

Port State Control in Australia

Mr. David Baird
General Manager
Maritime Operations
Australia Maritime Safety Authority, Australia



**International Symposium on Maritime
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Seas in the New Millennium**

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General Manager, Maritime Operations
Australian Maritime Safety Authority**

**Korea Maritime University
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INTRODUCTION

It is indeed an honor and a pleasure to be invited to address the International Symposium on Maritime Management Systems for Safer and Cleaner Seas in the New Millennium here at the Korea Maritime University in Pusan.

AMSA has as one of its corporate goals the aim of maintaining a close and productive relationship with the maritime safety and shipping interests in the Asia Pacific region. Korea is a key trading partner to Australia and an active member of the Tokyo MOU for Port State control

The topic of port State control both in Australia and in the region attracts considerable attention from Government from the perspective of implementation of its maritime safety and environmental protection policies and with industry from the position of how it will effect them.

In this presentation I will provide an overview of AMSA and its broad maritime safety and environmental responsibilities, outline the general concept and intent of port State control, examine the operation of the AMSA port State control program, and our interface with the regional programs in the Asia Pacific region.

AUSTRALIAN MARITIME SAFETY AUTHORITY

The Australian Maritime Safety Authority – AMSA - is the Australian Government's self funded statutory authority responsible for a wide range of maritime services. These are the development, implementation and oversight of maritime regulatory requirements, the provision of navigation infrastructure, maritime and aviation search and rescue arrangements for an area approximately one ninth of the world's surface, and for the management of Australia's national plan to combat oil pollution of the sea.

The AMSA Board reports directly to the Minister for Transport and Regional services who is also Australia's Deputy Prime Minister.

AMSA is divided into six divisions each with a General Manager reporting to the Chief Executive.

- Maritime Operations Division is responsible for Flag State Control, Port state control, qualifications of masters, mates, engineers and coastal pilots, and management of the National Plan to Combat pollution of the sea.
- Maritime Safety and Environment Strategy Division is responsible for development of regulations and orders for ship safety and environment protection, and the development of Australia's navigation aids system.
- Engineering and Maintenance Operations Division is responsible for the construction and maintenance of the navigation aids system. This division also operates the navigation aids maintenance vessel Cape Grafton. (AMSA is in the process of outsourcing this division to the private sector as part of Government policy)
- AusSAR (Australian Search and Rescue) is responsible for marine and aviation search and rescue in the Australian area of responsibility. Aus SAR is also responsible for the Australian component of the Cospas SarSat beacon detection system. Some of the more notable achievements of Aus SAR have been the

coordination of the Southern Ocean rescues of Isabel Auticier and Tony Bullimore as well as the more recent rescues during the 98/99 Sydney to Hobart ocean yacht race. The other two divisions are the support divisions of Corporate and Commercial Services and the International and Strategic Division.

AMSA receives its funding from three levies that are collected from commercial shipping calling at Australian ports, Navigation Services Levy, Safety Levy, and Environment Protection levy. In 98/99 financial year the Authority received \$Au46 million to finance its operations. Total staff is 360 people operating from sixteen locations around Australia. The head office is located in Canberra – Australia's capital city.

AMSA supports various strategies in an effort to combat the current problems with ship safety standards. These activities take account of responsibilities associated with AMSA's role as both a flag state and a port state.

In those areas where it is possible to actively influence events AMSA maintains a belief in the ability of the IMO to foster a more effective safety regime.

The IMO under the current secretary general Bill O'Neil is focussing its attention on key areas where the safety problems are most pronounced, such as survey requirements, crew competence, and the implementation of international convention standards by flag states. The secretary general has in recent times been keen to emphasize the need to ensure the current regulations are being implemented rather than introduce more regulation to the system. However it needs to be remembered that the IMO like any other UN body is only as good as its members want it to be.

Australia and AMSA are committed to the efforts of the IMO and are actively involved in IMO activities. We hold a position on IMO Council and the Chairman of the IMO Marine Environmental Protection Committee (MEPC) is an AMSA officer.

AMSA's commitment to improving safety standards is not limited entirely to the implementation and enforcement of existing rules. AMSA has commissioned a number of differential GPS systems on the Australian coast. DGPS is now available in the Great Barrier Reef, Pilbara region of Western Australia – our iron ore export region, Bass Strait and recently SW Australia. These high-resolution satellite navigation systems, together with electronic charting will result in major changes to commercial vessel navigation practices and considerably improve safety standards.

