Chapter 1 Introduction

Background to the inquiry

1.1   On 1 April 1998, the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform resolved to undertake an inquiry into, and report on, the Australian Maritime Safety Authority *Annual Report 1996–97*, as empowered under the House of Representatives Standing Order 28B(b) and in accordance with the Speaker's schedule, tabled 18 June 1996.

1.2   In conducting its inquiry, the committee's emphasis is on ship safety under the following five focus areas.

- quality of ships
- operational issues
- port state control
- crew training and competency
- crew welfare

1.3   The terms of reference are at page xiii of this report.

1.4   The inquiry builds on the work of previous parliamentary committees. The House of Representatives Standing Committee on Transport, Communications and Infrastructure tabled the following reports on ship safety.

- *Ships of Shame: inquiry into ship safety* (1992)
- *Review Inquiry into standards and safety: Progress Report* (1994)
- *Ships of Shame—A Sequel: Inquiry into ship safety* (1996)

These reports received national and international recognition for their investigation of safety problems and their contribution to identifying solutions.

Australian Maritime Safety Authority

1.5   The Australian Maritime Safety Authority (AMSA) aims to enhance the safety of seafarers and shipping and protect the marine environment from pollution. It commenced operations on 1 January 1991, after the *Australian Maritime Safety Authority Act 1990* came into effect on 22 October 1990. Most of the powers and functions of the Minister set out in the *Navigation Act 1912,* the *Shipping Registration Act 1981,* the *Lighthouses Act 1911* and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* were legislatively transferred to AMSA.

1.6   AMSA's services are mainly provided on a cost recovery basis from fees and levies and, to a lesser extent, from payments by the Commonwealth as a community service obligation. AMSA is located in the portfolio of Workplace Relations and Small Business.

1.7   AMSA's key functions are:

- to enhance maritime safety

- to provide a national system of navigational services

- to coordinate maritime search and rescue services

- to administer programs to combat marine pollution

- to provide services to the maritime industry on a commercial basis (Sub 1, *Submissions* p. 9)

1.8   AMSA consults with the Department of Workplace Relations and Small Business, State/Territory governments and industry. Formal avenues for consultation include the National Marine Safety Committee, the National Plan Advisory Committee and the AMSA Advisory Committee.

1.9   As the committee noted when it resolved to undertake the inquiry into the Australian Maritime Safety Authority *Annual Report 1996–97*, the report commented that:

> There is objective and anecdotal evidence that the quality of ships operating to Australia improved in recent years. This is generally accepted as being largely due to AMSA initiatives. Australia is recognised internationally as being at the forefront of world best practice in port State control and related activities. (AMSA 1997 (a), p. 23)

1.10   In undertaking its inquiry, the committee has examined what evidence exists to support the claim that the quality of ships operating to Australia has improved in recent years.

1.11   The committee notes that AMSA is generally held in high regard by Australian and international representatives of the shipping industry. The organisation was described as '…efficient, cost effective and well managed' (Sub 2, *Submissions* p. 60), competent (Sub 24, *Submissions* p. 216), and professional, even handed, fair and discreet (Sub 25, *Submissions* p. 220). Its port state inspection program was described as '…thorough and well-directed' (Sub 3, *Submissions* p. 67), successfully '…combining firmness with pragmatism' (Sub 16, *Submissions* p. 152). Both the personnel and leadership of the organisation were commended (Sub 2, *Submissions* p. 60).

1.12   A smaller number of submissions were critical of AMSA's processes and outlook (Subs 15, 24, 25 *Submissions* pp. 148, 217, 223).

1.13   In order to continue to improve ship safety, it is essential that pressure be maintained on participants in the industry. The committee notes that AMSA has played an important role in developing an international ship safety culture. In its annual report, AMSA highlighted its stronger international position on flag state issues and its higher level of surveillance of the Australian port state control regime (AMSA 1997 (a), p. 1).

Ship safety—the context

Significance of ship safety

1.14   This report is concerned with safety issues relating to vessels operating in Australian waters.   Three parliamentary reports established that, while the majority of ships were operated in a responsible manner, too many ships failed to meet adequate safety standards. To the extent that this is still the case, there are serious implications for seafarers, international trade and the marine environment.

