VI. Law of the Sea

United Nations Convention on the Law of the Sea - Australian efforts to achieve United States support

On 18 August 1992 the Minister for Trade and Overseas Development, Mr John Kerin, answered a question upon notice from Mr Hollis (HR Deb 1992, Vol 185, p 108). The question and answer were as follows:

(Q) Further to the answer to question No 994 (*Hansard*, 8 October 1991, p 1491), what progress has been made in persuading the USA to support the UN Convention on the Law of the Sea?

MR KERIN: The answer to the honourable member's question is as follows:

(A) As stated in the answer to question No 994 (*Hansard*, 8 October 1991, p 1491), Australia has been in direct and regular contact with the United States Government on law of the sea issues since 1981 when the House of Representatives conveyed its unanimous resolution on the United Nations Convention on the Law of the Sea to the United States Government. That contact has continued since the last time a question was asked on this topic in August 1991.

In particular, Australia, the United States and other countries have been participating in consultations chaired by the UN Secretary-General to explore the concerns which certain countries, particularly the United States, have with the deep seabed mining provisions embodied in Part XI of the Law of the Sea Convention.

Recently consultations were held in October 1991, December 1991 and June 1992. During the course of these consultations it was acknowledged by all participants, whether from industrialised or developing countries, that global political and economic changes since the adoption of the Law of the Sea Convention in 1982 had raised questions as to the appropriateness of certain aspects of Part XI. This view was embodied in last year's United Nations General Assembly resolution 46/78 on the Law of the Sea. A milestone was achieved in December 1991 when, for the first time, the United States moved from a negative vote to an abstention on this annual resolution. Australia played an active role in the consultations which led to this result.

The Australian Government considers that it will be possible to reach an accommodation on Part XI which would enable the United States and others to accede to or ratify the Law of the Sea Convention. This would allow universal participation in the creation of a uniform and binding international legal order for the oceans.

Right of innocent passage - Article 19 of the United Nations Convention on the Law of the Sea - Response of coastal State to allegedly non-innocent passage - *Lusitania Expresso*

On 3 March 1992 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, answered a question without notice from Senator Tambling (Sen Deb 1992, Vol 151, p 547). The question and answer were, in part, as follows:

> SENATOR TAMBLING: Will the Minister for Foreign Affairs and Trade advise the Senate how many Australians are in the contingent of 120 journalists, students and human rights activists proceeding from Darwin to Indonesian Timor this week on board the international protest ship the *Lusitania Expresso*?...
>
> SENATOR GARETH EVANS: I am not able to answer the first question about the number of Australians actually now or potentially involved in this particular exercise. That is really as a result of the fact that we are not involved in this venture in any way, obviously, and nobody has yet given us enough information on which we could make any such assessment.
>
> Let me say this about the whole affair: like the organisers, the Australian Government has been, as everyone should be acutely aware by now, very deeply concerned about the 12 November killings, and we have made that clear in repeated representations to the Indonesian Government. However, we do not believe that this particular ship visit exercise will improve the situation in East Timor in any way. We do not regard that trip as contributing in any useful way to a process of longer term reconciliation in the province.
>
> It is, of course, for the Indonesian Government itself to decide whether or not to allow the boat to enter East Timor territorial waters. The organisers of the trip have said that they will not be seeking any kind of authorisation from the Indonesian Government. In taking that approach they are simply increasing the likelihood of confrontation with the Indonesian authorities and placing the welfare of their passengers at risk. The commander of the Indonesian armed forces, General Try Sutrisno, was quoted as saying publicly: "If they only want to pass through Indonesian waters or if they obtain a Government permit to land that will be all right. If this latter requirement is violated action will be taken."
>
> Moreover, more recently, on 25 February, the Indonesian Department of Foreign Affairs issued a press statement which said that the ship would not be permitted to come within 12 nautical miles of East Timor. That is on the basis that it is now being said by the Indonesian authorities that they do not regard it as an exercise of the right of innocent passage even to steam within those territorial waters because of the nature of the campaign that the ship will be waging, and it being outside the terms of article 19, I think it is, of the Law of the Sea Treaty.
>
> From the Government's perspective, I would certainly urge all Australians to think very carefully before participating in this exercise. We would expect the Indonesian response to be graduated in accordance with standard international maritime procedures if the vessel does attempt to enter Indonesian territorial waters without appropriate authorisation and it does provoke Indonesian authorities by acting in that way. One cannot exclude the possibility

that something may go wrong, however, whatever the intentions of the Indonesian authorities may now be about handling such an incident, resulting in risk to passengers.