PORT STATE CONTROL OVERVIEW

Port State Control – PSC - is the inspection, by the officers of the authorized national maritime authority, of foreign vessels visiting the country's ports to ensure compliance with the international maritime safety and pollution prevention conventions.

The underlying objective of PSC is the eradication of unsafe substandard ships from the trade routes of the world.

In general terms, a vessel is substandard if the safety of the ship is in question, if it is believed to be a threat to the marine environment or if the welfare of the crew is compromised.

The right of innocent passage to foreign ships is granted by customary law and by treaty. However every nation can attach its own conditions to the right of access to its ports. In

addition to territorial jurisdiction there is authority to undertake control inspections under a number of maritime safety conventions adopted by the IMO. These inspections are termed PSC.

These IMO conventions include but are not limited to:

- Loadline Convention – covers strength and seaworthiness
- Solas – dealing with safety
- Marpol – pollution prevention
- STCW95 – crew competency and qualifications

The objective of these international conventions is to provide minimum standards to improve maritime safety, protect the marine environment and to promote and ensure compliance with acceptable on board living and working conditions.

It would be clear that the primary responsibility for ensuring compliance with the international conventions rests with the flag States. However experience clearly demonstrates that not all ships fully comply with these conventions, as many flag States are unable or unwilling to maintain full and continuous control over their ships. As a consequence, a number of countries exercise their rights to conduct port State control inspections on foreign ships entering their ports.

For strong action to be taken in the International Maritime environment a disaster has generally been needed to prompt action – Titanic is associated with the introduction of the Solas convention – Torrey Canyon with MARPOL and the liability conventions – Exxon Valdez saw the introduction of OPA90 - just to name just a few.

Australia has not been immune from the adverse effects of disasters resulting from poor ship safety standards. The Kirki may have been our most memorable and graphic event when this 90000 ton tanker lost her bow close off the West Australian coast in 1991. However it is sometimes forgotten that between 1988 and 1991 six bulk carriers were lost (ship and all crew) in the Indian Ocean after loading at Australian ports. These events saw a change in attitude and focus for the Australian government.

Port State control is no different and a catalyst for the reassessment of the role of port State control in combating unsafe shipping came with the grounding of the Amoco Cadiz in 1978 off the French coast that resulted in coastal oil pollution on a massive scale. This incident, coupled with a general unease that many ships operating in European waters did not comply with international maritime conventions, resulted in strong political and public demand for positive action.

The result was the creation of the Paris MOU on Port State Control.

Adopted in 1982, the Paris MOU is an international agreement between the maritime authorities of European countries aimed at the establishment of a harmonized system of PSC and an effective data exchange system on PSC inspections. (Canada has also become a member of the Paris MOU)

Initially the IMO looked at the European agreement on PSC with some suspicion as they saw it as an additional layer of rule making outside their control.

Finally in 1991 the IMO recognized the European initiative when IMO Resolution A682 (17) Regional Co-operation in the Control of ships and discharges was adopted. In particular this resolution:

- acknowledged that in some cases it may be difficult for flag States to exercise full and continuous control over some of their ships;
- recognized the important contribution to maritime safety and pollution prevention made through regional cooperation under the Paris MOU in preventing the operation of substandard ships; and
- invited governments to consider concluding regional agreements on the application of PSC measures to further contribute to preventing the operation of substandard ships.

As a consequence of these developments:

Latin American, Caribbean, Mediterranean and Indian Ocean countries have formed MOU's for port State control.

West African countries are in discussion on the formation of a further MOU in that region.

In 1994 a number of Asia / Pacific countries formed the Tokyo MOU on PSC.

In February this year the Tokyo MOU held a most successful 8th meeting in Singapore, under the Chairmanship of Mr. Trevor Rose from AMSA and Secretary Mr. Yoshio Sasamura of Japan. Australia is fully committed to the aims of the Tokyo MOU and the benefits it can bring to ensuring safer shipping for the Asia Pacific region.

It is important to ensure that there are strong links between the Tokyo MOU and other MOU's. Canada is providing a link as a member of both Paris and Tokyo MOU. Likewise Australia is a member of both Tokyo and Indian Ocean MOU on Port State control.

