

Relationship between Coastwatch and other entities

Introduction

- 4.1 Coastwatch's role is to manage a range of assets and skills to provide a service to various Commonwealth clients. In such a service provider relationship there must be a good relationship between the parties. To develop a good rapport it is important that all sides have a clear understanding of their roles and responsibilities. Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) provide this level of understanding in the form of written agreements.
- 4.2 Defence contributes significantly to Coastwatch operations through the provision of Defence assets for both aerial and maritime civil surveillance requirements.¹ The link between Coastwatch and Defence has been significantly strengthened through the appointment of a seconded member of Defence as Director General Coastwatch arising from the Prime Minister's Coastal Surveillance Task Force (PMTF).

¹ Government mandates Defence to provide to the Civil Surveillance Program 1 800 days of RAN surface patrol and response and 250 hours of RAAF maritime aerial surveillance per fiscal year.

- 4.3 In addition to Defence assets, Coastwatch is able to call upon vessels from the Customs maritime fleet, and to complete the picture, Coastwatch manages surveillance aircraft from private sector contractors.
- 4.4 Coastwatch's civil surveillance program is comprised of both strategic and tactical operations. Eighty per cent of the flying program is undertaken for strategic surveillance purposes.
- 4.5 Underpinning its strategic surveillance taskings are three Coastwatch consultative forums:
- the Operations and Program Advisory Committee (OPAC);
 - the Regional Operations and Program Advisory Committee (ROPAC); and
 - the Planning and Advisory Sub-Committee (PASC).
- 4.6 All three consultative forums provide client agencies with a regular opportunity to discuss and plan surveillance requirements with Coastwatch and other agencies at both a regional and national level. Since most of the coastal surveillance activity is multi-tasked, the consultative forums provide valuable discussion and planning time.
- 4.7 Tactical operations have a specific objective and are based on operational intelligence or are conducted in response to an emerging incident. Until they are cancelled, tactical operations receive priority over strategic operations.

Client relations with Coastwatch

- 4.8 The Committee has been advised by client agencies that they were generally happy with the way Coastwatch is operating. Several client agencies remarked that given the present funding and resource allocation to Coastwatch, they are satisfied with the level of service they are receiving.
- 4.9 The following comment by DIMA was similarly reiterated by several of Coastwatch client agencies²:

The Department enjoys a productive working relationship with Coastwatch.¹³

2 AFMA remarked that they enjoy a good working relationship with Coastwatch. AFP stated that they have enjoyed a good relationship with Coastwatch over a number of years. AQIS commented it has developed a strong working relationship with Coastwatch at both a national and regional level. Environment Australia stated that Coastwatch has been responsive to EA's needs. *Submissions*, pp. S295, S67; *Transcripts*, pp. 82, 268.

- 4.10 The Committee is encouraged by the positive relationship Coastwatch has established with its clients. However, it notes that Coastwatch is the sole co-ordinator/provider of 'free of charge' services to these agencies, and therefore it is in the client's best interest to be satisfied with the free service they receive. During the final public hearing the Committee expressed some scepticism as to whether the relationship was as rosy as that being portrayed,⁴ and notes that it might change if there was a more contestable environment.

Improvements to client relations and Coastwatch operations

- 4.11 Coastwatch stated in its submission that the 'challenge for Coastwatch is to continuously improve the quality of the service provided to clients and to keep meeting the expectations that they and the general public demand and deserve.'⁵ The Committee was eager to establish what if any improvements could be made to the present Coastwatch model.
- 4.12 The Committee considers that at present Coastwatch's major clients are DIMA and AFMA. However many tactical operations are in response to DIMA-related requests which impact on strategic plans. Consequently, the Committee asked whether AFMA was satisfied with the existing Coastwatch model. Mr Peter Venslovas, Senior Manager Compliance, replied that 'from our perspective we have had fairly good service from the Coastwatch model.' Mr Geoffrey Rohan, General Manager operations, added that 'Coastwatch's strength is in the surveillance area' whereas AFMA's main concern with the model was 'in relation to the response capability.'⁶
- 4.13 Mr Venslovas informed the Committee of the difficulties that Coastwatch has in dealing with competing priorities when he told the Committee that '70 per cent of our requests have been met through the Coastwatch model'.⁷
- 4.14 Although AFMA recognised and accepted that illegal immigration is a current concern for the government, it suggested that improvements could be made to the Coastwatch model in the area of response capability. The submission from AFMA stated:

Coastwatch should possibly have more direct operational control of relevant patrol vessels and aircraft assets. Coastwatch's

3 DIMA, *Submission No. 24*, Volume 1, p. S184.

4 *Transcript, 30 January 2001*, p. 253

5 Customs, *Submission No. 25*, Volume 1, p. 209.

6 AFMA, *Transcript, 8 September 2000*, p. 87.

7 AFMA, *Transcript, 8 September 2000*, p. 87.

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.⁸

- 4.15 The audit report was concerned with this issue of competing priorities. ANAO made a recommendation for developing a common risk assessment process, which is discussed in the resource allocation section below (paragraph 4.58).
- 4.16 Rear Admiral Shalders estimated that Coastwatch was applying about 80 per cent of its efforts to long term programmed flying activity (strategic activities) and 20 per cent for tactical activity.⁹ Strategic surveillance involves the translation of planned, risk assessed taskings submitted by client agencies into ongoing flying programs. Tactical surveillance comprises flying which is the result of specific operational intelligence, usually received with little notice and which normally presents a more demanding scenario than routine, strategic surveillance.¹⁰
- 4.17 Tactical taskings occur primarily for DIMA, Customs, AFMA and Search and Rescue. Other clients often find that their strategic surveillance activities are rescheduled if they are unable to be carried out at the same time. However, Rear Admiral Shalders emphasised during the Committee's final hearing that strategic surveillance can still be carried out during a tactical operation.

... just because an asset is detailed to a tactical operation, it does not stop doing the strategic reporting once it is on that tactical operation. ... the Committee will recall that on one of the flights we took we were tracking an illegal entry vessel and coordinating a response to it but at the same time the aircraft was reporting the fishing vessels that were operating in the area. We can do more than one thing at a time.¹¹

The Committee's comment

- 4.18 Given the current resource allocation that Coastwatch receives it would be unreasonable for a client agency to expect to receive 100 per cent of its nominated surveillance for their programs. However a baseline figure for strategic surveillance would be useful for both Coastwatch and client agencies.

8 AFMA, *Submission No. 18*, Volume 1, p. S126.

9 Customs, *Transcript, 18 August 2000*, p. 29.

10 Customs, *Submission No. 25*, Volume 1, pp. 202–3.

11 Customs, *Transcript, 30 January 2001*, p. 270.

- 4.19 The Committee expects that Memoranda of Understanding and Service Level Agreements would include a clause stating a baseline percentage of strategic surveillance tasking that the client agency would receive. For example, AFMA might expect to receive a certain percentage of its strategic taskings.
- 4.20 The Committee makes further comments regarding response capability when it discusses the challenges for Coastwatch in Chapter 6.

Memoranda of Understanding and Service Level Agreements

- 4.21 MOUs 'outline the individual roles and responsibilities of Coastwatch and its key client agencies.'¹² An MOU is simply a document that formalises an arrangement between agencies, but is not legally binding. An SLA has the same characteristics as an MOU.
- 4.22 Mr Ian McPhee, Deputy Auditor-General, made the following positive statement in relation to MOUs/SLAs:
- I think it is recognised that the idea of having memoranda of understanding is a very pragmatic way of trying to get resolution with key stakeholder groups as to the various roles and responsibilities.¹³
- 4.23 Rear Admiral Shalders informed the Committee at the final public hearing on the present status of MOUs and SLAs between Coastwatch and its client agencies. He stated that:
- ... we have complete and current service level agreements or memorandums of understanding with six agencies. They are AMSA, DIMA, the Australian Federal Police, AFMA, the Great Barrier Reef Marine Park Authority and AQIS.¹⁴
- 4.24 The Committee was also informed that there were another four MOUs in progress with Environment Australia, the Department of Foreign Affairs and Trade, the border division of Customs' and the Queensland Department of Transport.¹⁵
- 4.25 That the establishment of an MOU/SLA helps to establish a good working relationship between Coastwatch and client agencies was confirmed by