When the vessel arrives in Darwin, Australian Government officials will be advising the captain of the vessel of the risks involved in attempting to visit Dili without proper authorisation. We will refer in particular to the fact that Australian citizens may be joining the vessel and the Australian Government's interest in their welfare. ...

As to whether the vessel will be allowed entry into the port of Darwin to pick up passengers, that is essentially a matter for other government agencies rather than the Department of Foreign Affairs and Trade. However, my understanding is that the *Lusitania Expresso* will be treated like any other vessel wishing to make a call at an Australian port. If it satisfies the usual requirements, it will be allowed to make the port call. ...

We will carefully draw to the attention of the ship's captain the nature of the potential risks that he might be running on behalf of himself, his vessel, his crew and his passengers, including Australians, were he to embark on this exercise – even on the assumption of a moderate and graduated response by the Indonesian authorities.

Freedom of navigation - Transit through international strait and archipelagic waters

On 4 September 1992 an Indonesian naval vessel questioned the passage rights of an Australian submarine which was undertaking passage through the Sunda Strait in the Indonesian archipelago. The passage of the submarine was not hindered, however. Following the incident the Australian Embassy in Jakarta lodged a third person note with the Indonesian Department of Foreign Affairs which set out Australia's view of the applicable international law as follows:

... The Embassy wishes to inform the Department of Foreign Affairs that Australia considers this strait an important route for international navigation through which all ships and aircraft enjoy freedom of passage, and that passage through this strait may not be hampered or suspended under international law, as provided for in Part III of the United Nations Law of the Sea Convention.

The regime for archipelagic waters, including archipelagic sea lanes passage, is now set out in the United Nations Convention on the Law of the Sea in articles 46 to 54. The Embassy wishes to inform the Department of Foreign Affairs that Australia reserves the right for its ships and aircraft to exercise rights of transit through Indonesia's archipelagic waters, in accordance with customary international law as reflected in this United Nations Law of the Sea Convention.

Freedom of navigation - Transit through Exclusive Economic Zone - Assistance to ships at sea - United Nations Convention on the Law of the Sea

On 11 November 1992 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, answered a question upon notice from Senator Reynolds (Sen

Deb 1992, Vol 156, p 2830) concerning a ship carrying plutonium from France to Japan. The question and answer were, in part, as follows:

> With reference to the situation described by the "Japanese Citizens Concerned about Plutonium" in its advertisement in the *Australian* of 5 November 1992 "Can Australia Stop the Death Ship?".
>
> (Q2) If the route of the shipments is near Australia, will the Government be advised by Japan if the ship enters the Australian Fishing Zone?
>
> (Q3) Would the Government provide emergency assistance if requested by the ship and would it allow the ship to enter an Australian Port?
>
> (Q4) Has the Government made any contingency arrangements to respond to any emergency near Australia involving the shipments?
>
> SENATOR GARETH EVANS: The answer to the honourable senator's question is as follows:
>
> (A2) Australia does not know the route and does not expect the Japanese Government will depart from its clearly stated intention for security reasons not to advise other countries of the route.
>
> Japan is not under any international obligation to advise Australia of entry of the plutonium ship into the 200 nautical mile Australian Fishing Zone (AFZ). The ship is entitled under international law to transit the AFZ and other countries' 200 nautical mile Exclusive Economic Zones (EEZ). However, Japan has said that, in principle, the ships will not be routed through countries' EEZs.
>
> (A3) If emergency circumstances were to arise in the course of a shipment and Japan requested Australia's assistance, the Australian Government would consider such a request in accordance with the international law applicable to ships in distress.
>
> In the case of assistance to the ships at sea, under the 1982 Law of the Sea Convention, which is generally regarded as declaratory of customary international law in this respect, assistance would be required to the extent that it could be given without serious danger to rescue personnel and equipment.
>
> In the case of port access, under the customary international law relating to the sovereignty of coastal States and also under the 1923 Geneva Convention on the International Regime of Maritime Ports, to which both Australia and Japan are parties, it would be within the discretion of the Australian Government to determine on a non-discriminatory basis whether port access would be granted. Port access is normally granted to ships in distress but safety would be a paramount consideration in deciding whether to grant access to the plutonium ship.
>
> (A4) Appropriate arrangements, involving a number of Government Departments and Agencies, including the Maritime Rescue Coordination Centre, are in place to coordinate an Australian response to maritime emergencies, including any emergency involving the plutonium ship. Such arrangements would be activated promptly if an emergency arose.
>
> Australia has a capacity to assist ships in distress but the exact nature of the response would depend on the nature of the emergency.

