

Other Issues: Security, Salvage Personnel and Places of Refuge

- 5.1 These three issues, although not directly within the terms of reference, stood out to the Committee as areas that will need some careful thought and long term planning.

Security

- 5.2 The Committee has been made aware of an increasing concern about security issues within the maritime industry. The Insurance Council of Australia commented that:

Outside of the need to respond to marine casualties, when these occur around the Australian coast, there is also the need for Australia's increased preparedness to respond in the event of a terrorist attack. This may well involve Australia's maritime trade, as evidenced in the attack on the "Limburg", off Aden, in October 2002 and the heightened security now being implemented at Australian ports and required of those vessels calling at these same ports.¹

- 5.3 Mr Paul Bendy from United Salvage (Adsteam) explained to the Committee some ways in which a salvage tug could be involved in port security:

There are a lot of areas of prevention and preparedness. As an example, a role that tugs could play is in escort. That may not stop the terrorists' attack on a vessel. I am not a terrorism expert, but

1 Insurance Council of Australia, submission no 19, p. 7.

terrorists typically hit and go. They do not hang around to see if there is a second, third or fourth opportunity to hit again. You could have a situation where a ship is hit in an important area-an entrance to a harbour or something like that - and the tugs could at least move the ship to a safer area before it sinks in a vulnerable position or whatever.²

- 5.4 Concerns were also raised by Mr Paul Bundy of Australian Maritime Services as to the current focus of security. It seems, he considered, to concentrate on shore side security, with little attention paid to waterborne access to shipping. This could create the conditions necessary for a terrorist to attack a ship from the sea using small boats loaded with explosives, as with the *USS Cole* or the *Limberg*.³

- 5.5 Mr Bundy of United Salvage (Adsteam) commented:

I see security as two main issues: prevention and then response. The response aspect of it is very easy to align to salvage and emergency response and all the capability that you might have in that area. That is one part of it, and typically that part of it could be a very short time. But the prevention side of it, in other words getting prepared to try and minimise a potential threat, is probably far more important. ...there is a lot Australia could be doing on that side of it in its preparedness for any threat, be it from terrorism or anything else. ...both aspects need to be looked at, and I believe we could be doing a lot more in that regard.⁴

- 5.6 Mr McGoogan of Inchcape Shipping, pointed out that an incident such as a ship blocking a narrow channel could occur at any time:

...That can occur by way of an errant navigation, by way of machinery damage or by way of a terrorist bomb. It is therefore a question of having the resources to react to that. The salvage issue would immediately come into play. The port authority would be involved in the removal of the wreck, so all of the mechanisms that we currently have in place would, in turn, come into play.

2 Mr Paul Bundy, transcript, Melbourne, 28 April 2004, p. 38.

3 Mr Paul Bundy, transcript, Melbourne, 28 April 2004, p. 38.

4 Mr Paul Bundy, transcript, Melbourne, 28 April 2004, p. 29.

- 5.7 Responding to a question from the Committee on the current state of port security, Mr Bendy said: “As far as harbour towage is concerned and related salvage, there are now security plans.”⁵ Mr Birchmore of Mermaid Marine, added:

Under the current security legislation –the ISPS Code⁶ – the towage provider, launch provider and pilotage provider are all industry participants and are therefore required to put in a security plan. The shipping agent is in fact an industry participant but he is not required to put in a plan.⁷

- 5.8 The Committee considers that this is an extremely important issue. It is likely that security matters will constitute an increasing part of the responsibilities of shipowners, port authorities, crews and other maritime sectors in the future. The Committee is pleased to see the attention being given to maritime security issues through the following forums:

- Dr Peter Shergold’s Maritime Security Review.
- security requirements related to the Maritime Transport Security Legislation.

Salvage Personnel

- 5.9 From the evidence it received and discussions with industry participants, the Committee formed two main impressions regarding the personnel required to crew salvage tugs and support services:

- that salvage requires experienced and professional personnel with abilities that cannot be taught quickly but must be backed by experience, and;
- that the number / availability of personnel with the required training and experience is shrinking. The Committee believes that this will become a major issue in the future if remedial action is delayed.

5 Mr Paul Bendy, transcript, Melbourne, 28 April 2004, p. 29.

6 The International Ship and Port Facility Security Code, adopted by a Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, convened in London from 9 to 13 December 2002.

