

The Parliament of the Commonwealth of Australia

**SHIPS OF SHAME
-A SEQUEL -**

Inquiry into ship safety

**Report from the House of Representatives
Standing Committee on Transport,
Communications and Infrastructure**

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**HOUSE OF REPRESENTATIVES STANDING COMMITTEE
ON TRANSPORT, COMMUNICATIONS
AND INFRASTRUCTURE**

(37TH PARLIAMENT)

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Preface

The *Ships of Shame* report of 1992 was 'about a minority of ships, bad ships, ships that endanger the lives of those who serve on them.

Ships that are the source of major risks to the marine environment and marine facilities of the nations they visit.

Ships on which seafarers are abused and exploited by officers and management alike.

Ships that well deserve to be known as ships of shame.'

That exposure has not ended the exploitation, denial and physical abuse of seafarers.

The *Glory Cape* bashing of Indonesian crew members early on 1 November 1995 off Port Dampier, their escape into the sea and the subsequent death of the radio officer is but the latest example.

Cargo owners, ship managers, ship owners, flag states and charterers continue to reap the benefits of such abuses. Larger ship owner, ship operator, classification, insurer and shipper organisations told the committee they want to see quality in shipping and are working to achieve it.

Australia has toughened and better targeted port state inspection procedures at its ports and the worst sub-standard shipping appears to be avoiding Australia.

More needs to be done in respect of vessels operating on the Australian coast on single voyage permits and continuous voyage programs. The strong support given to the *Ships of Shame* report around the world has helped expose the dangers and abuses of sub-standard ships and their operators.

The principal source of ships of shame continues to be Flag States which ignore their responsibilities under the maritime conventions they have ratified.

Their flags are indeed the 'flags of shame' of the shipping world and are being increasingly seen as such.

Additional measures will need to be developed to overcome the failings of ship registration.

Crew competency is being addressed in the revision of the STCW Convention.

Quality of management of ships calling at Australian ports should improve as the ISM Code comes into operation.

The stricter ship and management inspection procedures of some P & I clubs and marine insurers is bringing a stronger commercial discipline to shipping.

Collectively these initiatives will help improve the standard of world shipping. The problem of sub-standard ship owners, registries, operators, managers, charterers and cargo owners remains.

Public responsibilities for ships of shame must be sheeted home to them if sub-standard ships are to be swept from the seas.

The growing recognition that sub-standard ships constitute major environmental risks will help the process.

The Committee Progress report of November 1994 covered responses of governments and industry to the recommendations of the *Ships of Shame* report.

This report completes the review of the responses of governments and industry in the life of this parliament.

I thank everyone who made submissions to and/or participated in the public review hearings. I also thank my committee colleagues for their commitment, their support in the conduct of the review and the preparation of this report.

Special thanks are due to Committee Secretariat staff and special adviser Mr David Harrod of AMSA.

Terms of reference

SHIP STANDARDS AND SAFETY REFERENCE

The report, *Ships of Shame - Inquiry into Ship Safety*, of December 1992 effectively highlighted the complex issues associated with improving shipping standards and safety. Its recommendations build upon the range of initiatives undertaken by the Federal Government to address the problem of substandard ships and provides a framework for future action.

The Committee is requested to continue working with the Federal Government in pursuing a safer and more responsible international shipping industry by inquiring on an ongoing basis into developments at the national and international level in relation to the issues identified in the *Ships of Shame* report.

The Government intends this to be an ongoing reference for the term of the current Parliament and the Committee may report to the Parliament from time to time.

Overview

This report is the third of a series which began in December 1992 with *Ships of Shame*, a report which was instrumental in raising national and international awareness of the nature and extent of problems affecting the safety of ships and the welfare of their crews.

The progress report of November 1994 provided further evidence of problems with safety and welfare in shipping, highlighting the lack of compliance by many Flag States with International Conventions.

In this final report, much to the concern of the committee, it is clear that the abuse, underpayment and maltreatment of crews is as widespread as ever.

The committee recommends that the Australian Government ratify International Labour Convention 147 as soon as possible. It will strengthen the means of detecting and preventing exploitation and abuse of crew members of ships visiting Australian ports.

Throughout the course of this review it was notable that some Flag States continue to avoid their responsibilities under international maritime safety conventions.

They are today's Flags of Shame.

In considering the problem of Flag State non-compliance, the committee has suggested a range of measures involving Port State Control designed to focus community attention upon sub-standard operators.

It has also recommended a series of initiatives for the Australian Maritime Safety Authority and the Commonwealth Department of Transport to pursue at the International Maritime Organisation in the interest of making Flag States and sub-standard operators more accountable.

Conclusions

Sub-standard ships and practises still exist; crews are still being beaten, harassed, abused and deprived of basic human rights.

Flag States are still avoiding their responsibilities, cargo owners still charter and operators still run sub-standard ships.

There has been substantial progress in some areas:

- the introduction of Safety Management systems with their potential to transform the sea-going culture into one which is more safety conscious and efficient;
- the development of strict criteria governing the operation of Classification Societies, both at International Maritime Organization and through International Association of Classification Societies which should result in a reduction in practises such as Transfer of Class; and
- the move by IMO in the revised Standards of Training Certification and Watchkeeping Convention towards auditing, approval and public acknowledgment of administrations demonstrably compliant with the STCW convention.

The apathetic responses of Flag States towards being held accountable for ships under their registers means that:

- Port State Control mechanisms are still the most effective means of ensuring regulatory compliance for shipping; a situation that is likely to persist into the foreseeable future; and

- the recognition by some administrations that an international convention defining Flag State responsibility is an essential part of the process required to re-affirm the link between the ship, the owner and the Flag State.

Initiatives at IMO in the Flag State Implementation committee are aimed toward developing means by which Flag States will come under intense pressure to face up to their obligations.

Australia is moving toward insistence that ships visiting Australia have appropriate insurance cover to meet their liabilities in the event of a pollution incident. This should be extended to coverage of the human side of shipping, the rehabilitation and repatriation needs of injured and distressed seafarers.

This final report highlights the fact that the work of this committee has really only just begun, sub-standard shipping and inhumane treatment of crews must be eradicated to ensure a safe, environmentally responsible, clean and efficient shipping industry.

Recommendations

1. The International Maritime Organization (IMO) promote the mandatory use of IMO Maritime English in training schemes for both officers and ratings.
2. (a) AMSA review and strengthen the provisions of Marine Order Part 11 to bring them more closely into conformity with the requirements of ILO Convention 147.

(b) The Australian government ratify ILO 147 as soon as possible
3. (a) AMSA ensure Masters and Agents of ships visiting Australian Ports are made aware of their obligations to report incidents of illness and injury

(b) AMSA and the DoT develop effective means to ensure Owners, Masters and Agents provide adequate medical care and rehabilitation for ill or injured crew members.
4. The Minister of Transport initiate an inquiry into the relationships, interfaces and interactions between Commonwealth and State Occupational Health and Safety legislation, the Navigation Act and its delegated legislation.
5. The Australian Maritime Safety Authority establish an effective crew competency test in accordance with the requirements of the revised Standards of Training, Certification and Watchkeeping Convention for use in port state control inspections.
6. The Australian Commonwealth Department of Transport develop a detailed inspection system for all ships applying for Single Voyage (SVP) or Continuous Voyage (CVP) Permits, with such vessels to be inspected and approved prior to loading cargo.

7. The Australian Maritime Safety Authority regularly publish details of ships, companies and their Flag States discovered during Port State Control inspection programs to have defective Safety Management Systems whilst holding Safety Management Certificates and Documents of Compliance.

8. The International Association of Classification Societies publish quarterly, details of ships (Name, International Maritime Organization number, Flag, former Class Society, new Class Society where available) which either transfer class out of International Association of Classification Societies member societies or withdraw from class with an unidentified future.

9. The International Maritime Organization include, as part of the criteria for ship registration, a responsibility clause requiring ships to have:

- (a) appropriate cover for any damage which may result from their operations.
- (b) appropriate cover for seafarer's occupational disability and rehabilitation or death resulting from their operations.

10. (a) IMO develop a convention on ship administration which defines the standards to be achieved by Flag States for the registration of ships.

- (b) the convention contain mechanisms for Flag States to demonstrate compliance and for IMO to audit and regularly publish lists of compliant Flag States.

- (c) the International Maritime Organisation:
 - (i) develop mechanisms for Coastal States to be the lead agencies in accident and incident investigations; and
 - (ii) publish the reports of such investigations.