12 Auditor-General, *Audit Report No. 38, 1999–2000*, p. 41.

13 ANAO, *Transcript, 18 August 2000*, p. 7.

14 Customs, *Transcript, 30 January 2001*, pp. 261–2.

15 Customs, *Transcript, 30 January 2001*, p. 262.

evidence from Mr Davidson, Chief Executive, AMSA. He told the Committee:

We do not actually have any strategic tasking for Coastwatch and consequently our utilisation is almost exclusively tactical. That comes at very short notice and with little warning, and we have found that the relationship has improved dramatically since we concluded our MOU in 1999.¹⁶

- 4.26 On the other hand, Mr Woodward, CEO Customs, discussed the difficulties he perceived with Customs formulating an MOU with Coastwatch. He stated:

I have a conceptual difficulty ... At the end of the day the person who accepts responsibility for the working of Coastwatch, notwithstanding the fact that there is a Director-General, is the CEO of Customs. So at its essence, the suggestion that there ought to be an MOU between Customs and Coastwatch is that I should sign an MOU on behalf of Customs. Theoretically, given that I also accept responsibility for Coastwatch, it could be argued that I should also sign it in relation to Coastwatch. That is something I have some difficulty in working my way through.¹⁷

The Committee's conclusion

- 4.27 The Committee sees merit in Coastwatch establishing an MOU with Customs. Despite the fact that the CEO, Customs ultimately makes decisions for both Coastwatch and Customs, the Committee believes that such a document would set out clear responsibilities for both agencies. The Committee believes an MOU would enhance the already successful working relationship between Coastwatch and Customs.
- 4.28 The Committee notes that a supplementary submission from Customs advising of the status of Coastwatch MOUs/SLAs indicated that an SLA between Coastwatch and Customs was 40 per cent complete.¹⁸
- 4.29 During the August public hearing the Committee questioned why the process of establishing and finalising MOUs with client agencies was taking so long. Admiral Shalders responded that he was not sure why, but assured the Committee that Coastwatch was working hard to implement the recommendation of the ANAO.¹⁹

16 AMSA, *Transcript, 30 January 2001*, p. 268.

17 Customs, *Transcript, 18 August 2000*, p. 25.

18 Customs, *Submission No. 55*, Volume 4, p. S658.

19 Customs, *Transcript, 18 August 2000*, p. 24.

- 4.30 The Committee fully supports the ANAO Recommendation 1 that 'Coastwatch finalise appropriate Memoranda of Understanding (MOU) with all key client agencies as a matter of priority.'²⁰ The Committee also urges all client agencies without a finalised MOU/SLA agreement to cooperate with Coastwatch in order to establish and finalise outstanding MOUs/SLAs.

Coastwatch's relationship with Defence

- 4.31 Defence provides surveillance and response assistance to Coastwatch through the use of RAAF aircraft and RAN patrol boats. In addition, Defence also shares military intelligence with Coastwatch. The Defence submission stated:

The sharing of military intelligence and planning information with Coastwatch is increasing, and provides a firm foundation for the planning and conduct of support to the civil surveillance effort.²¹

- 4.32 Defence has also played a significant role 'in the establishment of the National Surveillance Centre (NSC), which has permitted better access to classified intelligence.'²² The Prime Minister's Coastal Surveillance Taskforce emphasised that 'information and intelligence is the single most effective means of preventing illegal boat arrivals.'²³ Good information and intelligence gathering can also be considered a crucial means to prevent other illegal activity such as drug smuggling and illegal fishing.
- 4.33 The Committee has been impressed with the excellent working relationship that Coastwatch and Defence have demonstrated. The cooperation between agencies and coordination of response assets also appears to be operating well.
- 4.34 In particular, the Committee attributes the excellent working relationship between Defence and Coastwatch to the appointment of Rear Admiral Shalders as Director General, Coastwatch. The appointment of a serving military officer was an initiative of the PMTF.
- 4.35 The Committee endorses Recommendation 13 from the PMTF which states:

²⁰ Auditor-General, *Audit Report No. 38, 1999–2000*, p. 43.

²¹ Defence, *Submission No. 28, Volume 2*, p. S276.

²² Defence, *Submission No. 28, Volume 2*, p. S276.

²³ Department of Prime Minister and Cabinet, *Report of the Prime Minister's Coastal Surveillance Task Force*, p. 1.