On 9 December 1992 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, answered a question without notice from Senator Bell (Sen Deb 1992, Vol 157, p 4534). The question and answer were, in part, as follows:

> Given that the *Akatsuki Maru* is now certain to pass south of Australia on its way to Japan with 12.7 tonnes of plutonium, is it a fact that Fremantle and Hobart have been designated as the ports to which the vessel would go in case of emergency? If not, which ports have been so designated? ... What safety measures will be implemented at the designated ports?
>
> SENATOR GARETH EVANS: No Australian port has been designated as the port to which the *Akatsuki Maru* would go in an emergency. As I have said in previous answers on this issue, if emergency circumstances were to arise and Japan requested Australia's assistance, the Australian Government would consider such a request in accordance with the international law applicable to ships in distress. In the case of port access, it would be within the discretion of the Australian Government to determine whether port access would be granted. Port access is normally granted to ships in distress but safety would be a paramount consideration in deciding whether to grant access to the ship and, if so, which port might be the most suitable for such access. ...
>
> [A]ppropriate arrangements involving a number of government departments and agencies, including the Maritime Rescue Coordination Centre, are in place to coordinate an Australian response to maritime emergencies, including any emergency that might involve the *Akatsuki Maru*. Such arrangements would be activated promptly if an emergency arose. We have a capacity to assist ships in distress, but the exact nature of the response would obviously again depend on the nature of the emergency.

Fishing zones - Driftnet fishing - Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific - Australian ratification

On 6 July 1992 the Minister for Foreign Affairs and Trade, Senator Gareth Evans, issued a news release which read as follows:

> Australia today ratified the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (the Wellington Convention).
>
> The Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Minister for Primary Industries and Energy, Mr Simon Crean, said Australia has been seriously concerned about the impact of driftnetting on the world's marine resources.
>
> Driftnets are notorious for indiscriminate catches of dolphins, seals, small whales, seabirds and turtles, and the depletion of target fish stocks.
>
> Australia has prohibited large scale driftnet fishing in its waters since 1986. In accordance with the 1989 Tarawa Declaration, South Pacific countries including Australia adopted the text of a Convention in Wellington on 23 November 1989 which committed signatories to ban driftnet fishing in areas under their own fisheries jurisdiction, and by their own nationals and vessels throughout the South Pacific region.

Australia signed the Convention on 2 February 1990 and it came into force on 17 May 1991. Legislation necessary to give effect to Australia's obligations under the Convention was passed earlier this year.

Attached to the Convention are two Protocols open to signature by nations outside the South Pacific area of the Convention: The Ministers said a number of nations had already signed the Protocols and urged other eligible countries to do so.

"Ratification of the Wellington Convention is a clear signal that Australia fully supports efforts by South Pacific countries to ensure the responsible utilisation of fishery resources", the Ministers said.

"It also signals that Australia takes seriously its responsibilities in the pursuit of ecologically sustainable development and we look forward to similar regional initiatives in the future."

The regional negotiations which led to the ratification of the Wellington Convention laid the groundwork for a United Nations General Assembly (UNGA) moratorium on large scale high seas driftnet fishing, which is due to commence in full on 1 January 1993.

The Ministers said the UNGA moratorium is an important step towards sustainable fisheries management.

"By consensus, members of the international community have agreed that the environmentally destructive practice of large scale driftnet fishing should cease on the high seas. In doing so they have acknowledged that all countries have a special duty of care towards the fish resources of the high seas", they said.

The Ministers said the adoption by UNGA of the 1 July 1991 deadline for large scale driftnet fishing in the South Pacific was a recognition by the international community that the issue was of pressing importance to the South Pacific, in terms of the fishery resources and the welfare of South Pacific people who depend on them.

"The unity and success of South Pacific countries on the driftnetting issue has been a heartening sign of the strength of co-operative regional approaches to common fisheries problems. We believe that it represents an example for other regions", the Ministers said.