- It is a measure of Australia's stature as a global citizen that it has been active in promoting and implementing measures which enhance the safety of seafarers.

- The total sea freight bill on Australia's external trade is approximately $10 billion each year (Sub 1, *Submissions* p. 7).   Actions which increase the safety of shipping will help to secure this commercial lifeline for Australia and its trading partners.

- The marine environment is valuable to Australia for both commercial and non commercial (aesthetic and recreational) reasons.   It is under increasing threat from several sources, one being the impact of shipping.   This provides further impetus for Australia to implement measures which enhance the safety of shipping.

Trends in international shipping

1.15   The management and regulation of global shipping occur within a changing commercial environment.   This has implications for the successful development of a safety culture in the industry.   Some of these trends, and their implications, are listed below.

Freight rates and charter rates are falling.

1.16   'Charter rates…are at an all-time low', and freight rates are also low, with the Asian crisis possibly indicating a further fall (Sub 25*, Submissions* p. 222).   While the volume of cargo shipped has grown by an average of 9.4 per cent each year since 1991, freight revenue has only grown by 4.1 per cent (*The Economist* 23 May 1998).   Along with other commercial constraints, low charter rates and freight rates add to pressure for ship operators to cut costs.

Shipping is becoming increasingly globalised.

1.17   The flag, finance, control, crew, registry and classification of a ship are likely to be strategically placed across the globe (Sub 8, *Submissions* p. 98).   This is reflected in the increasing use of flags of convenience, the growing tendency to employ seafarers from less developed countries and the shift in international shipping regulation away from traditional maritime countries.

The relationship between the shipowner and the crew/vessel is becoming more distant.

1.18   The relationship between ship owner and crew/vessel has become more distant. This provides one possible explanation for the apparent disregard for crew safety in the pursuit of financial returns. More intermediaries are also likely to be involved, providing scope for blame shifting or cost shifting, concealment of the beneficial owner, or for well intentioned owners to be misled about safety conditions and the treatment of crew.

Bulk carriers are increasing as a proportion of the world's fleet.

1.19   Bulk vessels comprise nearly one third of the world fleet (Sub 1, *Submissions* p. 6). Bulk carriers have properties which render them potentially unsafe. For example, corrosive or abrasive bulk cargo which is loaded rapidly from a great height can cause structural damage, and high sulphur content can cause corrosion in cargo holds (Intercargo submission 1992, pp. 386, 389, 397).

Technology is changing the nature of shipping.

1.20   Technological advances mean that ships may operate with smaller crews. They also mean that crews need to be trained to use the technology. Communications and navigation techniques have the potential to improve markedly with new technology.

1.21   While some trends, notably the advance of technology, indicate a promising future for ship safety, other trends point to further difficulties to be overcome. Some, such as commercial pressures to cut costs and the erosion of a shipowner's relationship with a vessel, can compound the effects of each other. To the extent that players are responding to market signals, with a consequent spiral downwards in safety standards, action needs to be taken at the global level to change those signals. The international regulation and management of the shipping industry involves competing players and shifting spheres of accountability. While this may be far from ideal, international cooperation still constitutes the best chance for ship safety.

Previous parliamentary reports

1.22   The *Ships of Shame* report (1992) and its successors reported findings and recommendations on a wide range of ship safety issues. A number of factors were found to be contributing to the poor safety record of shipping. These included the following:

- poor structural maintenance and failure to carry out repairs to ships
- loading and unloading practices
- an ageing world fleet
- inadequate crew training and inadequate qualifications for crew responsibilities
- poor maintenance of safety equipment
- inadequate firefighting and lifesaving equipment

- inadequate crew welfare (including physical abuse and neglect, financial exploitation, language difficulties, poor sanitation, inadequate accommodation, and inadequate food and water, as well as culturally inappropriate food)

- maintaining speed in heavy weather conditions (HORSCTCI 1992, 1994, 1995).

1.23   These factors were attributed largely to commercial pressure to cut costs.

- For example, for ship owners and managers, this pressure could manifest itself in unsafe practices.

- Similarly, flag states operated in a competitive market and may have faced competitive pressure not to enforce international standards.

- Intense competition in the insurance industry led to unsafe ships being insured.

- Low financial returns led to an ageing fleet.