That the position of Director-General Coastwatch be filled through secondment of a serving uniformed Australian Defence Force (ADF) officer ...²⁴

- 4.36 The secondment of a serving uniformed Defence officer has increased the understanding of the roles and responsibilities between Defence and Coastwatch. Mr Allan Behm, Head Strategy and Ministerial Services Division, Defence, commented that:

... the coordination mechanisms that have been developed over the last few years really do work very well and we know how to work with them.²⁵

Recommendation 4

- 4.37 **The practice of seconding a uniformed Australian Defence Force officer to the position of Director General Coastwatch be retained.**

External Service Providers

- 4.38 Coastwatch uses external service providers to provide the full range of services to clients. In addition to Defence, Coastwatch has access to eight new Customs 'Bay Class vessels that provide 1 200 sea days per annum'.²⁶ Coastwatch also contracts civilian assets through Surveillance Australia and Reef Helicopters.
- 4.39 Surveillance Australia²⁷ is a major contributor to Coastwatch operations as the provider of all civilian contracted 'fixed wing aerial surveillance services utilised'.²⁸ In its submission, Surveillance Australia highlighted the good working relationship they have established with Coastwatch:

... despite the contractor status with Coastwatch a high degree of personal ownership of the Coastwatch function exists, particularly amongst our employees, many of whom have been involved in the Coastwatch operation from its inception over 15 years ago and

24 Department of Prime Minister and Cabinet, *Report of the Prime Minister's Coastal Surveillance Task Force*, p. 5.

25 Defence, *Transcript, 18 August 2000*, p. 42.

26 Coastwatch, *Submission No. 25*, Volume 1, p. S196.

27 Surveillance Australia Pty Ltd, is a wholly owned subsidiary of the National Jet Systems Group.

28 Surveillance Australia, *Submission No. 22*, Volume 1, p. S153.

across multiple government departments, contracts and contractors.²⁹

- 4.40 Reef Helicopters is a private contractor responsible for the delivery of civilian rotary wing aerial patrolling, surveillance and general transportation services in the Torres Strait area. Two helicopters are used—a Bell Long Ranger and a larger Bell 412 EP.³⁰
- 4.41 Mr David Earley, CEO Reef Helicopters, told the Committee that there was 'a good working relationship with Coastwatch.' However he did highlight some contractual difficulties that were encountered with the larger helicopter surveillance contract which commenced on 1 January 2000.³¹
- 4.42 These difficulties were partly attributed to the urgency resulting from political pressure in the lead up to the contract as well as some of the aircraft specifications relating to equipment choice.³² However Mr Earley told the Committee that 'the situation now is settled and proceeding quite acceptably.'³³

The Committee's comment

- 4.43 During its inspection tour of Coastwatch operations in northern Australia the Committee discussed issues with the employees of Coastwatch's external service providers. The Committee was impressed with the professionalism of these employees and that they regarded themselves as part of the Coastwatch team.
- 4.44 The Committee is keen to ensure that all public sector agencies carry out efficient and effective contract management practices. In November 2000 the Committee tabled a report on *Contract Management in the Australian Public Service*. The Committee understands that contract management involves a complex set of tasks which must be brought together to successfully negotiate and fulfil the objectives of a contract.³⁴ The Committee highly recommends that Coastwatch and its clients consult the ANAO's *Better Practice Guide for Contract Management*, February 2001.

29 Surveillance Australia, *Submission No. 22*, Volume 1, p. S153.

30 Auditor-General, *Audit Report No. 38, 1999–2000*, pp. 50, 69.

31 Reef Helicopters, *Transcript, 24 October 2000*, p. 231.

32 Reef Helicopters, *Submission No. 27*, Volume 2, p. S268.

33 Reef Helicopters, *Transcript, 24 October 2000*, p. 231.

34 Joint Committee of Public Accounts and Audit, Report 379, *Contract Management in the Australian Public Service*, p. 4.