The primary responsibility for safe ships lies with the operator and the flag State. However whilst some owners and administrations remain unable, or in some cases unwilling to meet their obligations, port State control will remain an important enforcement approach. However the permanent solution to the current safety problems is for all parties to fully accept and implement their existing responsibilities under UNCLOS and the appropriate IMO conventions.

UNCLOS provides all nations with many rights in relation to ship registration, freedom of navigation on the high seas and innocent passage through the waters of coastal states. However every right must be accompanied by a corresponding responsibility. Whilst some nations continue to ignore their responsibilities in relation to vessels carrying their flag then coastal and port States will implement strategies aimed at protecting their resources, ports and environment from the impact of unsafe ships.

For a nation to commit itself to a port State control program without initially ensuring that it fulfills its own role as a flag State not only brings its objectivity into question but also undermines the effectiveness of port State control. There would not be a need for port State control if all nations rigorously fulfilled their flag State responsibilities.

The European and Australian experience has shown port State control to be effective in limiting the operation of unsafe shipping. However on the down side the evidence suggests that as port State control activity increases in a particular country, area or region, the unsafe ships tend to trade elsewhere.

The Asia Pacific region will need to monitor carefully the developments in Europe following the Erica incident to ensure that vessels unable to trade in that region are not expecting to find an easy port in this Region. A comprehensive port State control program will assist in ensuring that this does not happen.

PORT STATE CONTROL IN AUSTRALIA

Overview and objectives

Australia conducts a PSC program that complies with both the spirit and intent of the control provisions contained within the relevant conventions. In addition Australian domestic legislation – Navigation Act - contains the authority for AMSA marine surveyors to board vessels at any time to investigate issues that have the potential to jeopardize safety or the marine environment. In addition to complying with Australian Government safety objectives, AMSA's PSC program focuses on the aims of the Asia-Pacific and Indian Ocean MOU's through the operation of uniform and consistent PSC programs.

It is AMSA's objective to inspect at least 50% of foreign ships visiting Australian ports. The percentage is based on the number of eligible ships visiting our ports during a given year. For this purpose an eligible ship means one that has not been inspected by AMSA during the last six months (three months for passenger ships and tankers over fifteen years old) immediately preceding the date of arrival at a port.

AMSA conducts PSC in accordance with international guidelines and within the limitations of its authority under modern administrative law. Surveyors are guided by a set of **instructions to surveyors and a PSC manual**, which are based on a number of resolutions promulgated by both the IMO and ILO. Consistency, uniformity and objectivity are the keys to a successful and credible PSC program.

AMSA continually strives to enhance performance in these areas to ensure that Australia's PSC program continues to gain credibility from both Australian interests and from foreign stakeholders.

AMSA is always conscious of the need to continually monitor its PSC activities to ensure it is performing in the most effective and efficient manner. A structured training program developed in 1998 for surveyors undertaking PSC inspections is maintained. All training material and the PSC manual are continually being updated and improved. In January 2000 an auditing program was instituted to monitor AMSA surveyors PSC inspection activities. It is expected that the auditing program together with the training activity will lead to a higher degree of consistency, uniformity and accountability in the performance of AMSA marine surveyors.

AMSA's computerized ship inspection data base system (SHIPSYS) has been *fundamental* in support of Australia's port State control regime. The system has been modified recently to ensure computability with the recent introduction of the Asia-Pacific MOU system APCIS. SHIPSYS is constantly under re-development and major enhancements to the system are being undertaken during 2000. A major initiative this year is the introduction of the Ship Inspection Decision Support System (SIDSS). This is a computer-operated database that will assist AMSA surveyors in identifying high-risk ships and target them for inspection.

The revised PSC Ship Inspection Record Book brought into use in 1998 has proven to be a success in formalizing the standard of AMSA marine surveyor's approach towards PSC inspections, facilitating consistency and uniformity.

However, there is no restriction imposed on surveyors in utilizing their professional judgement to decide the extent of inspection considered appropriate to the ship being inspected. AMSA holds the view that the combination of surveyor professionalism and expertise and the standard initial inspection are both critical to the success of its PSC program.

PSC inspections and their outcome

Forty two AMSA surveyors located at fourteen ports around Australia conduct port State control inspections in Australia. In March 2000 AMSA surveyors inspected 280 ships at 35 ports. During the month there were 450 eligible ships calling at 47 ports.