11. The IMO establish the ISID database as originally proposed.

Abbreviations

AMSA	Australian Maritime Safety Authority
DOC	Document of Compliance
DoT	Australian Commonwealth Department of Transport
FSI	Flag State Implementation sub-committee of IMO
IACS	International Association of Classification Societies
ITF	International Transport Workers Federation
ILO	International Labour Organisation
ILU	Institute of London Underwriters
IMO	International Maritime Organization
ISM	International Safety Management Code
MSC	Maritime Safety Committee (IMO)
MEPC	Marine Environmental Protection Committee(IMO)
MTC	Marine Transport Committee (OECD)
OECD	Organisation of Economic Development
P&I	Protection and Indemnity
PSC	Port State Control
SMS	Safety Management Certificate
STCW	Convention on Standards of Training, Certification and Watchkeeping
SOLAS	Convention on Safety of Life at Sea
UNCROS UN	Convention on Registration of Ships
UNCTAD UN	Conference on Trade and Development

CHAPTER 1

INTRODUCTION

Terms of reference

1.1 In December 1992 the House of Representatives Standing Committee on Transport, Communications and Infrastructure tabled in parliament its report into ship safety entitled *Ships of Shame*.

1.2 On 13 December 1993 the then Minister for Transport and Communications, Senator the Hon. Bob Collins, requested the committee to maintain an ongoing review of the response of Governments and Industry to the recommendations of the *Ships of Shame* Report.

Response to 'Ships of Shame' report

1.3 The *Ships of Shame* report has been successful in raising the profile of ship safety issues both in Australia and overseas. The report received wide support from Governments and world shipping organisations.

1.4 Its recommendations have been a catalyst in the moves to improve ship safety globally. The recent revision of the STCW Convention for example, will require accreditation of training systems by the IMO in order for seafarers qualifications to be recognised. This requirement formed recommendation 7a of the original report.

Progress report

1.5 In November 1994 the committee tabled a mid Parliamentary term progress report on ship safety issues containing three recommendations. The government has responded to this report, accepting two of the recommendations in principle, but rejecting the third. However, the Government has, in respect of the rejected recommendation, accepted its spirit and has instructed AMSA to canvass the issue among key IMO member states. The Government's response is discussed in detail in Appendix 7.

Purpose of this report

1.6 Overall, international shipping is a safe and reliable transport mode. For example, the Intercargo organisation has provided the committee with figures which show that over 99 per cent of bulk cargo movements are completed on time without incident. Impressive as this figure is, international bulk shipping still has serious safety problems. In the 1994 calendar year, 16 bulk carriers, 17 tankers and 210 mariners were lost. (Institute of London Underwriters: Hull Casualty Statistics 1995.)

1.7 While these figures may represent only a small proportion of the total numbers of ships and seafarers, they are still an unacceptable loss of life and property.

Table 1: Total Shipping Casualties 1990-1994

	1990	1991	1992	1993	1994
Lives Lost	807	1389	386	615	1478
Ships Lost	149	174	136	143	118

Source: Hull Casualty Statistics ILU 1995.

Note: 1. There were over 1100 deaths in 1994 due to passenger ship accidents. Between Jan 1 and June 30 1995, 225 seafarers perished at sea.

2. The figures quoted relate to ships over 500 gross tons.

1.8 The committee bases its reports on the principle that all elements of the shipping industry must accept responsibility for safety.

1.9 Shipowners are responsible for operating and maintaining a safe vessel. Flag states are responsible for implementing and enforcing a ship safety regulatory regime in their countries.

1.10 Classification societies are responsible for properly classing ships and checking that they remain fit for their purpose. Port states are responsible for diligently inspecting ships calling at their ports and making sure that those with deficiencies are repaired. Cargo owners and charterers are responsible for ensuring that vessels they hire are safe and operated by qualified competent crews. Mariners are responsible for the safe operation and maintenance of their ships.

1.11 The committee believes that this principle is paramount. Recommendations in this report will encourage greater acceptance of responsibility for safety and public accountability.

Current Issues

1.12 The committee explored the issues of the impact upon safety of the implementation of the International Safety Management Code (ISM Code), the possible requirement of compulsory Protection and Indemnity (P&I) insurance, the auditing and compliance provisions of the revised STCW Convention, the progress on Flag State implementation issues and the means by which the beneficiaries of sub standard shipping and its practices can be held accountable.

1.13 The human element is the prime factor in shipping casualties, thus crew competency and welfare are the major issues of this report. Recently there has been several more incidents of ship's crews being mistreated. Copies of affidavits from crew members of the *Glory Cape* provided to the committee detail allegations of such violence and abuse. The committee believes that there can be no excuse for such inhumane behaviour and those responsible should be brought to account.

Conduct of Inquiry

1.14 In the *Ships of Shame* report the committee received 69 submissions, conducted 11 public hearings and made inspections at Dampier, Newcastle, Port Kembla and Launceston. In the progress report inquiry the committee received 27 submissions and took evidence at two public hearings and two information forums.

1.15 A final industry forum was held on 4-5 October 1995 in Sydney, attended by a wide cross section of industry. Submissions were received from 26 individuals or organisations in addition to the information provided at the forum.

1.16 A subcommittee consisting of the Hon P Morris MHR (Chairman), Mr S McArthur MP (Deputy Chairman), Mr C Pyne MP and Mr G O'Connor MP was appointed to conduct the forum which had a similar status to that of a public hearing, but with cross dialogue between the participants being directed by the Chair. A transcript was produced by Hansard.

Structure of this report

1.17 Chapter 2 examines the central problem addressed in this report - the maltreatment of crews whilst Chapter 3 canvasses ISM Code related issues.

1.18 Chapter 4 looks at matters concerning the provision of compulsory P&I insurance for ships calling at Australian ports and the role of Classification Societies and Chapter 5 outlines problems with Flag State responsibility.

1.19 The current status of the implementation of those recommendations of the original *Ships of Shame* report, the progress report and the Australian Government's response to its recommendations are included in appendices.

CHAPTER 2

CREW WELFARE

Introduction

2.1 Crew welfare and shipboard performance are inextricably linked. During the *Ships of Shame* inquiry and subsequent hearings the committee was told of the continuing maltreatment of crews. Examples in Australia include the *Sheng Ho* and, more recently, the *Glory Cape*.

2.2 In late 1994 the International Transport Federation (ITF) sought to gain back pay for the Indonesian crew of the *Sheng Ho* which resulted in \$A306,580 being paid to the crew. However, after the ship left port, return of the money was demanded and death threats were allegedly made to the crew and their families. The crew were sacked and probably black listed (Daily Commercial News, 9.2.95).

2.3 The ITF in their submission describe the case of a seafarer who had a foot crushed in an accident whilst preparing for sea. A waterside worker witnessed the accident and became concerned when the ship did not summon medical assistance for the man. An ITF inspector was notified and, on attendance, found the man in agony in his cabin. The Master had intended to sail with the injured man aboard. When hospitalised, the man's injury was judged so serious he required an amputation. The ITF had to intervene again to prevent the repatriation of the seafarer before his treatment had been completed (Review inquiry submission 33, Review inquiry 1995: 424).

2.4 Seaman's welfare organisations told the committee of a crewman being beaten by the Master and the Radio Officer as an example to the rest of the crew (Review inquiry 1995:406).

2.5 There were instances where ships were supplied with foodstuffs several years out of date, frozen meat seven years old and crews required to buy bottled drinking water from the ship's officers (Review inquiry 1995:398-399).

2.6 Port State inspections continue to reveal an alarmingly high incidence of deficiencies in lifesaving and fire fighting equipment on board ships. Almost half of all deficiencies detected by AMSA during its 1991-1994 port state control inspections were deficiencies in lifesaving and firefighting equipment. This trend has continued in 1995 (AMSA; 1994:25).

2.7 It is difficult to accept that some shipowners operate ships where the crew do not have the basic equipment to fight a fire or in the worst case, to save themselves if the ship sinks. The table below illustrates either blind faith in sub standard ships or an utter contempt for the lives of seafarers and their families by some ship owners and managers.

Table 2:

Life saving and firefighting deficiencies, 1991-1994

Deficiency Category	Number of Occurrences Year				Percentage of Total Year			
	1991	1992	1993	1994	1991	1992	1993	1994
Life saving	840	2920	2010	2415	30.13	30.16	27.97	25.77
Fire fighting	521	2088	1558	2027	18.69	21.57	21.68	21.63

Source: AMSA Port State Control Report, 1994, p.25

Language problems

2.8 In its initial inquiry the committee was repeatedly told of severe language problems on board some ships. There are ships where there is no common language between crew members; and ships which have difficulty communicating with pilots and tugs (Ships of Shame; 1992:88-90, Review inquiry 1995:397).

2.9 These issues were raised again in the October 1995 Ship Safety Forum; the committee was told of multi racial crews, ships with as many as nine different cultures aboard; of sign language being used as the principal means of communication; and ships with operational manuals in a language not understood on board (Review inquiry 1995:391-399).

2.10 Three major concerns arise from this. There is a safety issue where emergency communications may be dangerously compromised without a common working language on board. Second, there is an operational competence problem arising from the lack of commonly understood technical and operational manuals. Third is the welfare issue. If the crew are unable to communicate effectively, they are unable to follow directions, correct misunderstandings or make their needs known to those in authority.

