

**Submission to Senate Standing Committee on Foreign
Affairs, Defence and Trade**

**Inquiry into the Indian Ocean region and Australia's
foreign, trade and defence policy**

**Title of Submission: Port State Control and Maritime
Security in the Indian Ocean Region**

From: Dr. Sam Bateman AM
Professorial Research Fellow
Australian National Centre for Ocean Resources & Security
University of Wollongong
NSW 2522

2 April 2012

Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee,

Port State Control and Maritime Security in the Indian Ocean Region

Thank you for the opportunity to make this submission to your Inquiry into the Indian Ocean region and Australia's foreign, trade and defence policy. My submission addresses an issue, which on first appearances might appear minor in the larger scheme of Australia's relations with the Indian Ocean Region (IOR), but nevertheless, it is an issue of considerable importance to regional maritime safety, security and environmental protection. It is also an area where there is scope for Australia to play a greater role than we do already, while demonstrating our expertise and interests as a leading maritime nation of the region.

Australia is a major shipping nation with a large stake in the protection and preservation of the marine environment in adjacent oceans and seas. We have a strong vested interest in the safety and security of international shipping. In view of our dependence on bulk carriers to export minerals and other bulk cargoes, we are particularly concerned about this class of vessel and have played a leading role at the International Maritime Organization (IMO) in developing arrangements to ensure that these vessels are safely operated and do not pose an unacceptable risk to the marine environment. With the opening of new coal ports in Queensland and the consequential increase in bulk carrier traffic through the Great Barrier Reef, our national interest in these issues will increase in the future. Coincidentally, there are indications that some international measures established to ensure that shipping is safe and secure are not working as well as they should.

Responsibility for ensuring compliance with required international standards of safety and security rests primarily with the flag States of vessels, but in practice, effective compliance is verified mainly through the system of Port

State Control (PSC). PSC involves the inspection of foreign ships visiting national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules. If the deficiencies found onboard a vessel are deemed to seriously affect its seagoing ability, then the vessel may be detained in port until the deficiencies are rectified. This involves significant cost penalties for the ship owner, and as a consequence, the operator of a vessel which is possibly sub-standard will not send the vessel to a port in a country, such as Australia, which is known to have a strict PSC regime.

The PSC regime is the major means of ensuring that international standards of ship safety and security are maintained and that there are no sub-standard ships to threaten maritime safety and security and to pose unacceptable risks to the marine environment and to the lives of the seafarers that crew them. Unfortunately, the PSC regime is not working as effectively in the IOR as it should.

The grounding of the Chinese bulk carrier *Shen Neng 1* in the Great Barrier Reef in April 2010 highlights the potential risks from an Australian perspective. A major ecological disaster did not result from this incident only because a long period of calm weather allowed some cargo to be transferred to another vessel and the ship refloated. While the *Shen Neng 1* was not a sub-standard vessel, it is still relevant to recognise that avoidable human factors, including fatigue, distractions and lack of situational awareness, led to the grounding,

In a recent example of an incident in the IOR, the Panama-flag bulk carrier *Rak* laden with 60,000 tonnes of coal inexplicably sank off Mumbai in August 2011 leading potentially to a major ecological disaster. The *Rak* was old, having been built in 1984 with a poor PSC record having been detained once in 2010 for serious safety deficiencies. Shipping accidents, such as this, tend to carry very high economic costs, due to the large asset values and the high operational risks associated with shipping, particularly the risks associated with a marine pollution incident.

Sub-Standard Ships

PSC targets sub-standard ships. These are vessels that fail to meet the required standards of safety and seamanship as laid down in relevant international conventions. These vessels pose risks to maritime security, the marine environment and the lives of their crew. They are more likely to be:

- involved in accidents at sea leading to loss of life and pollution of the marine environment;
- involved in illegal activities at sea, including trafficking in destabilizing military equipment and narcotics; and
- successfully attacked by pirates.

