

F99/534

1 June 2000

Dr Margot Kerley
Secretary
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

Dear Dr Kerley

INQUIRY INTO COASTWATCH

I refer to your letter of 13 April 2000 regarding your Committee's inquiry into Coastwatch. The Australian Fisheries Management Authority's (AFMA's) interest in this matter arises from its role as a major client agency of Coastwatch. I am pleased to attach AFMA's submission, which is an update of information provided to both the PM & C and the Heggen inquiries into Coastwatch, for your consideration.

Please also note that, in providing comments on the function of Coastwatch, this submission necessarily comments on the services and roles of agencies such as the Australian Customs Service (ACS) and the Royal Australian Navy (RAN) and their relationship with the Coastwatch function.

As this submission relates to strategic operational issues we require that the document be treated as an "in confidence" document. (IN CONFIDENCE MATERIAL DELETED).

Coastwatch Model

Coastwatch provides client agencies with coordinated civil surveillance and response services around Australia. Coastwatch coordinates strategic and tactical surveillance and response services, including civil contractors, the Australian Customs Service and the Department of Defence.

AFMA enjoys a sound working relationship with Coastwatch, which provides AFMA with both surveillance of the Australian Fishing Zone (AFZ) and access to response assets from which AFMA can enforce Australian fisheries laws. AFMA is not itself equipped for either coastal surveillance or for providing response assets. The ability of Coastwatch to provide a quality service is an important element in AFMA effectively carrying out its responsibility of protecting Australian fisheries and marine resources from illegal foreign fishing operations. AFMA believes the Coastwatch model has worked quite well for fisheries law enforcement purposes.

In terms of building and strengthening the service provided to AFMA by Coastwatch, AFMA considers that a high level of autonomy is important to Coastwatch's ability to

service its clients. As the body responsible for allocating resources in accordance with agreed priorities, Coastwatch should possibly have more direct operational control of relevant patrol vessels and aircraft assets. Coastwatch's independence is important in identifying priorities and ensuring that agencies receive adequate service support in terms of planning, asset deployment and the use of suitably trained personnel. This may include the secondment of personnel to Coastwatch from relevant client and service agencies.

Importantly, such integrated management of assets should ensure that longer term capital expenditure on vessels and infrastructure is considered across the full range of civil requirements.

Surface Response Assets

AFMA has had sound service from the RAN and its fifteen Fremantle Class Patrols Boats (FCPB's) over a long period of time. However, AFMA wishes to ensure that the FCPB's will be replaced with a similar number of vessels with at least the same capabilities. A considered national approach needs to be undertaken to ensure the RAN brings on stream a suitable replacement vessel to meet the growing civil response need. The attached copy of a letter to the Chief of the Defence Force sets out AFMA's views on this matter in more detail.

The new Customs fleet of eight 38-metre patrol boats would augment but not replace RAN surface response capability, subject to resolving arming and training issues discussed below.

In addition, there is also a need for large vessel civil patrols in remote areas, in particular to protect Patagonian toothfish stocks around Heard Island and McDonald Islands (HIMI) in the Southern Ocean some 4,000 kilometres south-west of Fremantle. There is also a periodic requirement for large vessel patrols around Christmas Island and the Cocos Islands, where the logistics associated with the apprehension of illegal fishing vessels in remote locations are greatly complicated. Following implementation of the United Nations Fish Stocks Agreement (expected later this year) Australia will have enhanced responsibilities for monitoring and controlling the activities of domestic and foreign fishing vessels on the high seas.

With regard to HIMI, AFMA has, since early 1997, worked closely with the Department of Defence, Coastwatch and Environment Australia on implementing compliance programs for the region. The joint program has resulted in the apprehension by the RAN of three large foreign longliners in the AFZ around HIMI and the demonstration that Australia has the capacity and intent to protect its sovereign interests in remote regions. This has, no doubt, contributed to Australia's standing as a responsible and able participant in matters of domestic and international significance, including meeting statutory obligations to manage fish stocks sustainably. This includes enhancing Australia's credibility as a participant in the Commission for the Conservation of Marine Living Resources (CCAMLR), the Eastern Antarctic Coastal States group and the UN Fish Stocks Agreement. During 1998 and 1999, AFMA conducted civil patrols in the remote HIMI region, using the chartered Australian Maritime Safety Authority (AMSA) vessel, *Cape*

Grafton. The vessel has a contract crew and was staffed with Fisheries Officers and Australian Defence Force communications personnel.

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Such civil operations generally have the advantage of being cheaper than the use of Defence assets.

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A detailed report on the first four HIMI civilian patrols, setting out in detail the background and future direction of patrols in the HIMI area, has been prepared for Ministerial consideration by the HIMI Operational Group (HIMIOG).

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It should be noted that the four year funding commitment for this patrol activity finishes in 2003. HIMIOG is considering options in respect of future operations in this area, but the region will be left unprotected if there is no provision for patrol activity beyond 2003.

The impending sale of “Cape Grafton” and consequent concerns about its future availability for HIMI civilian patrols highlights the difficulties in conducting a stand-alone operation of this type. There are very few vessels that are suitable or available for periodic charter for such operations, and the inability to access such a vessel would create major problems for the program. Integrated procurement and management of assets through an enhanced Coastwatch should ensure that longer term capital expenditure on vessels is carried out so as to address such situations. However, it would also require that appropriately equipped, trained and authorised personnel are available for such patrols.