2.11 The committee heard that AMSA assesses the ability of crews to communicate essential safety information by drills and observation. Its task is made more difficult unless there is a common use of English on board (Review inquiry 1995:396).

2.12 The Safety of Life at Sea Convention (SOLAS) is to be amended to require ships to have essential information available in a common language. Whilst safety issues will be addressed by these amendments, welfare issues, such as the need to communicate on matters of health and well-being will remain a problem.

2.13 The new version of the STCW Convention will require deck officers to have a knowledge of the IMO Standard Marine Communication Phrases (in English). There will be a lesser standard required for engineer and radio officers with no requirement for ratings.

2.14 The committee recommends that:

1. The International Maritime Organization (IMO) promote the mandatory use of IMO Maritime English in training schemes for both officers and ratings.

Living conditions

2.15 The committee heard instances of:

- crews rationed to three glasses of drinking water per day;
- ships supplied with meat to that had been frozen so long, it had ceased to have any nutritional value;
- food being supplied that was contrary to the religious beliefs of the crew (such as pork provided for Muslim crews);
- poor sanitation; and
- overtime rigging (where the hours are worked but not officially logged so the seaman isn't paid) (Review inquiry 1995:395).

2.16 The seafarer's welfare organisations (Stella Maris and Flying Angel) provided details of the way in which they must call upon charities such as St Vincent de Paul to assist in providing clothing for seamen calling at Australian ports. They also stated their meagre financial resources limited their ability to assist foreign seafarers and sought financial assistance from the industry (Review inquiry 1995:502).

2.17 Clearly this is a need that should be addressed by the beneficiaries of seafarer's services, ie shipowners, ship managers, charterers and cargo owners.

2.18 Members were told of a reign of terror aboard some ships; of crew members afraid to seek medical help after being beaten, of shore leave being refused and wages withheld. In Australia, at the time of the hearing, the Russian crew of a ship in Melbourne had not been fully paid for 18 months (Review Inquiry Submission 33).

2.19 In another case, Indonesian seamen who were repatriated by the ITF after being bashed by ships officers were met at their home port by the manning agent. They were again bashed and robbed. In this case, the ITF was able to recover the money and the crew were eventually paid (Review Inquiry Submission 33).

2.20 Australian seafarers enjoy a range of industrial conditions comparable with shore based employment. The committee understands that different countries have different living and working standards which they may find acceptable. However, there are certain basic standards which need to be met. Seafarers, like anyone else, are entitled to adequate food, water, shelter, a safe system of work and freedom from abuse and exploitation. Table 3 details deficiencies in accommodation detected during PSC inspections.

Table 3:

Accommodation and catering deficiencies, 1991-1994

Deficiency Category	Number of Occurrences Year				Percentage of total Year			
	1991	1992	1993	1994	1991	1992	1993	1994
Accommodation	171	513	277	399	6.13	5.30	3.85	4.26
Food/catering	137	399	280	327	4.91	4.12	3.90	3.49
Work space	26	50	24	81	0.93	0.52	0.33	0.86

Source: AMSA Port State Control Report, 1994, p.25

2.21 The committee believes that it is the responsibility of the shipowner/ship manager to ensure that the ship's crew are adequately fed, housed and protected. Further, the onus is on the Flag State to ensure that shipowners properly discharge their responsibilities.

2.22 Substantial evidence was given that some Flag States either ignored their obligations totally or were simply convenience registries. They lack the maritime administrative infrastructure to carry out their international convention responsibilities and contract the tasks to Classification Societies. In these circumstances, the protection of the seafarer's welfare falls to the Port State (Review inquiry 1995: 488-490).

2.23 Considering that the basic level of crew working and living conditions, with the notable exception of pay levels, are set out in ILO 147 it would be a good first step if Australia was to ratify the convention. The committee accepts that port state control inspections carried out by AMSA use ILO 147 standards to assess crew conditions. However, Australia's actions in this area would carry more weight if Australia ratified the convention.

2.24 The committee is aware that the Australian government has difficulties in achieving agreement with the states to enable ratification to take place. It believes that the Australian government should strengthen its efforts to secure approval from the remaining states.

2.25 The committee recommends that:

2. (a) *The Australian government ratify ILO 147 as soon as possible.*

(b) *AMSA review and strengthen the provisions of Marine Order Part 11 to bring them more closely into conformity with the requirements of ILO Convention 147.*

Crew maltreatment

2.26 The maltreatment of crew can also be addressed during port or flag state inspections. The committee believes that AMSA should make the inspection of crew living and working conditions a high priority.

2.27 The committee heard evidence from AMSA that they are limited under their legislation to considering the health and welfare aspects of seafarer's employment. They do not have a mandate to act in case of problems with the payment of wages and physical or sexual abuse (Review inquiry 1995:389-390).

2.28 However, Port State Control inspections do not sheet home the responsibility for these substandard practices to the ship owner/operator, the charterer and cargo owners. The committee believes that where a ship is detained for matters relating to crew welfare, the continuing identification of the owner/operator, cargo owner, charterer and agent as well as the Flag State will help ensure public accountability of those responsible for any maltreatment and abuses.

Health of seafarers

2.29 The committee was told of many instances of seafarers denied access to adequate medical treatment and of Masters and Agents who do not report accidents or illnesses of crew to the authorities. It is unclear whether this practice results from ignorance or is a deliberate act. It may be due to inadequate insurance cover.

2.30 The committee received evidence that many ships do not have adequate Protection and Indemnity (P&I) insurance (Review inquiry submissions 8, 33).

2.31 The incidence of TB is of concern to the committee. It was told of seafarers with TB presenting medical certificates stating they have never had the disease. Masters and Agents were stated to be concealing from the Authorities facts regarding crew members with communicable diseases (Review inquiry 1995:423).

2.32 Another instance was the ship *Ikan Tanda* which, while transiting the Great Barrier Reef recently, suffered an engine room fire with a resulting loss of all power. In this incident, a crew member was burned fighting the blaze. The Master initially reported only minor injuries and did not seek medical help.

2.33 The ship had washing and sanitary water available only for short periods each day and was reduced to preparing meals on a barbecue. The crew member was eventually evacuated to Thursday Island hospital to undergo treatment, three days after the injury.

2.34 There appears to be no valid reason why this crewman could not have been evacuated for medical treatment much earlier, so minimising his pain. Facilities were readily available for his evacuation.

2.35 At present, there are no means by which Masters and Owners of foreign ships can be compelled to provide access to adequate medical treatment for ill and injured seafarers, or to report injuries or illnesses.

2.36 The Marine Notice system could be utilised to inform Masters of foreign ships of the need to report crew illnesses and injuries to Australian authorities as soon as possible.

2.37 The committee recommends that:

3. (a) AMSA and the DoT develop effective means to ensure Owners, Masters and Agents provide prompt, adequate medical care and rehabilitation for ill or injured crew members

(b) AMSA ensure Masters and Agents of ships visiting Australian Ports are made aware of their obligations to report incidents of illness and injury.

Safety

2.38 The issue of health and safety was also raised in the context of the interface between the ship and the shore. The committee heard of incidents where seafarers suffered injuries when driving ship's fork lifts (Review inquiry 1995:424-425).

2.39 Different jurisdictions might apply in the case of an accident, depending on its location. If it is on the ship, it may be treated differently than if it occurred on the wharf. These incidents highlighted the wider problem of reporting injury and illness mentioned above as well as the need for adequate definitions of major or serious injury.

2.40 The committee was told of fatal accidents occurring on foreign flag ships in Australian ports that were not investigated by the proper authorities because they were not reported by the Master. It was stated that there are also difficulties in determining the appropriate jurisdiction. There are differing requirements for matters identified as occupational health and safety (OHS) and those that fall within the ambit of the Navigation (Marine Casualty) Regulations (Review inquiry 1995:453-457).

2.41 The committee believes that the issue of jurisdiction in OHS matters which arises in these and similar cases should be clarified. Two matters requiring attention are:

- (i) unqualified ship's crew driving ship's equipment and
- (ii) the jurisdictional boundaries between the Commonwealth OHS Acts, the Navigation Act and its Marine Orders (particularly Part 32) and the various State OHS Acts which cover waterside workers.

2.42 The committee recommends that:

4. The Minister of Transport initiate an inquiry into the relationships, interfaces and interactions between Commonwealth and State Occupational Health and Safety legislation, the Navigation Act and its delegated legislation.

Port state control crew competency test

2.43 In its 1994 port state control report AMSA does not outline how many crew competency inspections were carried out. Nor does it outline how many deficiencies or detentions resulted from these inspections. There were, however, 62 instances involving crew certificate deficiencies (Port State Control Report 1994:34).

2.44 A new regulation 4 of the Safety of Life at Sea Convention (SOLAS), which comes into effect on 1 January 1996, allows port states to examine crew competency. This regulation provides that a ship is subject to control by the officers of the port state where there are clear grounds for believing that the master and the crew are 'not familiar with essential shipboard procedures relating to the safety of ships' - in other words when the crew is not competent in safety practices. When this regulation enters into force AMSA will be able to detain ships on the grounds of a lack of crew competence (Port State Control Report 1994:8).