Fishing zones - Conservation of fisheries resources - Niue Treaty on Fisheries Surveillance and Law Enforcement in the South Pacific - Australian signature - Role of Forum Fisheries Agency

The following is extracted from an item by Russ Properjohn in the Department of Foreign Affairs and Trade publication *Insight* of 7 August 1992 (Vol 1 No 2, p 10):

> South Pacific nations have agreed to a treaty on surveillance and law enforcement to protect and conserve their vast fisheries resources.
>
> Believed to be the first of its type, the treaty was signed at the 23rd South Pacific Forum meeting in Honiara on 9 July by 13 of the 16 members of the Forum Fisheries Agency (FFA). Prime Minister Paul Keating signed on behalf

of Australia, which hopes that Fiji, Kiribati and Papua New Guinea will also sign soon.

The Niue Treaty on Fisheries Surveillance and Law Enforcement in the South Pacific was agreed at the 22nd meeting of the Forum Fisheries Committee in Niue in May.

A key element of the treaty provides a framework to enable one country to enforce the laws of another in that country's waters. In other words, a patrol boat from Australia could be authorised to apprehend a vessel fishing illegally in the 320 km exclusive economic zone of any country party to the treaty and with which Australia had a subsidiary agreement.

Other important elements include cooperation in implementing minimum terms and conditions of access, information exchange and cooperation in the prosecution of offenders.

The Australian delegation's leader at the committee meeting, Rhys Puddicombe of the Department of Foreign Affairs and Trade, said the treaty would strengthen significantly the enforcement of fishing agreements negotiated by Pacific Island countries with distant water fishing nations such as the United States, Japan, Taiwan and the Republic of Korea. ...

The FFA's mandate is to promote cooperation in fisheries to secure the maximum benefits from the marine resources of the South Pacific for the people in the region.

For some smaller island States, such as the Marshall Islands, Kiribati and Tuvalu, charging foreign fleets for access to their fish resources is the major income earner. They do not have the capacity to fish on a large scale themselves.

The FFA assists island members to negotiate access agreements with foreign countries. These distant water fishing nations must pay a fee or levy to Pacific island nations for permission to fish in their waters. The fee is normally related to the catch's value. The FFA assists member countries to analyse catches and calculate fee rates.

The FFA has compiled a regional register of foreign fishing vessels, which enables the FFA to provide South Pacific countries with the latest information on vessels active or potentially active. ...

(Members of the FFA are: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, Western Samoa and New Zealand.)

Fishing - Cetacean conservation - Australian opposition to commercial hunting of cetaceans

On 30 June 1992 the Minister for the Arts, Sport, the Environment and Territories, Mrs Ros Kelly, issued a news release which read as follows:

Ros Kelly, Minister for the Arts, Sport, the Environment and Territories today said she was saddened by the decision of Iceland to leave the International Whaling Commission (IWC), and horrified that Norwegian Prime Minister

Mrs Gro Harlem Bruntland announced that her country intended to resume commercial whaling in 1993.

"Hunting and killing whales has no place in the commercial or scientific activities of civilised countries. The principles of sustainable development agreed to by all countries including Norway and Iceland in Rio just two weeks ago imply quite the opposite", Mrs Kelly said.

"The IWC is the appropriate international organisation for whale and other cetacean conservation and management, and for countries to leave it or flout it because they don't like the decisions is unacceptable.

"I have asked Australia's delegate at the IWC's 44th Annual Meeting, and IWC Vice President Dr Peter Bridgewater, to convey this message to the nations concerned, and to ask them to reconsider their decision to go outside the established international framework."

Mrs Kelly said the Australian delegation at the meeting would press for an extension of the southern boundary of the Indian Ocean whale sanctuary to the ice–edge of Antarctica where no whale killing could take place.

Australia also supports the idea of a Southern Ocean sanctuary while recognising that the current French proposal requires further development.

"Whale numbers are still less than half what they were before industrial killing began. No nation which professes to act in the interests of the biological diversity of the planet can kill whales in the name of science or commerce.

"Australia is committed to the world wide protection of whales and all cetaceans, and is opposed in principle to all forms of commercial hunting. Whale hunting is a barbaric practice that belongs to history, not to the present day. It has no place in the environment of the future."