When undertaking a PSC inspection the AMSA surveyor first conducts an initial inspection which consists of a visit on board to verify the ship carries the necessary certificates and documentation and that these certificates are valid for the voyage on which the vessel is about to proceed. In addition the surveyors use a standard initial inspection checklist and inspect a number of critical areas essential for the safe operation of the vessel. When certification is invalid or where there are clear grounds to suspect that a ship and or its equipment or crew may not be in substantial compliance with the relevant convention requirements, a more detailed inspection is undertaken.

During 1999, 2753 PSC inspections were carried out on ships from 62 countries. The total number of individual ship visits to all Australian ports during 1999 was estimated to be 18500. Regular traders and ships calling at more than one port made many of these visits. It is estimated that 4650 "eligible" ships visited Australian ports during 1999. Bulk carriers constitute the majority of ships inspected and accounted for some 57% of inspections; tankers were 8% of vessels inspected.

Detentions

A ship is detained under the Australian Navigation Act when the deficiencies observed during an inspection are considered by the AMSA surveyor to render the ship unseaworthy or substandard at the time of the inspection.

Serious deterioration of the hull, over loading, or defective equipment such as lifesaving radio and fire fighting appliances would be considered causes to render a ship unseaworthy. Vessels, which seriously breach the provisions of ILO147, may be detained if considered to pose a safety or health hazard. AMSA marine surveyors use their professional judgement to determine if a ship should be detained.

When intervention action is taken to detain a ship, AMSA follows the international convention requirements of informing the Consul or the nearest diplomatic representative of the vessel's flag State and the appropriate classification society. Details of the intervention are subsequently reported to the IMO. AMSA also publishes the details of the intervention on the AMSA Internet web site.

In 1999, 144 ships registered in 36 countries were observed to have deficiencies sufficiently serious enough to impair their seaworthiness and warrant detention. Compared to previous years the detention of bulk carriers was slightly reduced but still amounted to 59% of the ships detained.

When comparing the detention figures since 1995 there appears to be a general reduction in the number of detentions. These are positive indicators that the quality of ships coming to Australia is improving. AMSA believes this gives evidence of success of its PSC activities.

Deficiencies

A deficiency is recorded when the condition of the ship's hull or its equipment does not conform to the requirements of the relevant IMO safety or pollution prevention convention or where hazards to the health or safety of the crew exist which are considered to be in breach of ILO conventions.

Deficiencies are found on many ships. These may not pose an immediate hazard to the safety of the ship its crew or passengers, however they need to be rectified and time is allowed for this to happen. During 1999 some 10600 deficiencies were observed on ships. Fire fighting and life saving appliance are still the major items where most deficiencies are found.

In 1999 AMSA found a substantial increase in radio type deficiencies and believe this was associated with the coming into force of the GMDSS requirements. During the year a number of ships were detained due to the radio installation not complying with GMDSS or the ships officers not being competent in the operation of the equipment. So far in 2000 there seems to be no improvement in this situation and ships are still being detained because officers cannot demonstrate competence in the operation of the GMDSS equipment. Search and Rescue services are also being compromised by the high incidence of DSC false alerts. This clearly points towards lack of officer capability in operating critical safety equipment.

Recruiting Training and Auditing

- **Recruiting**

AMSA recruits its marine surveyors from sources with seafaring background. An AMSA surveyor will typically have a Master Class 1 or Chief Engineer Class 1 qualification with several years of sea service. Generally they will have served as Master/ Chief Mate or Chief/First Engineer for a number of years before joining AMSA. They will have had experience of PSC during their sea service.

- **Training**

On joining AMSA as a surveyor a Master or Chief Engineer will immediately commence the Maritime Operations Professional Training Program.

This is structured in three streams:

- Graduate Certificate in Marine Surveying – This is a structured program conducted by the Australian Maritime College that takes between 18 months to two years to complete. It covers all aspects of marine surveying, and consists of distance studies practical on the job training exercises and residential components at the College.

- **Port State Control Training** – This is an initial intensive three month training and on the job learning program under the guidance of experienced surveyors in a number of different locations. After this initial training the surveyor is permitted to conduct PSC inspections unsupervised. Follow-up training is conducted at six months. Annual audit is conducted and if necessary retraining is provided. Refresher ship inspection training is undertaken every two years.
- **In House Training Program** – This is an ongoing program where surveyors undertake specialist-training courses at set intervals. Such as GMDSS Operators License every five years, Tanker safety course each five years.