2.45 While Regulation 4 of SOLAS provides a clear power for AMSA to detain ships on the basis of crew competence, it is unclear what exactly constitutes crew competence.

2.46 The review of the STCW convention has produced internationally accepted crew competence criteria for use in its crew competency tests (Regulation I/4 of the revised Convention). The revised STCW convention sets out (in Appendix A I/4) the competencies which may be tested and their manner of testing. Essentially these are concerned with watchkeeping and the operation of safety equipment.

2.47 The committee believes that the testing of crew competency should begin as soon as possible.

2.48 There is little coordinated international action to improve the quality of ships' crews and AMSA should take the international lead in the development of crew competency testing, in much the same way as it has with the publishing of port state control information.

2.49 The committee recommends that:

5. The Australian Maritime Safety Authority establish an effective crew competency test in accordance with the requirements of the revised Standards of Training, Certification and Watchkeeping Convention for use in port state control inspections.

Single voyage permits

2.50 Evidence was received of problems with the condition of ships that had been issued single voyage permits (SVP) to trade on the Australian coast. The committee heard that there is a comprehensive reporting and inspection process in place for the issue of SVPs to tankers. AMSA and the DoT have an agreed set of criteria and AMSA inspect all tankers at their first Australian port (Review inquiry 1995:391-394).

2.51 The situation is not as clear cut when dry bulk or container carriers are considered. The committee heard that the existing system is for the Master or agent to submit a report of the ship's condition and its perceived suitability for the proposed trade. On occasions the physical condition of the ship has been substantially worse than the report indicated.

2.52 AMSA stated that they have a commitment to inspect dry bulk carriers whenever it is physically possible. General cargo ships are not subjected to special inspections, indeed an AMSA surveyor may not even know that the ship being examined is the holder of an SVP. AMSA has no role to play in the issue of SVPs to general cargo, container or other liner ships.

Table 4:
Number of SVPs issued, 1994-1995

Ship type	Number of SVPs
Oil Tankers(all types)	70
Dry bulk carriers	63
Container/general cargo	301

Source: DoT Maritime Policy Division

2.53 The committee is concerned at the lack of a formal inspection regime to assess the suitability of dry bulk carriers applying for SVPs and the apparent absence of any objective assessment criteria for these ships. This is particularly in the light of the discussions on this matter at the progress report hearings. The committee believes it is a simple process for DoT to advise AMSA on a daily basis of the ships and the voyages for which SVPs have been granted.

2.54 The committee recommends that:

6. Australian Commonwealth Department of Transport develop a detailed inspection system for all ships applying for Single Voyage (SVP) or Continuous Voyage (CVP) Permits, with such vessels to be inspected and approved prior to loading cargo.

CHAPTER 3

THE ISM CODE

Introduction

3.1 Recommendation 9 of the *Ships of Shame* report called upon international shipping operators to adopt IMO Resolution A647 (16): IMO Guidelines for Safe Ship Management. Since then the IMO has developed a new SOLAS Chapter IX, which has the effect of making it mandatory for each ship to hold a Safety Management Certificate (SMC) and for the operating company to hold a Document of Compliance (DOC) for that ship type. Table 5 sets out the commencement dates for the International Ship Management Code (ISM Code).

Table 5:

ISM implementation for ships over 500t gross

Date of Implementation	Ship Type (new and existing)
July 1998	Passenger ships, High speed passenger craft
July 1998	Oil, chemical, gas carriers, bulk carriers, high speed cargo craft
July 2001	Other cargo ships, mobile offshore drilling units

3.2 The ISM Code requires each ship to have a Safety Management System. This system should ensure compliance with mandatory rules and regulations. It should also require that recommended maritime industry codes of practice, operational guidelines and industrial standards published by the IMO, Classification Societies and Flag State Administrations are considered when developing shipboard practices.

3.3 Concern was expressed to the committee that the code may be seen and treated by some as simply more paperwork. There needs to be a genuine mechanism of accountability in the shipping company. Auditing processes to gauge compliance must be properly conducted. (Review inquiry 1995:457-468).

3.4 The issue of accountability was addressed in the forum of 4-5 October. The committee heard that the ship's Safety Management Certificate (SMC) and the company's Document of Compliance (DOC) were linked in the Code. Possession of a valid DOC is a prerequisite for an SMC. The link between the two is the designation of a person as responsible for the safe operation of the ship. This person can then be publicly identified and subjected to audit.

3.5 Shipowners and Classification Societies commented that Australia, having voluntarily decided to adopt the Code three years ahead of schedule, was well placed to implement the safety systems required by the Code.

Overseas situation

3.6 The situation was not the same overseas. The International Chamber of Shipping (ICS) estimates that about 10,000 ships will need to be certified by the 1998 implementation date. This will increase to over 30,000 ships by July 2001. The International Association of Classification Societies estimates that about 7000 operating companies will need to be certified. (Review inquiry submissions 8, 16, 26; Review inquiry 1995: 457)

3.7 The large numbers of ships and companies involved will inevitably lead to a late rush for certification. This pressure may produce a spate of certificates of doubtful value and less than adequate auditing and verification practices.

3.8 AMSA stated that it was aware of this problem and its possible impact on auditing quality. It will be using accreditation procedures for the certification of auditors in line with the IMO criteria (Review inquiry 1995: 458-460).

3.9 AMSA informed the committee that these criteria will apply to any individual or company seeking accreditation. The Classification Societies need not be the only ones accredited to conduct ISM audits (Review inquiry 1995: 458).

Implementation

3.10 The issue of the perception of the Code from the mariner's viewpoint is a serious one. Submissions were received showing that at least one Australian maritime training establishment had incorporated the Code into its training courses, but is concerned that this may have too narrow a focus in that it may target only new entrants and those still in the training pipeline. courses (Review inquiry submission 1).

3.11 The transient nature of ratings employment within the Australian industry compounds the problem. Each individual company will train its personnel in its own system and ratings moving from ship to ship may well be faced with unfamiliar systems to their detriment.

3.12 The committee also received evidence that AMSA and the Australian Shipowners Association (ASA) had jointly, conducted public seminars for industry on the implementation of the ISM Code as part of an ongoing educative process. (Review inquiry submissions 19, 21, 26, 27; Review inquiry 1995: 457).

3.13 It is important that ISM Certification reflect accurately the status of the shipboard safety management system. The regular publication of ISM related deficiencies would provide valuable information to charterers and cargo owners. It would also help ensure the effective implementation of the ISM Code.

3.14 The committee recommends that:

7. AMSA regularly publish details of ships, companies and their Flag States discovered during Port State Control inspection programs to have defective Safety Management Systems whilst holding Safety Management Certificates and Documents of Compliance.



CHAPTER 4

INSURANCE AND CLASSIFICATION

Transfers of class

4.1 Classification surveys, whereby a ship's hull, fixtures and fittings are subject to regular examination, are an expensive but necessary part of shipping. Brokers, charterers and underwriters use the Class notation to provide information on the quality and condition of a ship.

4.2 Problems continue with shipowners attempting to avoid essential maintenance by transferring their ships from one classification society to another. The table below, compiled from the IACS submission to the review illustrates the point:

Table 6:

Changes of class (IACS members)

Year	Transferred	Withdrawn	Scrapped
1993	529 ships 6.6 million grt	1569 ships 8.5 million grt	No data
1994	575 ships 6.9 million grt	1578 ships 8.5 million grt	338 ships

Source: IACS, Review inquiry submissions 1995:13

4.3 The table shows that in 1994, 1240 ships were withdrawn from class and were not been reported as being scrapped. The fate of those ships is not known.

4.4 These problems were highlighted previously, for example 1040 ships were identified as having been withdrawn from classification with IACS members in 1993. No data are available from IACS as to the number of these that were scrapped (Review inquiry 1994:142-150).

4.5 These ships are sources of future problems, information on their condition and whereabouts should be available to industry and port states.

4.6 Distinction needs to be drawn between transfer of class arising from commercial competition between IACS members and the transfer of class to avoid essential maintenance.

4.7 The committee recommends that:

8. IACS publish quarterly details of ships (Name, IMO number, Flag, former Class Society, new Class Society where available) which either transfer class out of IACS member societies or withdraw from class with an unidentified future.

Survey quality

4.8 The incidence of ships being detained relatively soon after a special survey raises questions about the quality of their surveys and shipboard maintenance. Table 7 illustrates the problem.

Table 7:

**Ship detentions and special survey times
Period: 1 January 1994-30 September 1995**

Years since special survey	Number detained
1	102
2	39
3	35
4	29
5	27
6	4
Unknown	102

Source: AMSA, October 1995

4.9 One third of the ships detained at Australian ports in the period were within one year of their special survey (Review inquiry 1995:386; 439).