Fishing zones - Australian Fishing Zone - Agreement with Indonesia

A bilateral agreement with Indonesia on cooperation in fisheries was signed during the visit of the Australian Prime Minister, Mr Keating, to Jakarta in April 1992. The following outline of the agreement is extracted from the Department of Foreign Affairs and Trade publication *Backgrounder* (Vol 3 No 8, 8 May 1992):

> The fisheries agreement will help the management of fishery resources and in the conservation of stocks which straddle the waters of both countries. It will facilitate the exchange of information and personnel and cooperation across a wide range of fisheries–related activities, including developments in fishing gear, training, agriculture, surveillance, marketing and post–harvest technology. The agreement will also provide a consultative mechanism under which issues such as illegal fishing in the Australian Fishing Zone (AFZ) and overfishing by foreign fleets in waters adjacent to the AFZ can be discussed.

Fishing zones - Australian Fishing Zone - Illegal fishers - Amendments to Australian legislation

In the course of a second reading speech on the Migration Amendment Bill (No 2) 1992 on 7 May 1992, the Minister for Immigration, Mr Hand, said (HR Deb 1992, Vol 183, p 2678):

> For some time now, the Government has been concerned about the problem of the incursion of foreign fishing vessels into Australian waters. The vessels are largely Indonesian in origin. The problem is serious, with consequences for the fishing industry, our marine environment and quarantine arrangements.
>
> Existing laws have not had the desired deterrent effect. There have been claims that the fishermen apprehended, in serving their gaol sentences, have a "paid holiday" at the Australian taxpayers' expense. The small gratuities granted by State corrective services to all prisoners for their work may represent a significant amount to an Indonesian fisherman.
>
> The scheme outlined in this Bill is the result of discussion between the relevant State and Federal agencies. It is the first step in a much wider strategy and indicates our determination to deal with this problem effectively. The scheme will render any crew member of a fishing vessel apprehended liable for the cost of his custody and removal from Australia. The master, owner, agent or charterer of the relevant vessel will also be liable for that cost. The Secretary of my Department will be able to serve a notice on State and Territory gaols, banks or other financial institutions that may hold funds in trust for these prisoners. The notice will require them to pay the funds to my Department up to the amount of a person's liability. The scheme, together with the present capacity to confiscate fishing boats and to impose gaol sentences, increases the disincentives for these fishermen to fish illegally in Australian waters.

Fishing zones - Australian Fishing Zone - Heard Island and McDonald Islands territory

The following excerpts are from the report of the House of Representatives Legal and Constitutional Affairs Committee entitled *Australian Law in Antarctica* (details of the report and more extensive extracts are in Chapter V pp 436–40 of this volume).

> **Current Practice in Applying Commonwealth Laws Expressly Relating to the Australian Antarctic Territory**
>
> RECOMMENDATION 2
>
> The Committee recommends that the *Fisheries Management Act* 1991* be amended to include in the Australian Fishing Zone the 200 nautical miles adjacent to the Australian Antarctic Territory, so as to extend Australian jurisdiction to the activities of non–Contracting Parties to the Antarctic Treaty.

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* See pp 287–88 of Volume 13 of this *Year Book* for extracts from the speech with which the relevant Minister introduced into Parliament and explained the purpose of the Fisheries Management Bill 1991.

Relevance of the Existing Legal Regime

5.18 The *Fisheries Management Act* 1991, which replaces the *Fisheries Act* 1952, extends to Heard Island and McDonald Islands and includes the Territory's waters within the Australian Fishing Zone. Certain parts of these waters come within the Antarctic Convergence and hence into the area of application of the Convention for the Conservation of Antarctic Marine Living Resources

5.19 Both the *Antarctic Marine Living Resources Conservation Act* 1981, which implements this Convention, and the *Fisheries Management Act* 1991 prohibit unauthorised fishing by Australian and foreign nationals in the Australian Fishing Zone surrounding the Territory.