7 Mr Alan Birchmore, transcript, Melbourne, 28 April 2004, p. 30.

5.10 Captain Dale Cole in describing the significance of this problem said:

If it is not addressed maritime safety authorities will be facing a potential situation where, in ten (10) years time, all maritime emergency and / or salvage response expertise will reside overseas.⁸

5.11 During the roundtable discussion Captain Cole expanded on this comment:

...there is no question that we – and Adsteam are no different – have a shortage of trained salvage emergency response personnel. It is a huge problem. ...What we are seeing in Australia now is really a lack of skilled people to do this work, and that lack is being supplemented by the capacity of an emergency response provider to contract in the skills.⁹

5.12 The issue is not confined to salvage. Other sectors of the maritime industry also acknowledge a growing problem of a lack of trained personnel and declining incentives to go to sea. Mr Lachlan Payne of the Australian Shipowners Association said:

The towage and salvage industries in Australia are not the only sectors that are suffering from maritime skill shortages. There is a whole range of other maritime related activities that are suffering the same dilemma.

The shipping industry ... is taking steps with the federal government at the moment to try to ...substantially increase the potential for recruitment and training of young Australian men and women for careers in the Australian shipping industry...¹⁰

5.13 The Committee noted that good educational and training resources are available at the Maritime College in Launceston and at several TAFEs around Australia and that Australia is recognised as having some of the best marine training facilities in the world. Better use should be made of available resources, with a view to enhancing that capacity and providing career opportunities for young Australian mariners.

8 Captain Dale Cole, submission 3, p.5.

9 Captain Dale Cole, transcript, Melbourne, 28 April 2004, p. 19 .

10 Mr Lachlan Payne, transcript, Melbourne, 28 April 2004, p. 11.

Recommendation 7

- 5.14 **The committee recommends that the Government subsidise the provision of training courses in Australia in subjects related to maritime salvage operations and that greater utilisation should be made of Australia's maritime training and education resources in this area.**

Places of Refuge

- 5.15 One issue of concern to the Committee is the difficulty sometimes encountered in quickly finding appropriate places of refuge for ships in distress.
- 5.16 The Department of Transport and Regional Services (DOTARS) has defined a place of refuge as:
- ...a location where a ship in need of assistance is able to find a favourable environment, enabling it to take action to stabilise its condition, protect human life and reduce the hazards to navigation and to the environment.¹¹
- 5.17 DOTARS also explained decisions on granting access to a place of refuge came from one of two sources:
- In Australia requests for a place of refuge may be granted by the responsible State / Northern Territory agency for a place within a port, internal waters or within the three nautical mile limit of coastal waters, or by AMSA within other waters from the three nautical mile limit to the limit of the Exclusive Economic Zone.¹²
- 5.18 In general these questions are handled cooperatively but if there is disagreement, the Protection of the Sea (Powers of Intervention) Act, 1981, gives AMSA the power to override a port authority or a State / Northern Territory government.¹³
- 5.19 As mentioned in Chapter 4 (paragraph 10) Articles 9 and 11 of the International Salvage Convention 1989 (covering pollution and vessels in distress) do not have the force of law in Australia. Instead Australia has introduced the National Maritime Place of Refuge Risk Assessment

11 DOTARS, submission 26, p. 6.

12 DOTARS, submission 26, p. 6.

13 DOTARS, submission 26, p. 6.

Guidelines (the Guidelines). The Guidelines were endorsed by the Australian Transport Council in May 2003.¹⁴

- 5.20 The purpose of the Guidelines is to assist Australian maritime administrations, ship Masters and the maritime industry in identifying:
- places of refuge, in circumstances where an emergency cannot be dealt with at sea; and,
 - the appropriate procedures to access a place of refuge.¹⁵
- 5.21 DOTARS, in its submission explained that:
- The Guidelines provide a process for identifying a suitable place of refuge at the time of a casualty, taking into account specific circumstances and prevailing conditions at the time of each case, rather than attempting to pre-determine locations that may be suitable.¹⁶
- 5.22 Two particular issues have been raised with the Committee in regard to places of refuge. These are:
- achieving the proper balance between environmental concerns and the danger to the lives of seafarers; and,
 - local political issues surrounding places of refuge.

Danger to the Environment / Danger to Life

- 5.23 The Committee noted that where sensitive environmental issues are involved, emotions often run high. Sensationalist news media coverage simply serves to exacerbate this. At times it seems that environmental issues overshadow, in the public eye, the danger to human lives. The imperative of this problem was demonstrated by the incident of the *Prestige* off the Spanish coast.
- 5.24 In some cases arguments that erupt over environmental concerns can actually increase environmental danger, because they cause delays in response. As the Committee heard:
- Places of refuge focus primarily on the environmental impact. If, as in your example, the environmental problem has been put to one side and there is no danger of a spill it is possible that a port would take the vessel. However, the environmental impacts do have to be measured very carefully, and the spectre of politics is raised.