A recent study by the Stockholm International Peace Research Institute (SIPRI) investigated ships reported to be involved in transporting destabilizing military equipment, dual use goods and narcotics.¹ The study found that ships involved in trafficking in destabilizing commodities when the owner, commercial operator or ship's officers appear to have been complicit in the activity had an average age of more than 27 years with poor PSC records. They were vessels repeatedly identified as poor performers in PSC inspections carried out by European or North American authorities for at least seven of the past eleven years.

One example is the 27-year-old general cargo ship *Light*, which was suspected by the United States of attempting to transfer missile technology from North Korea to Myanmar in May 2011. It has been detained twice in the past four years following PSC inspections in China, once in June 2007 and again in July 2011. The ship has subsequently been inspected three times in China—in August 2011, when 21 deficiencies were recorded, in September 2011, when 6 deficiencies were recorded, and in November 2011, when 7 deficiencies were recorded. Between November 2008 and August 2011, the *Light* underwent another four PSC inspections, two of them in Thailand and two in Viet Nam. Deficiencies were reported at each inspection. In addition, the *Light* has been involved in two collisions with other vessels, in June 1997 and June 2000.

Research by the author shows that sub-standard ships are more likely to be successfully hijacked by Somali pirates than quality vessels. Well-operated and maintained vessels will follow the best management practice guidelines to avoid attack recommended by the IMO and ship owner associations, but poor quality vessels are less likely to do so. Table 1 shows that of the 54 commercial vessels hijacked by Somali pirates in 2010 and 2011, 23 vessels, or about 42% of the total hijacked could be assessed as being sub-standard by virtue of age and their PSC record.

As older ships are regarded by PSC regimes as having higher risk factors, age may be taken as an indication of a possible sub-standard ship. While there will

¹ Griffiths, H. and Jenks, M. "Maritime Transport and Destabilizing Commodity Flows", *SIPRI Policy Paper 32*, Stockholm: Stockholm International Peace Research Institute (SIPRI), January 2012.

be exceptions with some older ships operated safely and efficiently, nevertheless, an older ship is more likely to be sub-standard and operated by a less well trained and motivated crew than a newer vessel. A ship may start her life with a reputable company, but over the years, she may change her name and flag, progressively ending up with less responsible owners. The independent ship vetting system, RightShip, has recently introduced a requirement that dry bulk carriers in the range 8,000 dwt, aged 18 years and above, will require an annual acceptable RightShip inspection as part of its vetting program. The change has come about due to the correlation between vessel age, associated casualties, and PSC deficiencies and detentions. The Indian Government is reported to be actively considering banning the entry of ships which are more than 25 years old.

Table 1
Ships Hijacked by Somali Pirates 2010-2011

	2010	2011	TOTAL
Total Hijackings	51	28	79
Fishing Vessels	9	6	15
Dhows	5	1	6
Yachts	1	3	4
Commercial Vessels of which:	36	18	54
Good Ships	8	5	13
Fair Ships	13	5	18
Poor Ships	15	8	23
Total	51	28	79

Sources: International Maritime Bureau (IMB) Piracy Reports and EQUASIS data base

Notes: 1. Good ships have had few, if any, deficiencies at recent inspections.

2. Fair ships have had some deficiencies at recent inspections.

3. Poor ships have had numerous deficiencies and/or have been detained after recent inspections. They were all older ships (i.e. more than 25 years old).

Port State Control in the IOR

Ten PSC regimes have now been established around the world. Of these, the Paris Memorandum of Understanding (MOU) for Europe and the Atlantic, the Tokyo MOU for the Asia-Pacific region and the US Coast Guard regime

for the United States are the most efficient and effective PSC regimes. However, most countries involved in these regimes are developed states able to afford the number of skilled inspectors and management structures required to make the regimes effective.

There are two PSC regimes applicable to the north-west Indian Ocean and adjacent waters where Somali pirates are active. These are the Indian Ocean MOU and the Riyadh MOU for the Gulf Region. The Indian Ocean MOU is clearly less effective than the Paris and Tokyo MOUs. Some important shipping countries in the region (e.g. Pakistan, Madagascar, Myanmar and the Seychelles) are not parties to the MOU, and of the fifteen parties, four (Bangladesh, Eritrea, Maldives and Oman) did not report any inspection activity in 2010. Inspection rates are low, and just over half the total inspections reported by the MOU for the region in 2011 (2795 out of 5513) were carried out by Australia.