A small group of experienced AMSA marine surveyors have been nominated to form the Ship Inspection Training Group. This group has undergone specialist “Train the Trainer” programs and participate in regular workshops to ensure consistency of their training methods and outputs. These trainers are responsible for conducting the initial training of new recruits and for conducting the follow-up and two-year refresher training for all AMSA surveyors. The performance of these trainers is audited annually by authorized AMSA ship Inspection Auditors.

- **Auditing**

This is a new initiative that Maritime Operations started in January 2000. The purpose of the Ship Inspection Audit Program is to support and reinforce the achievement of a high level of consistency in Port State and Flag State inspections and audit based decisions. The program will operate with and compliment the training program to ensure the development and maintenance of an inspection regime, which provides

- uniform standards
- common procedures, and
- consistency in decisions and actions taken

Inspections and audits are undertaken by qualified and trained AMSA staff at a number of levels on a regular basis.

Regional Managers are expected to audit each surveyor for whom they have responsibility at least once per year. This means the Manager will accompany the surveyor on a randomly selected PSC or FSC inspection. Examine the surveyor’s ship inspection record books; check data entry in SHIPSYS for accuracy and completeness. The Manager will make a report on the surveyor and determine any appropriate action that needs to be taken – for example - extra training in tanker operations.

A group of senior AMSA staff have been selected and trained as auditors to undertake the role of Ship Inspection Regional Auditor.

Regional audits will be conducted every six months in each region and head office. The auditor will review the FSC and PSC practices of each region, looking for consistency, accuracy of data entry and outcome of the local audit program. They will also accompany selected surveyors on randomly selected FSC or PSC inspection. Each surveyor could expect to have a Regional Audit accompanied inspection every two years

It is intended that eventually nationally recognized and accredited auditing company will undertake formal compliance audits of the Maritime Operations Ship Inspection Program quality system under ISO 9001: 2000 standard.

CONCLUSION

It is apparent that port State control has proven to be a valuable tool in addressing current maritime safety problems. However it must be remembered that port State control is only a single strategy in a total program aimed at raising the level of maritime safety. That focus is internationally focussed and primarily centers on the need for flag states to accept the responsibility for their ships. The port State control program is a safety net underlying the first level of control, which must remain with the flag state.

AMSA with the full support of the Australian Government will continue to conduct our port State control program in a firm, fair, independent and fearless manner. We will look for ways to reward those that operate their ships in safe, competent, and environmentally sensitive manner. We will be tireless in seeking out those that try to operate outside the boundaries of the international conventions.

AMSA will work with our International and Regional partners to strengthen the regional arrangements to ensure a robust port State control system that will make it increasingly difficult for unsafe ships to freely ply the trade routes of the world.

Finally it needs to be remembered that port State control is an imperfect system operating in an imperfect world. It is neither a cure all nor does it absolve others from their responsibilities. The active participation and recognition of their responsibilities is needed from flag States, ship operators, owners, charterers, classification societies, and underwriters if the eradication of substandard shipping is to be achieved.

Collectively we can ensure that the world becomes too small for such ships to operate.

David Baird – Personal Profile

David Baird is the AMSA General Manager Maritime Operations with responsibility for AMSA's , flag State ship inspection program, port State control program, marine qualifications systems and marine pollution response.

Other senior positions he has held in AMSA have been General Manager AusSAR and General Manager Marine Environment Protection Services.

He joined AMSA in 1994 as AMSA's Area Manager for Victoria and Tasmania and moved to head office in Canberra as a General Manager in 1997.

He is a Master Mariner with a Graduate Diploma in Business Management.

In 1963 following, training at the Merchant Navy College – HMS Worcester in London, David Baird served with the Ellerman and Bucknall Steamship Co of London. He served from Cadet deck officer to First Officer in passenger liners and cargo vessels.

In 1971 after gaining his Foreign Going Masters certificate he emigrated to Australia and served with ASP Ship Management in the Australian tanker fleet.

In 1976 he came ashore as Assistant Harbor Master in the port of Westernport which was then Australia's largest crude oil and LPG export port. He remained at Westernport (now called Hastings) until 1994, during this time he was Harbor Master and finally Regional Manager with responsibility for the port of Hastings and all coastal activity

between Melbourne and Wilson's Promontory. In 1994 he left port of Hastings to join AMSA.