4.10 It is noted that IACS is aware of these problems and has acted to enhance the quality of survey services provided by the member societies. IACS recently released a document outlining eight initiatives. A major element of these initiatives is the prohibition, within IACS, of transfer of class for ships with identified deficiencies (Review inquiry exhibit: Class Act in Ship Safety Initiative).

Insurance

4.11 Recommendation 13 of the *Ships of Shame* report focussed on insurance and called for the production of proof of adequate P&I cover as a condition of entry for ships trading to Australia. The government did not accept this recommendation, on the grounds that it would amount to unilateral action.

4.12 The committee heard evidence that the IMO, through the Maritime Environmental Protection Committee, (MEPC) had affirmed Australia's ability to take such action within its territorial seas. The committee was advised that on this basis, the Australian Government has decided to enact regulations which will have the effect of requiring ships entering Australian ports to provide evidence of insurance cover (Review inquiry 1995:445).

4.13 Once the regulations are in place in 1996, Australia will be able to inspect ships to ensure they carry appropriate insurance. The cover will principally focus on the ability to provide compensation and the recovery of clean up costs in the event of a marine casualty, particularly where there is an oil spill.

4.14 The committee heard that the nature of P&I insurance clubs, which are non-compulsory mutuals, means that a club may withdraw cover if it is not satisfied with the shipowner. There is, therefore, a need for a compulsory international insurance regime.

4.15 There are two aspects to the issue of insurance cover. First, Civil liability cover in respect of incidents such as oil spills and other cargo and hull related matters and second, cover for the human side of the equation. That is, cover in relation to occupational injury, disability and death (OHS cover). The legislation to be introduced by Australia will cover the civil liability aspects, but there is still a need to consider the OHS insurance requirements of ship's crews.

4.16 The remaining issue, that of the reputation and credibility of the insurance companies was also addressed. A compulsory regime may mean the growth of organisations that do not have the expertise or financial backing to operate in the market. The committee is concerned that proposals for compulsory cover, unless carefully formulated, may encourage some of the practices the idea of compulsory cover is trying to avoid.

4.17 Some submissions stated that there is evidence that a number of ships are operating without of any form of insurance cover. Compulsory cover would address this, but the issue of monitoring and enforcement then becomes important. Who is to monitor? How does a Port or Flag State determine either the adequacy or financial security of the P&I insurance? (Review inquiry 1995: 8).

4.18 Evidence was received that this was the responsibility of the Flag States. However, until all Flag States accept their responsibilities, Port States must act to see that ships are appropriately insured (Review inquiry 1995: 445-453).

4.19 The committee recommends that:

9. IMO include, as part of the criteria for ship registration, a responsibility clause requiring ships to have:

(a) appropriate insurance cover for any damage which may result from their operations.

(b) appropriate insurance cover for claims arising from seafarer's occupational disability and rehabilitation or death resulting from their operations.

CHAPTER 5

FLAG STATES AND THEIR RESPONSIBILITY

Obligations of flag states

5.1 Several submissions stated that there were still a considerable number of Flag States that fail to carry out their responsibilities under the relevant international maritime conventions to which they have subscribed (Review inquiry submissions 4, 8, 9, 12, 13, 16, 17, 18, 21, 23, 27; Review inquiry 1995: 478-493).

5.2 There are Flag States that have established Ship registries and who earn revenue from these activities but which do not have the infrastructure to fulfil their obligations for survey and certification. These States have appointed Classification Societies to conduct these tasks.

5.3 Whilst the appointment of a Classification Society to conduct Certification and Survey is not unusual, a problem arises when the Flag State does not have the ability or the will to monitor and audit the activities and performance standards of the Society acting on its behalf.

5.4 Failure to apply and enforce the international standards and conventions has economic and safety impacts. Actions to redress the problem must focus on both aspects.

5.5 The failure of Flag States to comply with international obligations takes several forms. In the most extreme cases, Classification Societies are de facto administrators, a situation that must regularly raise the question of conflict of interest. The committee was told of one Flag State which allocated some of its statutory functions to a shipping agency in another country (Review inquiry 1995:489).

5.6 In other cases, Flag States take a reluctant attitude towards implementing programs like Port State Control. A keynote speaker at a recent international conference on marine insurance stated that Port State Control inspections could introduce a great deal of

inefficiency. The speaker went on to say that his administration didn't want to keep on inspecting ships, especially good ones (The Business Times 7:11:95).

5.7 Some Flag States also appear to treat safe manning less than seriously. AMSA detained the ship 'Periandros of Korinthos' in June 1994. One of the serious deficiencies cited was that none of the ship's complement was qualified to operate GMDSS, the Global Maritime Distress System. Additionally, one officer's qualification was not in accordance with the Safe Manning Document. The Flag State permitted the ship to sail with the existing arrangements.

Ship detentions

5.8 An examination of statistics published on ship losses and detentions provides some interesting insights. In 1994, of the 29 ships registered in St Vincent and the Grenadines that visited Australia, AMSA detained 8 (28%) for non compliance with IMO standards. The same flag features in the 1995 ILU statistics as being one with losses above the world average for the period 1990-1994. For the first half of 1995, this Flag State had 2 ships (15% of callers) detained by AMSA. The ILU listed St Vincent and the Grenadines as one of the five fastest growing fleets in 1994.

5.9 Cyprus similarly features in the ILU statistics with losses more than double the world average. This Flag consistently shows in AMSA lists of detainees. In 1994, 12 Cyprus Flagged ships (15%) were detained, a percentage that has been repeated for the period 1 Jan to 30 June 1995 with a further 6 ships detained.

5.10 The 1994 ILU statistics also show that, of the three Flag States featured at the top of the list of ship losses, two top the table of fastest growing fleets. Despite their poor safety performance, these registries are still attractive to ship owners and operators

5.11 The IMO sub-Committee on Flag State Implementation (FSI) has met three times and there are indications that some issues are being addressed. These matters include the development of uniform accident investigation standards, Class Society standards for survey and certification and the ISM Guidelines.

5.12 An important aspect of the work of FSI is the development of uniform standards for accident investigation. There are several parties with an interest in investigating a marine accident, the flag state, the port state and the coastal state. Additionally, the crew may come from another state entirely and their interests must also be considered.

5.13 It may not be appropriate in accident investigations, for the flag state to be the lead agency. In the absence of a strong link between ship, owner and administration, inquiries into accidents may not receive the necessary priority and support.

5.14 FSI is developing guidelines to assist administrations in their assessment and review of organisations that they authorise to act for them. They are also working on guidelines to assist Flag States to operate an effective administration. The issues are sensitive and will require effort from the more responsible administrations to ensure completion.

5.15 The core issue is the need to strengthen the link between the ship, its owner and the Flag State. The committee was informed that the *United Nations convention on the Conditions for Registration of Ships (UNCROS 1986)* has not received the necessary number of ratifications for it to enter into force (Review inquiry 1995:485-6).

New initiatives

5.16 Australia has proposed to the IMO that it develop a new convention on ship administration which takes up elements of the UNCROS convention to create an instrument that not only enhances ship registration requirements, but defines Flag State responsibility and offers a framework for enforcement.

5.17 In the absence of effective Flag State control, the only remedy is a vigorous Port State Control program to cover not only inspections for compliance, but Port State management of accident and incident investigations.

5.18 Flag States who persistently fail to meet their obligations should be identified publicly. An effective way to do this would be for the IMO to publish lists of Flag States who fully comply with the provisions of particular conventions in a manner similar to that

provided in the new STCW convention. This would provide charterers, brokers and cargo owners with important information on the quality of a Flag administration.

5.19 The committee recommends that:

10. (a) IMO develop a convention on ship administration which defines the standards to be achieved by Flag States for the registration of ships:

(b) the convention contain mechanisms for Flag States to demonstrate compliance and for IMO to audit and regularly publish lists of compliant Flag States.

(c) The International Maritime Organization:

(i) develop mechanisms for Coastal States to be the lead agencies in accident and incident investigations.

(ii) publish the reports of such investigations.

5.20 The committee was also concerned to hear that the proposed IMO Ship Information database (ISID) had been effectively watered down to a point where only a limited data set will be available, and only within IMO.