14 DOTARS, submission 26, p. 6.

15 National Maritime Place of Refuge Risk Assessment Guidelines 1.1.1 and 1.1.2.

16 DOTARS, submission 26, p. 6.

When the *Eurydice* was foundering off Sydney a couple of weeks ago, the loudest shouting and comments were from the minister for environment, who was not coming from a maritime background. ...He was concentrating on the environmental spill, which is fine because that is his area of responsibility. But it really gets very murky. Every incident that you look at around the world is a mess.¹⁷

- 5.25 Placing the issue starkly in context, Mr Paul Bendy of United Salvage (Adsteam) stated:

I would like to go on record, in case it was not caught before that I firmly believe – and this is often overlooked and hardly ever taken into consideration – that the saving of lives is far more important than the environment and it will be and should be every single time. But that is often overlooked. You will hear that a ship is sinking off the South African coast and reports of oiled birdlife and things like that, which are very distressing and very important, but there will not be a mention of the 30 seafarers that went to the bottom with the ship.¹⁸

- 5.26 The Committee is pleased to note that the Guidelines in use in Australia keep these issues in their proper perspective. The guidelines are “intended to assist both maritime safety for commercial trading ships and to protect the environment.”¹⁹ The Committee emphasises that the protection of human life must always be the paramount concern in these emergencies.

- 5.27 Mr Hoskison of United Salvage (Adsteam) addressed the question of who should make the final decision about admitting the vessel to a place of refuge:

There are two issues regarding ports of refuge. One is the physical condition of the ship and getting a balanced view of the risks that are involved in taking a vessel in. I believe that balanced view should be in the hands of AMSA and the state maritime authorities, not in the hands of ministers of the environment, who are going to take the absolutist view of it. The second issue is: what is the appropriate amount of security which is going to be asked by the port authority to take that vessel in?²⁰

17 Ms Susan Blackwell, transcript, Melbourne, 28 April 2004, p. 24.

18 Mr Paul Bendy, transcript of evidence, Melbourne, 28 April 2004, p. 26.

19 National Maritime Place of Refuge Risk Assessment Guidelines, 1.1.2.

20 Mr Ian Hoskison, transcript, Melbourne, 28 April 2004, p. 24.

5.28 Mr Lachlan Payne of the Australian Shipowners Association added:

...if a ship is required to proceed to a place that increases the hazard to which it is exposed, there is a very valid and essential point that has not been raised but that should be raised. It is that the danger to which the crew is exposed could be exacerbated enormously by a decision to require the ship to proceed into a more hazardous situation than the one it is in already. I think the security and safety of the seafarers involved should be high on the list of priorities.²¹

5.29 Captain Cole highlighted the difficulties often faced in these situations when local political issues come into play:

...I have a couple of points to make about this. A, we have to identify ports of refuge in Australia; and B, we have to get somebody senior enough in the political arena to sway all the politicians to keep politics out of this while we stabilise a very unstable situation.

While people want to score political points, this will never work. If we go back to the *Iron Baron*, which you are familiar with, when we proposed to take it north, we could not get a port of refuge, because we wanted to do certain repairs and the only port in Australia that would do it for us was Brisbane. It was Brisbane only because they had a person in charge of what was known as Queensland Transport who had the power and the prestige to accept it and make that decision.²²

5.30 Mr McGoogan of Inchcape Shipping said:

...I think the difficulty is – and the point was made by United Salvage – that the decision makers are very important. ...It certainly should not be in the hands of anybody except skilled maritime people so that they can clearly take a view as to environmental issues, the safety issues of the ship and the safety of persons on board.

To this, Mr Hoskinson added the comment: “And the most appropriate place to go under the circumstances.”²³

21 Mr Lachlan Payne, transcript, Melbourne, 28 April 2004, p. 24.

22 Captain Dale Cole, transcript, Melbourne, 28 April 2004, p. 25.

23 Mr John McGoogan and Mr Ian Hoskinson, transcript, Melbourne, 28 April 2004, p. 25.

Recommendation 8

- 5.31 **The Committee recommends that, in determining the site to be used as a place of refuge, the person making the final decision must have an adequate level of maritime experience, understanding of maritime safety issues and appropriate maritime transport ministerial authority.**

Paul Neville
Committee Chair
2 June 2004

