*Transcripts*, pp. 31–2).

3.30 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.

Salvage

3.31 United Salvage Pty. Ltd. informed the committee that the '…importance of prompt professional salvage assistance at marine casualties has long been recognised as essential to the protection of the property and the environment.' (Sub 6, *Submissions* p. 84)

3.32 The committee heard evidence that low financial returns had led to a disinclination to invest in salvage capacity, including training (*Transcripts*, pp. 26–7). It was argued that some governments [for example the United Kingdom, France, Spain, the Netherlands, Italy and South Africa] '… have recognised that whereas the private sector can provide the skills to deal with marine casualties, the full costs of maintaining salvage-capable tugs and equipment can no longer be commercially justified.' (Sub 6, *Submissions* p. 84) It was argued that some governments had taken steps to ensure that an appropriate level of salvage assistance was maintained.

3.33 United Salvage suggested that AMSA and United Salvage should work together to investigate how to maintain the present level of salvage coverage (Sub 6, *Submissions* p. 85).

3.34 On the matter of salvage training, it was suggested that consideration be given to providing this on a regional basis, particularly for Australia, New Zealand and the South Pacific (*Transcripts*, p. 28).

Investigation and analysis of incidents

3.35 The committee notes the work being undertaken by the Marine Incident Investigation Unit (MIIU), which is located in the Department of Small Business and Workplace Relations. The lack of criticism or evidence of concern from the shipping industry suggests that this body is respected within the industry. The committee supports the continued separation of the investigative arm of the industry from the regulatory arm (AMSA).

3.36 The committee notes that the existence of the MIIU does not relieve shipping companies from the responsibility of conducting investigations of incidents. The committee noted Mr MacGillivary's comment that shipping companies should place '…more emphasis on proper investigation and analysis of incidents and accidents, not only as a tool for improving their safety management system but also for improving the goals and for meeting the objectives of safety management in general.' (*Transcripts,* p. 110)

Conclusion

3.37 There have been some important developments in relation to the safe operation of ships. Chief among these is the adoption of the International Safety Management Code. This constitutes a global attempt to entrench a *culture* of safety in shipping. The Code of Practice for the Safe Loading and Unloading of Bulk Carriers will consolidate the progress already made in bulk carrier safety. The increasing sophistication of navigation technology should also enhance the safety of shipping.

3.38 There is scope for Australia to streamline both its standards for port pilots and the jurisdiction for foreign ships. Salvage capacity in Australia is an issue that may need to be monitored by the Australian Maritime Safety Authority.