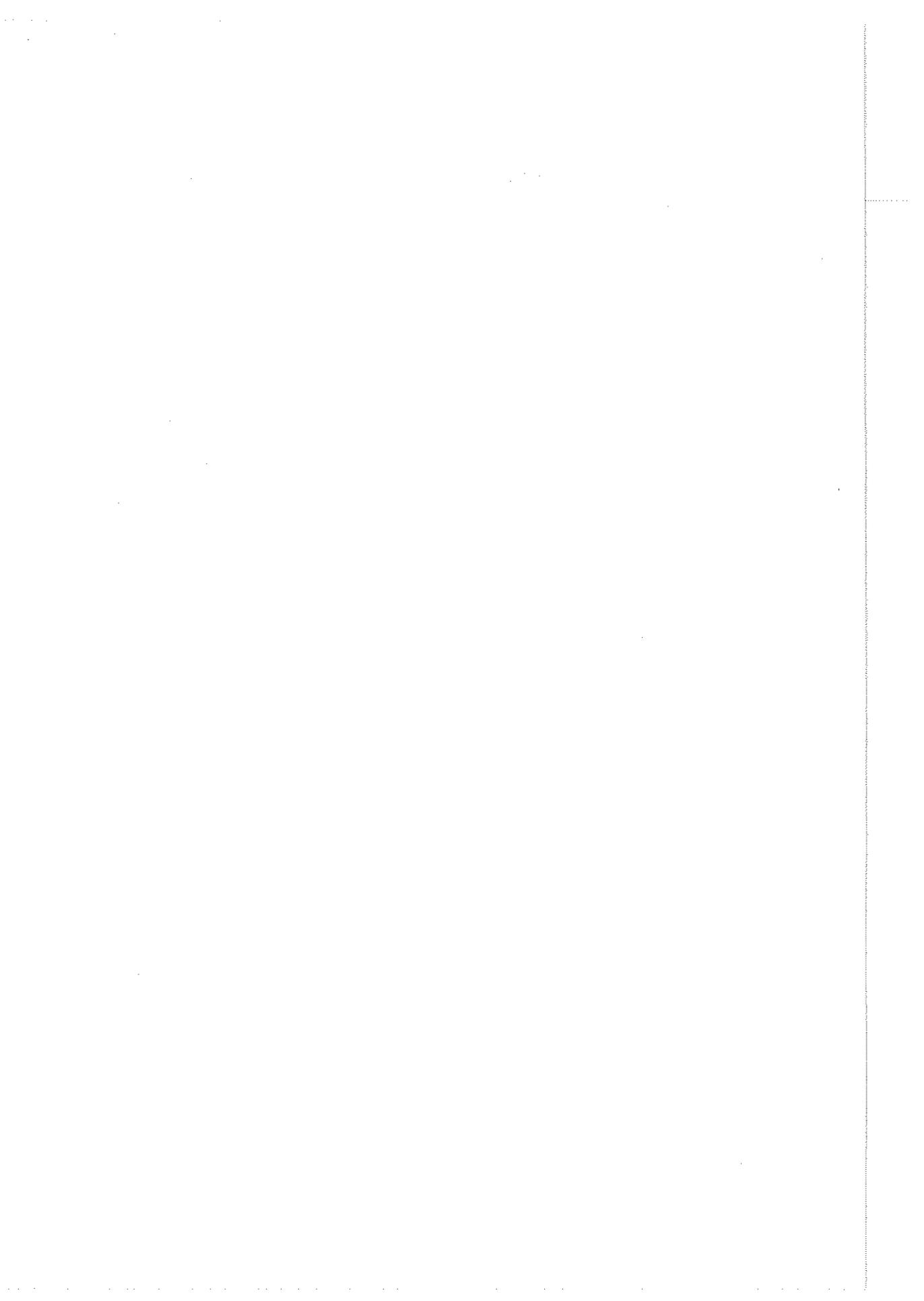
5.21 This, coupled with the loss of the casualty reports previously published by the Salvage Association means that there is a serious lack of sound information on incidents, casualties and other problems (Review inquiry 1995: 493-498).

5.22 The committee recommends that:

11. IMO establish the ISID database as originally proposed.

PETER MORRIS MHR
Chairman

1 December 1995



Appendix 1

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- Table 4: Number of SVPs issued, 1994-1995
- Table 5: ISM implementation for ships over 500t gross
- Table 6: Changes of class (IACS members)
- Table 7: Ship detentions and special survey times



References

AMSA (1995)

Port State Control 1994

Canberra, AGPS

AMSA (1995)

Ship Detention List

Canberra, :AMSA June 1995

Donaldson, (1994)

Safer Ships, Cleaner Seas

London: HMSO

Elias, R (1995)

Weaknesses of port state control highlighted

Singapore: The Business Times 7:11:95

Hansard (1994)

Ship Safety Review Inquiry

Transcript of Proceedings

Hansard (1995)

Ship Safety Review Inquiry

Transcript of Proceedings

House of Representatives Standing Committee on Transport,
Communications and Infrastructure (1992)

Ships of Shame- Inquiry into Ship safety

AGPS, Canberra, 1992

House of Representatives Standing Committee on Transport,
Communications and Infrastructure (1994)

**Review Inquiry into Ship Standards and Safety:
Progress Report**

AGPS, Canberra

IACS (1995)

Class Act in Ship Safety Initiative

London: International Association of Classification
Societies,

Press release

ILU (1995)

Hull Casualty Statistics

London: Institute of London Underwriters

IMO (1995)

**Standards of Training, Certification and
Watchkeeping**

London: International Maritime Organization

IMO

**Guidelines for the Management of Safe Ship
Operations and Pollution Prevention (ISM Code)**

London: International Maritime Organization

IMO (1974)

Safety of Life at Sea Convention (SOLAS)

London: International Maritime Organization, as amended

UNCTAD (1986)

**UN Convention on the Registration of Ships
(UNCROS)**

Geneva: UN Conference on Trade and Development

Appendix 3

List of Participants

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Lloyd's List

List of Submissions

SUBMISSION NO	ORGANISATION/ PERSON
1	Australian Maritime College
2	The Company of Master Mariners of Australia Ltd
3	International Association of Classification Societies Ltd
4	Lloyds Register
5	Australian Institute of Marine Law Ltd
6	Mr W Bolitho
7	International Transport Worker' Federation
8	The Institute of London Underwriters
9	The Shell Company of Australia Ltd
10	The Company of Master Mariners of Australia Ltd
11	Mr R Cumming
12	Australian Chamber of Shipping Ltd
13	International Association of Classification Societies Ltd
14	Minerals Council of Australia
16	International Chamber of Shipping

SUBMISSION NO	ORGANISATION/ PERSON
	Ltd
17	Det Norske Veritas Classification AS
18	United Salvage Pty Ltd
19	Australian Shipowners Association
20	UK P&I Club
21	Australian Maritime Safety Authority
22	MariTrade
23	Lloyds Register
24	ClassNK
25	<i>The Missions to Seamen</i>
26	Australian Shipowners Association
27	Australian Maritime Safety Authority
28	Australian Chamber of Shipping
29	Department of Transport
30	National Bulk Commodities Group
31	Republic of Vanuatu Maritime Bulletin
32	Department of Transport
33	ITF Australia

**Implementation of Ships of Shame Report Recommendations
Recommendation 1(a)**

The committee recommended that:

Australia's representation at the International Maritime Organisation be strengthened by the inclusion of industry and trade delegates with relevant experience.

Implementation

In its response the Australian government stated that industry and unions are closely consulted in developing the Australian position at the International Maritime Organisation (IMO) and that industry representatives frequently attend the IMO technical committee and sub committees.

Industry discussions are conducted through a variety of consultative mechanisms including the Bulk Cargoes Advisory Group, the Technical Committee of the Australian Ship Owners Association, the Ship Standards Advisory Committee established under the framework of the Australian Transport Council and through regular meetings with union representatives particularly on issues associated with the STCW convention.

Recommendation 1(b)

The committee recommended that:

The Australian Maritime Safety Authority meet the cost of the increased industry and trade union representation.

Implementation

The Australian government did not accept that industry and trade union representatives should be funded to attend IMO meetings. The committee believes that by refusing to fund these representatives the government effectively undermines its acceptance of Recommendation 1(a).

Recommendation 1(c)

The committee recommended that:

The Australian Maritime Safety Authority consult with industry on the merit of appointing a permanent delegate to the IMO.

Implementation

In its response the commonwealth government gave an assurance that the Australian Maritime Safety Authority (AMSA) will consult with industry to ensure that Australia's representation at the IMO is as effective as possible.

AMSA consulted industry on the appointment of a permanent delegate at the IMO through the AMSA Advisory Committee. The committee felt that at this stage there was no requirement for a permanent delegate as the current level of participation ensured that *Australian interests were well represented at IMO.*

Recommendation 2

The committee recommended that:

The Secretary General of the IMO be authorised to initiate action in relation to matters of significance which arise between Council meetings at the request of a member State.

Implementation

This recommendation was not accepted. The Commonwealth Government considered that the implications of increasing the power of the Secretary-General of the IMO extended beyond the IMO to other UN organisations. Consequently, increasing the powers of the Secretary-General needs to be looked at very carefully, in the context of the International Convention on the IMO.

The powers of the IMO Secretary-General have not been increased. However, the committee is pleased to see that the effectiveness and speed of the IMO's response to ship safety problems has improved as the reaction of IMO to the Estonia disaster illustrates. The

committee has been advised that, following the positive lead of the Secretary-General, Mr William O'Neill, a panel of experts to investigate Ro-Ro safety was established. The panel's deliberations were considered by a diplomatic conference in November 1995 just 12 months from its establishment. A further example of this is the rapidity with which the Marine Safety Council (MSC) moved to set up correspondence groups to expedite consideration of bulk carrier problems.