Arming and Training

AFMA’s foreign fishing compliance program requires both an armed vessel and suitably trained and armed personnel to secure suspect vessels for boarding, investigating and possible apprehension by AFMA authorised Fisheries Officers. Recent and increasing examples of illegal Indonesian fishing vessels ignoring RAN warnings to stop and increasing examples of threats of violence by Indonesian fishermen highlight the need for an effectively armed and trained presence for apprehensions and boardings on whatever vessels are used as platforms for launching fisheries compliance tasks.

With legislative amendments proclaimed in December 1999 the ACS arms its officers for personnel protection, but ACS vessels are not armed. Hence requests by Australian Customs Vessels (ACVs) for fleeing fishing boats to stop may well be ignored by such vessels. This limits the value of the new ACVs for fisheries apprehensions. This situation is likely to deteriorate once the word spreads amongst Indonesian fishermen that ACVs have no means of enforcing orders to stop.

AFMA’s view is that the current training of existing Customs personnel in the carriage and use of arms is a very progressive step provided it leads towards achieving a paramilitary capability on civil vessels, including:

- . comprehensive training relevant to supporting fishing operations;
- . uniformed officers;
- . capability for the vessel to mount a suitable “show of force” should illegal fishing vessels refuse to stop;
- . capability to board vessels which are not cooperating;
- . capability to provide a “steaming party” on a large apprehended foreign fishing vessel (master and engineer capability) to bring such a vessel to port, should that be necessary.

In this context, the Government has recently implemented a number of legislative amendments aimed at strengthening and streamlining current powers relating to fisheries offences. These include:

- . adding the power (and officer protection) to use reasonable force for stopping vessels;
- . providing for innovations such as Propeller Entrapment Devices (PEDs);
- . enhanced protection for Fisheries Officers (including RAN personnel) against claims for damage or loss when performing their functions and duties in good faith; and
- . specifically recognising the carriage and use of firearms in relation to fisheries offences.

Inter-Agency Cooperation

AFMA works effectively with other services (Defence and Police) whose officers are automatically authorised as AFMA Fisheries Officers under the *Fisheries Management Act 1991*. This working relationship has involved these other services in exercising their training and resources to provide armed and logistical support for specialist Fisheries Officers trained in fisheries investigations and prosecutions. These specialist AFMA Fisheries Officers take responsibility for investigations, collection of evidence and preparation of prosecution briefs.

AFMA is prepared to work on a similar basis with other agencies where they can provide appropriate levels of armed and logistical support. However, where the exercise of Fisheries Officer powers requires adequate training and expertise, and the consequences of error may be large, AFMA would wish to maintain full control over fisheries specific investigations and field activities by those specialist Fisheries Officers. In particular, AFMA wishes to avoid failure of prosecutions through an inadequate understanding of fisheries law and procedures. As AFMA utilises the services of State/Territory fisheries agencies to undertake much of the Commonwealth’s fisheries enforcement field work, AFMA must also ensure that the operational support provided to specialist Fisheries Officers meets the State/Territory occupational health and safety standards.

Conclusions

AFMA would seek that the response to enquiries into undetected immigration infringements will not lead to a re-allocation of surveillance resources at the expense of the protection of Australia’s fisheries resources. Australia has an enormous

coastline, and it is evident that both the economic pressures on other countries and the increasing pressure on fisheries resources in many regions will present an incentive for illegal and unregulated fishing operations in and adjacent to the AFZ. Whilst the impact of illegal fishing may not be immediately evident, it is the nature of the fishing resource that once the impact is obvious it may well be too late to take effective action. For this reason the *precautionary principle* is embedded within fisheries legislation.

Fish stocks in the waters of northern neighbours are heavily fished (and, in many instances, largely depleted) and Australian resources will continue to attract unwanted attention. In recent years AFMA has apprehended between 60 and 130 illegal fishing vessels each year in the north of Australia. The impact of such fishing upon Australian fishing resources is potentially severe, and continued vigilance is necessary to contain further increases. There has been a marked increase in illegal foreign fishing activity since 1993, and AFMA has been very active in addressing this threat. A map entitled *Rate of Apprehension of foreign fishing vessels Jan98 – Dec 98* is enclosed. This map provides an indication of the likelihood of detected illegal boats being apprehended during 1998, the last year for which complete information is available.

AFMA is seeking continued access to patrol boats that have the capacity to reach and apprehend illegal fishing vessels within the full extent of the AFZ. This includes mid-sized vessels to patrol northern and temperate waters, as well as large vessels capable of patrols in remote regions with hostile weather conditions. Such vessels must have suitably trained crew and armed capability to stop offending vessels (often vessels larger than the boarding vessel) and to secure safe boarding under uncooperative circumstances. As such, AFMA has a clear interest in the type of vessel the RAN will use to replace the ageing Fremantle Class Patrol Boat and in the vessel assets and personnel plans for Customs and Coastwatch.

AFMA would be pleased to respond to any questions your Inquiry may have. If you require any further assistance please contact me on (02) 6272 5052 or facsimile (02) 6272 5784.

Yours sincerely

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Operations