1.24   It was found that the safety implications of economic pressure to cut costs were exacerbated by the breakdown in traditional ship management values and relationships. Increasingly, management companies (rather than owners) were dealing with ships' masters. In many cases, the goal was to generate short term returns from the ship. This restructuring led, in some cases, to pressure being placed on the master to engage in unsafe practices so as to save time or money (HORSCTCI 1992, p. 32). Similarly, the practice of reletting contracts reduced the funds available for the proper operation of ships because some of these funds were appropriated by the middle party (HORSCTCI 1992, p. 29).

Current situation

1.25   The evidence submitted to this committee in 1998 suggested that significant progress had been made in some areas of ship safety since the previous parliamentary inquiries reported in the first half of the 1990s. Australia, primarily through the Australian Maritime Safety Authority, has played a role in this progress.

1.26   Improvements appear to have been made primarily in the first four focus areas—quality of ships, operational issues, port state control, and crew training and competency. Evidence provided to the committee indicated that crew welfare has continued to be a major source of concern. In fact the committee heard that crew welfare was declining (Sub 7, *Submissions* p. 92).

1.27   Important developments in ship safety have occurred since the previous parliamentary inquiries. Major international initiatives intended to enhance ship safety include the following:

- industry codes of practice and guidelines

- the International Safety Management Code (ISM Code)

- regional port state control arrangements

- the revision of the Convention on Training, Certification and Watchkeeping (STCW95)

- International Labor Organization (ILO) conventions

- the updating of international conventions which aim to protect the environment.

1.28   Despite these important initiatives, this inquiry heard evidence that the shipping industry had an uneven, and often inadequate, *culture* of safety. Many flag states, port states, classification societies, operators, charterers and other parties insisted on high standards and acted in a responsible manner. Others appeared to adopt an approach which sought to maximise short term returns, even at the expense of lives, cargoes, the marine environment and their own reputations.

1.29   The abuse and neglect of crew members constitutes both a violation of human rights and a significant risk factor for ship safety. While violations of crew welfare are partly commercially driven, they ultimately derive from a fundamental lack of respect for human life. Such violations are facilitated by a legal framework that can allow perpetrators to hide behind corporate veils or slip through jurisdictional cracks.

1.30   The committee commends the efforts of the industry and its regulators to enhance the safety of shipping. Nevertheless, the committee is deeply concerned that a minority continues to gain a commercial advantage by flouting international conventions. Such behaviour is particularly reprehensible where human lives are at stake.

Ship safety—risk factors

1.31   The committee identified the following underlying (and interacting) factors which undermine ship safety.

- Owners, operators and charterers faced commercial pressures due to low freight rates and the strong supply of shipping relative to demand (*Transcripts,* p. 8). Responsibly operated ships continue to be required to compete with substandard ships. Classifications societies, insurers and flag states also continue to be subject to market forces, raising the danger of standards being compromised in the pursuit of market position.

- The increasing globalisation of the shipping industry and the scattering of responsibility centres continue to make it difficult to supervise and enforce uniform practices and standards in such areas as shipbuilding, operations and language. For example, AMSA asserted that:

    …we have hundreds of shipyards building ships nominally under the one standard, but under a myriad of interpretations. (*Transcripts,* p. 16)

    Similarly, a ship might be built, owned, registered, financed, managed and crewed from different countries.

- Inadequate accountability mechanisms mean that the beneficial owner of the ship is not always required to face the consequences of breaches of ship safety. For example, the International Transport Workers' Federation (ITF) asserted that:

    It is becoming increasingly difficult to track through the paper trail to get to the owner to identify who is ultimately responsible for whatever damage may have been caused to Australia or to the crew on board the vessel. (*Transcripts,* p. 39)

- Not all participants in the industry demonstrate respect for human life. AMSA asserted that: '…the value of life on some of the ships in Third World countries does not seem to register in terms of the value systems of some of the Western countries.' (*Transcripts,* p. 16)

- There has been a fragmentation of the relationships within the ship's chain of responsibility. Increased distance between these players could be said to have facilitated apathy as to both the reputation of the ship and the welfare of its crew.