Consultative Forums

- 4.45 Coastwatch has a number of consultative forums that it uses to coordinate strategic and tactical operations with clients and external service providers.³⁵ These committees are:
- Operations and Program Advisory Committee (OPAC);
 - Regional Operations and Program Advisory Committee (ROPAC); and
 - Planning Advisory Sub-Committee (PASC).
- 4.46 The Auditor-General recommended that 'Coastwatch review the functionality of the Operational Planning and Advisory, the Regional Operational Planning and Advisory Committee, and the Planning Advisory Sub-Committee.' Coastwatch agreed to the recommendation and stated that the recommendation was already being 'actively pursued.'³⁶
- 4.47 OPAC overviews the development and the outcomes of the surveillance program. Initially OPAC met on a monthly basis, but following the audit the other consultative forums were reinvigorated and Coastwatch now considers it to be more effective to meet on a bimonthly basis.
- 4.48 ROPAC feeds into OPAC and is a network of regional committees that facilitates the input of regional requirements into the national surveillance program. These meetings are held in various regional areas around Australia:
- Darwin bimonthly;
 - Cairns monthly;
 - Brisbane biannually;
 - Torres Strait monthly;
 - Broome bimonthly; and
 - Perth quarterly.
- 4.49 PASC comprises of Coastwatch, client agencies and Defence representatives. It meets monthly to review and develop detailed surveillance plans.³⁷
- 4.50 The Queensland Government submission was critical of the lack of high level coordination in relation to Coastwatch activities that was occurring

35 Auditor-General, *Audit Report No. 38, 1999-2000*, p. 43.

36 Auditor-General, *Audit Report No. 38, 1999-2000*, Recommendation 2, p. 45.

37 Coastwatch, *Submission No. 25*, Volume 1, p. 204.

between State and Federal agencies. In its submission the Queensland Government commented:

The potential for the spread of disease across human, animal and plant species from unauthorised entry is very high and could pose an enormous social and economic cost to Australia. A high level of coordination between the Commonwealth and State agencies that intersect with Coastwatch is essential to protect against such outcomes.³⁸

4.51 Although a number of Queensland State agencies with an interest in Coastwatch operations have some input into the Cairns based ROPAC meetings, there is little direct contact with Coastwatch outside of these meetings. Another factor that restricts State agencies from developing a closer relationship with Coastwatch is the fact that State agencies are 'required to work through a federal sponsor.'³⁹

4.52 Rear Admiral Shalders responded to the Queensland Government's call for increased liaison between State agencies and Coastwatch in the following terms:

We accept the call and, ... we will undertake to ensure that the state agencies are able to attend our regional planning meetings. They do now. We will take advice from the Queensland government in terms of including other agencies as required.⁴⁰

4.53 EA commented in its submission that while the PASC processes are effective and efficient, the absence of some client agencies from this forum makes comparison of priorities between the tasks of the various agencies difficult.⁴¹ During the September public hearing Dr David Kay, Assistant Secretary Marine Conservation Branch made the following comment in relation PASC participation:

The intention is for Coastwatch to provide whole-of-government service, and unless there is a commitment from all departments to be engaged in the planning and deliberations, it has difficulties meeting that aim.⁴²

4.54 Dr Kay told the Committee that EA accepted that it was not considered to be a major Coastwatch client, but sometimes additional expenses were incurred when it did not receive the strategic surveillance that had been planned. He said:

38 Queensland Government, *Submission No.36*, Volume 2, p. S512.

39 Customs, *Transcript, 18 August 2000*, p. 20.

40 Customs, *Transcript, 18 August 2000*, p. 20.

41 EA, *Submission No. 11*, Volume 1, p. S67.

42 EA, *Transcript, 8 September 2000*, p. 111.

If, for some reason, a higher priority task comes along and we are 'bumped off' the vessel, all that expense and planning is for nought. It can be significant in long-term monitoring programs where missing a particular data set casts doubt on the legitimacy of the whole program.⁴³

- 4.55 The Committee asked Dr Kay if he could suggest a more effective way to allocate tasks and priorities however he did not have a suggestion. He simply commented 'it is an issue that needs to be kept under review.'⁴⁴ The Committee notes Dr Kay's comment in the final public hearing that EA's expectations of Coastwatch had 'generally been well met', that there was 'capacity to improve effectiveness in some areas', but there was 'no measure of real dissatisfaction.'⁴⁵

The Committee's comment

- 4.56 The Committee urges Coastwatch to further investigate the benefits of increased liaison between State agencies and Coastwatch for related coastal surveillance operations. This may reduce duplication of activities and increase the level and quality of intelligence information for certain operations.
- 4.57 The Committee is pleased that Coastwatch has responded positively to the Auditor-General's recommendation to review the Coastwatch consultative committees. Nevertheless, the Committee believes that the effectiveness of these committees should be regularly reviewed to ensure that improvements achieved to date are maintained.