While the recent improvement is generally attributed to the strong personal role played by the current Secretary-General of the IMO, the committee believes that the ability of the IMO to respond rapidly to significant ship safety issues should not depend upon the personal characteristics of the Secretary-General and that institutional measures for achieving this should be explored and IMO be given the means to make urgent responses.

Recommendation 3(a)

The committee recommended:

That the Maritime Safety Committee urgently complete its inquiry into flag state compliance.

Implementation

The Flag State Implementation committee (FSI) has had three meetings. At these meetings the FSI committee has made some progress. Progress to date includes:

- the development of standards for classification societies which act on behalf of flag states - this will force flag states to assess the classification societies they recognise to ensure that they meet the necessary requirements
- the development of guidelines to assist flag states in implementing safety and pollution prevention conventions - these guidelines were adopted as resolution A739(18)
- FSI has assumed responsibility for casualty statistics

- FSI has accepted responsibility for the IMO oversight of port state control matters which was hovering between the Maritime Safety Committee and Marine Environment Protection Committee. This has given renewed emphasis to the role of port state control and has provided several *benefits including the training of port state control inspectors and the encouragement of regional groupings such as the Tokyo MOU (Transcript: 267,268).*

Recommendation 3(b)

The committee recommended:

That appropriate operating criteria for classification societies be devised and that only certificates from classification societies, including when a classification society acts as an agent for a flag state, which comply with those criteria be recognised as valid internationally.

Implementation

Guidelines for a model agreement between classification societies and flag states are being developed by the FSI sub committee). This agreement will clearly set out the standards of service required from classification societies to meet their obligations (Transcript: 268).

Consideration has not been given to invalidating the certificates issued by classification societies which do not meet convention requirements.

The International Association of Classification Societies (IACS) has introduced several schemes which will improve the performance of IACS classification societies. Among these schemes are:

- a transfer of class agreement; this agreement makes it mandatory for information concerning a vessel which is changing class to be passed to IACS and between the incumbent and the receiving classification societies
- an enhanced survey program for bulk carriers and tankers conducted in conjunction with the five year renewal cycle of the Ship Safety Construction Certificate - this survey program includes detailed thickness measurements of critical structures and close up visual inspection of the vessel's structure
- a Quality System Certification Scheme (QSCS), which has been audited by the IMO, to improve the quality of classification services.

Recommendation 3(c)

The committee recommended:

That IMO approve a 'seal of approval' to those classification societies meeting its set criteria.

Implementation

See 3(b).

Recommendation 3(d)

The committee recommended:

That an IMO representative participate in the International Association of Classification Societies Quality System Certification Scheme audit team.

Implementation

Mr Gordon Thompson, a former UK Surveyor-General, has been appointed by the IMO as auditor of the IACS Quality System Certification Scheme. Initial audits have been completed and further audits will be conducted on a 3 yearly basis.

Also, IACS has also introduced a vertical contract audit system. These audits, conducted by the IACS Quality Secretary, are random and look at a particular classification society contract starting with the paperwork through to the actual work on the ship. This represents a considerable improvement in the monitoring of the quality of classification society services (Transcript: 27.9.94:141).

Recommendation 4(a)

The committee recommended that:

The Australian Maritime Safety Authority have access to sufficient funds to increase the rate and effectiveness of Port State Control inspections to the level where it ceases to be viable for substandard shipping to call at Australian ports.

Implementation

In its response to the committee's report the Australian government stated that funding for Australian Maritime Safety Authority operations would have to be funded through the proceeds of the Marine Navigation (Regulatory Functions) levy.

Recommendation 4(b)

The committee recommended that:

The Australian Maritime Safety Authority not be required to pay a dividend to Government and that these funds be used to improve the effectiveness of the port state control function.

Implementation

In the budget statement in May 1995, the Government announced that AMSA would have its Act changed to better reflect the primacy of its safety objective. These changes have been enacted, receiving Royal Assent in July 1995.

AMSA has become a Statutory Authority and is no longer required to pay a dividend to the Government. However, the changes require AMSA to discharge its debt to the Government (currently almost \$20 million) by 1999/2000. This requirement means that, for the next four or five years, the debt repayments will exceed the previously predicted dividend. AMSA will, therefore, still be subjected to significant constraints on the capital side for funding the expansion of safety systems.

Funding for PSC programs is operational expenditure and comes from the Marine Navigation (Regulatory Functions) Levy; to increase this income would mean increases in the tonnage visiting Australia and/or rates. AMSA has a very high rate of PSC inspection; increases in this inspection regime may not necessarily lead to increased efficiencies and effectiveness. To this end, AMSA will continue to monitor its PSC program very closely.

Recommendation 4(c)

The Committee recommended that:

The Australian Maritime Safety Authority impose a penalty surcharge on substandard shipping to fund the increased level of operations generated by these vessels.

Status

AMSA will not be applying a punitive levy. The Australian government does not believe that a punitive levy is necessary to supplement the existing deterrent, of the cost of delays, if a ship is detained.

That ships continue to be detained at Australian ports is an indication that the current penalties are not sufficient. The penalties need to have a greater deterrent effect (AMSA: 1993).

The committee agrees with Lord Donaldson where, in his report, he suggests that increased penalties should be placed on sub standard ships (Donaldson; 1994:153).

While the imposition of a fine may be considered to be impractical there are other measures which can be used. Denying sub standard ships the use of port loading and unloading facilities until repairs have been undertaken would act as an additional deterrent to detention.

The committee calls on the Australian government to conclude an agreement with state governments under which sub standard ships will be denied use of port loading and unloading facilities until ship deficiencies have been repaired.

Recommendation 5(a)

The committee recommended that:

The Australian Maritime Safety Authority publish each month the results of its port state control inspections in each port.

Implementation

The Australian government accepted this recommendation. Legislation to give AMSA greater protection when publishing port state control information was presented to parliament in the 1995 Autumn session and received Royal Assent late in July 1995.

Recommendation 5(b)

The committee recommended that:

This publication should include; the name of the ship on which defects are found, the nature of defects, the beneficial owner, the manager of the ship, classification society, flag state, the dates of the latest port state control and special survey inspections, type of charter, charterers and the relevant AMSA surveyor's name.

Implementation

The Australian government accepted that, with the exception of the surveyor's name, this information should be published. It believes that it would be inappropriate to publish the names of surveyors who are acting as delegates of the authority. The information is to be included in the monthly publication of port state control information. A copy of the publication format is at Appendix 3. A new Marine Order Part 55 is currently in the drafting and consultative stages; this will give effect to the Navigation Act amendments.

Recommendation 5(c)

The committee recommended that:

The Australian Maritime Safety Authority ensure that information is made available promptly to parties as specified in existing Marine Orders.

Implementation

AMSA has reviewed the distribution of its reports and will ensure that they are available to interested parties as specified under Marine Orders Part 11.

Recommendation 6(a)

The committee recommended that:

It be mandatory for dry bulk carriers entering Australian ports to carry a Survey History File consisting of all documents relating to a ship's structure which contains a history of port state inspections, structural inspections and repairs or alterations.

Implementation

Under the International Convention for the Prevention of Pollution from Ships (MARPOL), from 6 July 1995, oil tankers are required to carry a survey history file. This requirement is to be extended to bulk carriers under the International Convention for the Safety of Life at Sea 1974 (SOLAS) by 1 January 1996.

Recommendation 6(b)

The Committee recommended that:

The Survey History File should be available to both port state control and classification society surveyors.

Implementation

It is anticipated within the IMO that this information will be available to port state control and classification surveyors. The Australian government has asked AMSA to do all that it can at the IMO to ensure that this outcome is achieved.

Recommendation 6(c)

The Committee recommended that:

Full information on the commercial chain from the beneficial owner to cargo owner should be available to AMSA so that the responsibility for pollution damage can be readily determined.

Implementation

AMSA is now collecting as much of this information as possible. Details of ship owners, managers and charterers and types and lengths of charter are being collected for inclusion in the monthly port state control publication.

Recommendation 7(a)

The committee recommended that:

The IMO establish an international accreditation system for crew training and subsequent issuing of qualification certificates.

Implementation

This recommendation was accepted by IMO when training standards were addressed in the review of the Standards of Training, Certification and Watchkeeping (STCW) Convention. The review focused on a competency based approach to training, with assessment methods being changed to require, where possible, an actual demonstration of competence.

A substantial change to the Convention is the new requirement for administrations to demonstrate to IMO that they fully comply with the Convention's requirements for training, assessment of competence, certification, endorsements and revalidation. Member States who successfully demonstrate compliance after assessment by a special IMO panel, will be publicly identified by the IMO.

This, and other changes, will have the effect of ensuring that a seafarer may only hold one original certificate and places the responsibility for seafarer's qualifications directly with the Flag

State concerned. Under the proposed amendments, port states will not be obliged to extend convention privileges to flag states which are not identified by the IMO as meeting the Convention requirements.