- The practicalities of state sovereignty continue to make it difficult to implement global solutions to safety problems. As a body of international consensus and cooperation, the International Maritime Organization (IMO) has been limited in its ability to sanction uncooperative players. Similarly, jurisdictional boundaries and sensitivities have sometimes made it difficult for port states to take a strong stand on safety deficiencies.

Conduct of the inquiry

1.32   At the commencement of the inquiry, the committee prepared an *Information* booklet. The booklet provided the inquiry's terms of reference and focus areas, advice on making a submission and appearing as a witness, and an overview of parliamentary committees. The booklet was distributed to individuals and organisations including Commonwealth and State/Territory Members of Parliament and departments, advocacy groups, industry players, the media and private citizens.

1.33   The inquiry and the terms of reference were advertised nationally in the *Australian Financial Review* on 8 May 1998, *Daily Commercial News* on 8 May 1998, the *Weekend Australian* on 9–10 May 1998 and *Lloyd's List* on 11 May 1998. In addition, the committee wrote to approximately 85 individuals and organisations inviting them to make a submission.

1.34   The committee received 28 submissions and 5 supplementary submissions from a range of individuals and departments including Commonwealth bodies, State Governments, advocacy groups, businesses, industry bodies, unions and professional associations, educational bodies and private citizens. The names of the individuals and organisations from whom the committee received submissions may be found in Appendix 1 of this report. A list of the exhibits received by the committee may be found at Appendix 2 of this report.

1.35   The committee conducted a public forum on Tuesday, 14 July 1998 in Sydney. Invited participants discussed ship safety issues with the committee. A list of participants may be found at Appendix 3 of this report. Members of the public attended the forum as observers and were invited to address the committee during the plenary session.

Structure of the report

1.36   In reporting its findings, the committee structures each of the following chapters around the following:

- the findings of previous parliamentary inquiries into ship safety

- developments in the mid to late 1990s

- continuing issues

- recommendations to deal effectively with some of these issues.

1.37   **Chapter 2** focuses on the **quality of ships** that are coming to Australia. The chapter begins with a discussion of the findings of previous parliamentary inquiries. It outlines developments in this area, identifies continuing issues and recommends measures to address these issues. This chapter discusses inadequate flag state compliance, which is an important factor contributing to poor quality vessels.

1.38   **Chapter 3** focuses on **operational issues** that impact on ship safety. The chapter begins with a discussion of the findings of previous parliamentary inquiries. It outlines developments in this area, including the ISM Code, identifies continuing operational issues and makes recommendations.

1.39   **Chapter 4** focuses on **port state control** issues. The chapter discusses the findings of previous parliamentary inquiries, outlines developments in this area, identifies continuing issues and recommends solutions.

1.40   **Chapter 5** focuses on issues of **crew training and competency**. The chapter outlines developments in this area, including the revised Convention on Standards of Training, Certification and Watchkeeping, before identifying continuing issues and making one recommendation.

1.41   **Chapter 6** focuses on the difficult area of **crew welfare**. The chapter outlines developments in this area before identifying continuing issues and recommending solutions. The abuse and neglect of seafarers are of great concern to the committee.

1.42   **Recommendations** by the committee appear throughout the text following the related discussion of the issue. The recommendations are also reproduced at the front of the report (with cross referencing to the relevant section in the body of the report) to assist readers.

1.43   **Appendices** are provided at the end of the report. They present detailed lists of all submissions, exhibits and participants at the forum. These provide the main body of evidence considered by the committee in preparing its report. There is a list of additional reference materials cited in this report (Appendix 4); an outline of the inquiry process (Appendix 5); and an outline of the recommendations of, government responses to, and subsequent actions from, the three previous parliamentary reports into ship safety (Appendix 6).

Availability of the report

1.44   The report is available to the public once presented to Parliament.

- Participants at the public forum and those who made a submission specifically addressing the terms of reference to the inquiry will be sent a copy of the report.
- Copies of the report may be purchased from Government Info Shops.
- The report is also on the Internet through the committee's home page at:

    http://www.aph.gov.au/house/committee/ctmr/index.htm

End of the inquiry

1.45   Once the committee presents its findings and recommendations as an advisory report to the Parliament, the committee inquiry process is completed. It is then the role of Government to consider the report and respond in Parliament to the committee's recommendations. For an explanation of the whole inquiry process, please see Appendix 5.