Resource allocation

- 4.58 Coastwatch relies heavily on intelligence information and good judgement in order to task its resources effectively. The extent of the Australian coastline and the limited assets available to Coastwatch dictate that the surveillance effort should ideally be concentrated 'in the right place at the right time.'⁴⁶ In its submission Customs stated that:

43 EA, *Transcript*, 8 September 2000, p. 111.

44 EA, *Transcript*, 8 September 2000, p. 111.

45 EA, *Transcript*, 30 January 2001, p. 252.

46 Customs, *Submission No. 25*, Volume 1, p. 197.

... Coastwatch weighs up the risks inherent in each client's stated priorities and plans a service delivery that responds to the greatest national risk and/or most immediate threat.⁴⁷

Common risk assessment process

- 4.59 Coastwatch client agencies are required to rank in order of priority each strategic and tactical tasking operation. Whilst this procedure assists Coastwatch in its response planning, the ANAO noted that there was no evidence of a common risk assessment process to rank various client taskings against one another.⁴⁸
- 4.60 The Auditor-General consequently made the following recommendation:
- ... that Coastwatch in consultation with key client agencies, develop a common risk assessment process as a basis for ranking and treating client taskings for maximum effectiveness.⁴⁹
- 4.61 Although Customs agreed with this recommendation, it was qualified with a statement to include the right to 'exercise well formed professional judgement which will often have to be exercised on a case-by-case basis.'⁵⁰
- 4.62 The Auditor-General responded that a common risk assessment process would facilitate the recognition and prioritisation of a diverse range of clients' interests. Risk management did not remove the onus on management to make well informed decisions—it was a framework 'for the rigorous application of professional judgement in assessing, prioritising, monitoring and treating risks.'⁵¹

The Committee's Comment

- 4.63 While the Committee understands the ANAO's viewpoint, it draws attention to the complexity of creating a common risk assessment framework. Coastwatch's clients and the tasks they request differ widely and the Committee questions whether it is practical to arrange tasks into a common ranking structure. If such a ranking framework were achieved the Committee accepts that transparency for decision making would be enhanced. However, this may be at the expense of introducing rigidity which might inhibit the exercise of Coastwatch's professional judgement and ability to gain advantage of opportunities presented by circumstances. The finalisation of MOUs between Coastwatch and its clients will clarify

47 Customs, *Submission No. 25*, Volume 1, p. 227.

48 Auditor-General, *Audit Report No. 38, 1999–2000*, p. 47.

49 Auditor-General, *Audit Report No. 38, 1999–2000*, p. 47.

50 Auditor-General, *Audit Report No. 38, 1999–2000*, p. 48.

51 Auditor-General, *Audit Report No. 38, 1999–2000*, p. 48.

clients' expectations of Coastwatch and how Coastwatch will manage the tasks that they request.

Provision of vessel monitoring information to Coastwatch

- 4.64 As stated above, Coastwatch has Commonwealth agencies as its clients who provide intelligence information to assist Coastwatch operations. However, information collected by State agencies would also assist Coastwatch operations.
- 4.65 During the inquiry the potential usefulness of information collected from vessel monitoring systems (VMS) was drawn to the Committee's attention. Such systems are employed by various Commonwealth and State bodies to monitor the position of fishing boats and larger vessels.
- 4.66 For example the Queensland Government has introduced a VMS into its commercial fisheries for management and compliance purposes. A supplementary submission from the Queensland Government advised that about 700 commercial fishing boats were currently fitted with VMS and within two to five years as more commercial fisheries were included the number was likely to double. The VMS data was controlled from an operations room in Brisbane and relayed to ten regional offices along the coast and to five patrol boats.⁵²
- 4.67 A supplementary submission from Customs indicated that Coastwatch was actively seeking access to VMS data because such information would:
- ... give Coastwatch an enhanced capability to provide surveillance aircraft and response vessels with details of vessels reporting via VMS within Coastwatch areas of operation. Such data would reduce the need for aircraft to close on these vessels in order to achieve a positive identification, thus increasing the flight time available to deal with other unknown or unidentified targets.⁵³
- 4.68 In addition, Customs suggested, Coastwatch aircraft patrolling in areas frequented by VMS equipped vessels could be used to verify VMS data because there was anecdotal evidence suggesting that 'at least some operators of VMS equipped vessels may, from time to time, seek to mask their true position from the monitoring authorities.'⁵⁴
- 4.69 The Committee sought comment on the matter from the Queensland Government. In its supplementary submission the Queensland Government responded that while Coastwatch had informally expressed