Recommendation 7(b)

The committee recommended that:

AMSA obtain samples of crew certificates from each flag state to assist in determining the authenticity of documents sighted by AMSA surveyors.

Implementation

AMSA has written to flag states asking for copies of certificates. AMSA advises the committee that the initial response was very poor, but subsequent approaches have produced better results. The implementation of the revised STCW convention will ease matters with the development of an internationally standard format for certificates.

Recommendation 8

The committee recommended that:

The Australian Maritime Safety Authority, in conjunction with the Australian Maritime College, establish training courses and assessment criteria which will improve the consistency of inspection outcomes by ship surveyors.

Implementation

AMSA, in conjunction with the Australian Maritime College, has established a course for port state control surveyors. The objective of the course is to complement the 'surveyors' technical skills by

integrating those skills into the requirements of the regulatory framework. Seven surveyors have already completed the course. A further nine are currently enrolled.

The AMC is looking at the option of offering a similar course to marine surveyors not involved in port state control, however, the course would focus on the commercial rather than the regulatory requirements of marine surveyors.

Recommendation 9

The committee recommended that:

All international shipping organisations adopt IMO Resolution A647(16) as the base standard of operations for all members.

Implementation

The 'Guidelines for the Management of the Safe Ship Operations and Pollution Prevention', known as the International Safety Management (ISM) Code, is designed to provide a framework for ship owners and managers to ensure that ship board operational procedures promote safety.

The ISM has been adopted as Chapter IX of SOLAS. It will become mandatory by 1 June 1998. Australian shipowners have agreed to commence implementing ISM by July 1995 (Transcript: 194).

Recommendation 10(a)

The committee recommended that:

The Federal Government examine means by which the level of Australian assistance to Asian and Pacific neighbours relating to crew training can be extended.

Implementation

The Australian government has provided funding for the Asia Pacific Maritime Centre at the Australian Maritime College (AMC). The centre serves as a focus for the AMC's education, training and research activities in the Asia/Pacific area.

The government also provides support through the provision of overseas aid programs. Current assistance includes programs of training and the provision of infrastructure for maritime schools in Kiribati, Tuvalu and Fiji.

Currently, there are 22 students from the Asia/Pacific area enrolled in a Sponsored Training Program.

The AMC has also recently entered into an agreement with Papua New Guinea to provide substantial assistance with the upgrading of the PNG Maritime College at Madang

Recommendation 10(b)

The committee recommended that:

<p>The Australian Maritime College explore opportunities to raise its profile as a maritime training institution to attract increased numbers of international students to the College and associated port based Technical and Further Education Colleges.</p>
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Implementation

The AMC raises its profile within the Asia/Pacific through twinning arrangements with other maritime institutions in the Asia/Pacific area. These twinning arrangements enable the exchange of resources and personnel.

Recommendation 11

The committee recommended that:

The Federal Government deny entry to ships which do not meet ILO 147 standards in relation to crew employment conditions from trading in Australian waters.

Implementation

The committee is very concerned by the continuing exploitation and abuse of seafarers and is disappointed by the Australian government's failure to accept this recommendation.

The government considered that it was impossible to assess whether a ship complied with ILO 147 until it was already in port. Therefore, they could not be prevented from trading in Australian waters.

The Australian government went on to state that the existing system which allows for ships which are found not to comply with ILO 147 to be detained is sufficient deterrent.

Recommendation 12(a)

The committee recommended that:

The Australian Maritime Safety Authority establish a comprehensive ship information base.

Implementation

AMSA has developed its data base since the 'Ships of Shame' report was released. In particular, the development of the data base has enabled AMSA to better target likely substandard ships.

There is also the opportunity of sharing information with the Paris MOU and within the Asia/Pacific MOU. While Tokyo MOU port state control information may not yet be in electronic form in several

countries it is available. Australian port state control information is in electronic form and is available to both the Tokyo and Paris MOUs (Transcript: 311).

Recommendation 12(b)

The committee recommended that:

The data base be made available to any party with a valid interest in ship safety.

Implementation

AMSA has increased the circulation of its monthly publication of port state control statistics. In its negotiations with AMSA over the publication of port state control statistics the committee has asked that the information be made available to the general media. AMSA is taking steps to provide the information to the general media.

Recommendation 12(c)

The committee recommended that:

The IMO establish a comprehensive international ship information data base which is available to any party with a valid interest in ship safety.

Implementation

The IMO has a significant data base. In particular, with the FSI committee taking over responsibility for casualty statistics there will, in the future, be more reliable casualty statistics.

The committee agrees with the Donaldson report recommendation that port states, potential ship charterers and marine insurers have access to an international data base of port state control information (Donaldson; 1994: 377).

This data base need not be maintained by the IMO. The current system where the various regional port state control systems swap information on as needed basis could be enhanced.

The committee believes that the Australian government should ensure that cooperation between regional port state control systems include the free and open exchange of information.

Recommendation 13

The committee recommended that:

The Australian Government require proof of possession of adequate Protection and Indemnity insurance cover as a prior condition of entry of any foreign vessel into Australian ports.

Implementation

The Australian government did not accept this recommendation on the basis that it did not wish to engage in unilateral action.

Following extensive consultation internationally and acknowledgment by the IMO through the Maritime Environment Protection Committee (MEPC) that it was appropriate for member Governments to initiate action of their own accord in their ports and territorial seas, the Government has agreed to introduce new legislation to require vessels to carry proof of insurance at least equivalent to the requirements of the Civil Liability Convention. This legislation is currently at the drafting stage.

Internationally Australia is working at the IMO to introduce a new convention which will cover pollution from non-tankers.

Recommendation 14(a)

The committee recommended that:

The Minister for Shipping and Aviation Support initiate an independent review of the structure and operating procedures of the Marine Incident Investigation Unit with a view to improving the breadth and consistency of its investigations.

Implementation

A review of the Marine Incident Investigation Unit has been undertaken. As a result of the review there has been a reorganisation of the unit and a specialist marine engineer has been recruited. Additionally, the Unit has established a computerised accident information data base which will allow the unit to examine possible correlations between the physical and human elements in marine accidents.

Recommendation 14(b)

The Committee recommended that:

<p>The conclusions of the Marine Incident Investigation Unit investigators into marine incidents be more widely publicised throughout the shipping industry, including through industry and employee association publications similar to the practice followed by the Bureau of Air safety Investigation.</p>

Implementation

The distribution of the MIIU reports has been reviewed and circulation has increased by 75 from May 1993 to March 1994. In May 1993 the unit surveyed the marine industry to assess the acceptability of incident reports and how they could be improved to as a tool to help prevent accidents. The format of reports has been altered to take into account the results of the survey.

Progress Report Recommendations

Implementation

Recommendation 1(a)

The committee recommended:

That the Australian Government propose at the International Maritime Organisation that the International Maritime Organisation be given the power to sanction member states that do not meet their international maritime convention responsibilities.

Status

The Australian Government has not accepted this recommendation. However, the Government does accept the spirit of the recommendation, the need to strengthen the ties between a Flag State and its ships. The Government considers it appropriate to investigate ways in which the IMO could exert pressure on Flag States which are not meeting their convention responsibilities. The Government considers that one means to do this could involve IMO publishing lists of convention breaches by Flag States. AMSA has been requested to canvass this with IMO.

Recommendation 1(b)

The committee recommended:

That this ability to sanction include the ability to suspend, expel or reinstate member states of a convention.

Status

The Australian Government has not accepted this recommendation. There are existing remedies at international law to allow a state to take action against a defaulting state should it wish. These remedies remove the need for IMO to have such a power.

Recommendation 2

The committee recommended:

That the Commonwealth Government take action to ratify *International Labour Organisation Convention 147, Merchant Shipping (Minimum Standards) 1976* as soon as possible.

Status

The Australian Government accepted this recommendation in principle. Detailed consultations with State and Territory Governments are in progress to determine the extent of compliance achieved and the convention is scheduled for review in 1996 as part of a three year work plan.

Recommendation 3

The committee recommended:

That the Australian Maritime Safety Authority produce a set of region based performance indicators for inclusion in its annual port state control report.

Status

The Australian Government accepted this recommendation in principle. AMSA is currently investigating possible performance indicators from two perspectives, efficiency and effectiveness.

AMSA is developing and refining targeting techniques and a regional database to enhance data recording and analysis. There are some difficulties, not all administrations within the region are as

transparent as AMSA, and there is an absence of a relevant benchmark. AMSA is used as a benchmark for these programs by other administrations, and direct comparisons with similar economies are not entirely successful.

As a measure of effectiveness, AMSA commissioned a study to determine the economic impact of its PSC program. The study, while limited to a snapshot of one month's operations, provided no evidence that Australian exporters are paying a premium for the ships they charter. However, for meaningful analysis, the study must be repeated over a longer term.