Table 2
Comparative Statistics for PSC Regimes 2010

Regime	No. of Inspections	Inspection Rate	% of Inspections with Deficiencies	% of Inspections leading to Detention
Paris MOU	24058	30.03	55.21	3.28
Tokyo MOU	33212	66.00	49.91	5.48
Indian Ocean MOU	5513	na (note 1)	52.04	8.54
US Coast Guard	9907	12.97	27.95	1.57

Sources: Annual 2010 Reports for regimes

Note: The IO MOU does not report an inspection rate in its annual report.

Table 2 compares statistics for four PSC regimes in 2010. The Tokyo MOU achieved the highest number of inspections with an inspection rate overall for the region of 66%, although most inspections were carried out by just six members of the MOU: Australia, China, Japan, South Korea, the Philippines and Russia. The lower inspection rates for the Paris MOU and the US Coast Guard may have been due to these two regimes using a tight targeting process to identify ships to be inspected. The number of inspections with deficiencies is roughly the same for the three regional MOUs, but much lower for the US Coast Guard suggesting that only quality ships visit US ports due to ship

owners recognising the strict approach of the United States to ship safety and security. The number of ships detained as a percentage of total inspections with the Paris MOU has shown a steady decline over the years from 9.5% in 2000 to the 2010 figure of 3.28% showing also that sub-standard ships are steering clear of the European and North Atlantic region covered by the Paris MOU. The higher percentage of inspections leading to the detention of a ship for the Tokyo and Indian Ocean MOUs may suggest more sub-standard ships operating in those regions than in the Paris MOU's region

The current effectiveness of the other MOU in the north-west Indian Ocean region, the Riyadh MOU, cannot be assessed as there has been no annual report available publically since 2007. In the light of these factors, it must be concluded that PSC is ineffective in a large part of the IOR, The Horn of Africa and East Africa, where Somali pirates are active, could well be areas where sub-standard ships are prevalent.

Scope for Improvement

This submission draws the Committee's attention to a significant problem in the IOR which Australia could help to redress. Globally, there is scope for improvement in PSC regimes both in terms of improving the effectiveness of the separate regional regimes, particularly the more poorly performing ones, such as the Indian Ocean MOU, and with enhancing the global collective ability to deal with sub-standard ships. It is easy to suggest that PSC and the role of port states in the developing world should be strengthened to ensure greater compliance with minimum international standards and to help rid the oceans of sub-standard ships. However, this suggestion overlooks problems with the lack of capacity in many developing countries to establish an effective national maritime administration and provide the necessary highly skilled PSC inspectors, as well as the lack of resources in the IMO to monitor the effectiveness of PSC regimes.

The major MOUs and developed countries, including Australia, already conduct training courses for PSC personnel of developing countries, but this is just propping up ineffective systems rather than addressing the basic problem, which is the lack of resources and limited capacity in many countries. This seems particularly the case in the IOR. More focused programmes are required to address specific deficiencies in the existing arrangements.

As a major shipping nation with a highly effective PSC regime in our own ports, Australia should now play a leading role in making PSC more effective in the IOR. Some initiatives that might be considered are:

- encouraging countries that are not currently parties to the Indian Ocean MOU to become parties;
- conducting a needs analysis of the PSC requirements of individual IOR countries;
- developing measures targeted towards specific IOR countries that appear in need of assistance with PSC. Such measures might include direct assistance with building the capacity for PSC in selected countries, such as Oman and Yemen (e.g. with personnel exchanges or training programmes), and project aid to other countries (e.g. Bangladesh and Eritrea) that currently lack the resources to implement PSC effectively in their ports.
- coordinating within the Tokyo MOU, PSC training programmes to be provided by Tokyo MOU members for IOR countries.

Should further information be required, I would be happy to be of assistance.

Yours sincerely

(Sam Bateman)
Professorial Research Fellow
Australian National Centre for Ocean Resources & Security
University of Wollongong
NSW 2522