52 Queensland Government, *Submission No. 54*, Volume 3, p. S657.

53 Customs, *Submission No. 41*, Volume 3, p. S569.

54 Customs, *Submission No. 41*, Volume 3, p. S569.

an interest in accessing VMS data, without a formal request detailing specific requirements, it was difficult to comment on the chances of such information being provided. The submission also raised potential legal problems because of the interpretation of the access provisions of the VMS enabling legislation.⁵⁵

- 4.70 Regarding the possibility of Coastwatch verifying the integrity of the VMS data, the submission advised that the system itself monitored its integrity and automatically provided relevant information if the system was deactivated. Once this occurred it was an enforcement issue for the Queensland Fisheries Service. Indeed several successful prosecutions had been conducted for offences relating to interference with the VMS using the information provided by the VMS itself.⁵⁶
- 4.71 At the final public hearing Mr Frank Mere, Managing Director AFMA, told the Committee that the use of VMS by State Governments to monitor vessels was 'patchy'. Both Queensland and Western Australia had the system, but he thought the Northern Territory did not have VMS.
- 4.72 Mr Meere said that the legislation under which the Commonwealth deployed VMS did not 'automatically provide for that data to be passed on to Coastwatch.' He added:

I think [the state's impediments] would be similar to ours. ... There would be confidentiality of data in terms of the commercial sensitivity side and there would be the question of whether the legislation which has implemented the VMS enables them to pass on that data.⁵⁷

The Committee's comment

- 4.73 The Committee believes that real-time access to VMS data would increase the efficiency of Coastwatch operations. During its inspection tour of northern Australia the Committee participated in two Coastwatch surveillance patrols. On several occasions, vessels were detected on the surveillance radar and the aircraft descended from its cruising altitude to identify the contact, only to find that the vessel was an Australian fishing boat. Had that fishing vessel been carrying VMS and had that information been available to the aircraft, the patrol would not have used up additional fuel and time which could have been used to detect and identify foreign vessels.

55 Queensland Government, *Submission No. 54*, Volume 3, pp. S657–8.

56 Queensland Government, *Submission No. 54*, Volume 3, p. S658.

57 AFMA, *Transcript, 30 January 2001*, p. 290.

4.74 The Committee appreciates the use of VMS data is affected by the privacy legislation, in particular *Principle 10—Limits on use of personal information*:

A record-keeper who has possession or control of a record that contains personal information that was obtained for a particular purpose shall not use the information for any other purpose unless:

- (a) the individual concerned has consented to use of the information for that other purpose;
- (b) the record-keeper believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;
- (c) use of the information for that other purpose is required or authorised by or under law;
- (d) use of the information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue; or
- (e) the purpose for which the information is used is directly related to the purpose for which the information was obtained.⁵⁸

4.75 From a whole of Australia perspective, the Committee believes VMS data should be made available for the purposes of maintaining Australia's border integrity. In providing such information to Coastwatch it is essential that it be provided electronically in real time so that Coastwatch can respond to such information in a timely manner.

Recommendation 5

4.76 **Coastwatch should be able to access in a timely manner, vessel monitoring system data, therefore:**

- **Commonwealth legislation enabling the automatic monitoring of vessels should be amended to ensure the information passes on to Coastwatch; and**
- **the Commonwealth Government should enter into negotiations with State Governments with a view to enabling Coastwatch to have access to vessel monitoring system data.**

58 Australian Privacy Commissioner, *Information Privacy Principles under the Privacy Act 1988*.

4.77 The Committee notes that Recommendation 9 from the PMTF referred to establishing a National Surveillance Centre with 'enhanced electronic communication links, including **with state agencies**'.⁵⁹ The Committee considers its recommendations above are consistent with the view of the PMTF.

⁵⁹ Department of Prime Minister and Cabinet, *Report of the Prime Minister's Coastal Surveillance Task Force*, p. 5. Emphasis added.