5.20 The Department of Primary Industry and Energy advised that commercial fishing is currently not permitted within these waters, although future harvesting was not ruled out should commercially viable stocks of fish become evident.[5] Preliminary findings from fisheries survey work carried out by the Antarctic Division research vessel RV *Aurora Australis* in the waters around Heard Island indicate low levels of fish stocks.[6]

Piracy - Incidence in South East Asia - Australian role - International Maritime Organisation

On 26 May 1992 the Minister for Shipping and Aviation, Senator Bob Collins, said in the course of an answer to a question without notice (Sen Deb 1992, Vol 152, p 2590):

> I regret to advise the Senate that there has been a disturbing increase in the incidence of piracy against shipping in South East Asia, which has now provoked international attention. Along with the Minister for Foreign Affairs and Trade, I have received representations from the Australian Chamber of Shipping and the Australian National Maritime Association expressing their extreme concern at the situation. Apart from the immediate threat to the safety of the ships' crews, there is also the possibility of a vessel being disabled and, therefore, posing a severe environmental threat. This was demonstrated recently when a fully laden tanker was boarded by pirates. ...
>
> This problem needs to be addressed at the international and regional levels to ensure the security of our international shipping routes is maintained. Australia already is taking an active role in the International Maritime Organisation and AMSA will strongly support any measures for improved regional cooperation. AMSA is in contact with the Department of Foreign Affairs and Trade to investigate possible courses of action on the diplomatic front about this issue.

Freedom of navigation - Protection of the marine environment - Compulsory pilotage of vessels

On 8 October 1992 the Minister for Shipping and Aviation Support, Senator Peter Cook, answered a question upon notice from Senator Reynolds

5 Department of Primary Industry and Energy, *Evidence*, p 280.
6 Department of Primary Industry and Energy, *Submission*, p 568.

concerning Torres Strait shipping (Sen Deb 1992, Vol 155, p 1524). The question and answer were, in part, as follows:

(Q3) What progress has been made in requiring all foreign vessels to take on board an Australian pilot?

(Q5) How can pilots monitor all relevant standards appropriate to passage through the Great Barrier Reef Marine Park?

(A3) Compulsory pilotage for specified ships navigating through the inner route of the Great Barrier Reef or when passing through Hydrographers Passage was introduced in October 1991. Since that time there appears to have been almost 100 per cent compliance - only one prosecution has been necessary.

There is no requirement for ships transiting the Torres Strait to take on a pilot. However, a recommendation, which covers all ships 70 metres and over and all loaded oil tankers, chemical tankers or liquefied gas carriers, irrespective of size, was adopted by the International Maritime Organisation in November 1991. Approximately 5 per cent of ships transiting the Torres Strait in 1991 were unpiloted.

In view of the status of the Torres Strait as an international waterway it is not intended that pilotage in this area be made compulsory.

(A5) Pilots are employed to assist the master of a ship on navigational matters only. They are not employed to monitor any other standards.

[See pp 298–303 of Volume 13 of this *Year Book* for materials on earlier Australian action in relation to compulsory pilotage.]

Foreign vessels - Inspections by Australia

On 26 February 1992 the Minister representing the Minister for Shipping and Aviation, Mr Beazley, answered a question upon notice from Mr Peter Morris (HR Deb 1992, Vol 182, p 283). The question and part of the answer were as follows:

(Q1) How many foreign vessels visited Australian ports in each year since 1984–85?

(Q2) How many and what percentage of the vessels referred to in part (1) were inspected by officers of the Department of Transport and Communications in each year since 1984–85?

(Q3) With respect to the vessels which were inspected in each year since 1984–85, (a) how many and what percentage were found to be deficient, (b) for what reasons were they deficient, and (c) in which nation was each vessel registered?

The Minister for Shipping and Aviation has supplied the following answer to the honourable member's question:

(A1–3) The Australian Maritime Safety Authority, formerly the Maritime Operations Division of the Department of Transport and Communications, administers port State control inspections in accordance with Australia's rights and obligations under international maritime conventions to which Australia is signatory.

It is the Authority's aim to inspect approximately 25 per cent of all foreign flag vessels over 500 gross tonnage calling at Australian ports in any year. This figure accords with established international practice. The procedures employed for the inspections are in accordance with International Maritime Organisation resolutions. Resources have not enabled the target level to be achieved in every year. ...

The control provisions of the international conventions confine the port State to inspection of the validity of certificates issued under the relevant conventions unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the certificate or has not been maintained so as to conform with the convention requirements. In order to ensure the integrity of the inspections and to establish "clear grounds" the instructions require marine surveyors to record all departures from convention standards as "deficiencies".

[The answer went on to provide statistics of foreign vessels visiting Australian ports, inspections and deficiencies for the period since 1984–85.]