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Australian Customs and Border Protection Service

Key Issue 1

Maritime Operations and Incidents

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POLICY ISSUES

Search and Rescue obligations

- As outlined in official testimony by Customs and Border Protection officers to the Coronial Inquest into SIEV 221, Border Protection Command (BPC) is not a search and rescue authority.
- However, its assigned assets, like those of any private and commercial organisation, can be called upon to respond to emergencies at sea in accordance with Australia's international obligations.
- BPC-assigned assets are regularly tasked by the Australian Maritime Safety Authority's (AMSA) Rescue Coordination Centre (RCC Australia), to assist in search and rescue (SAR) operations, both inside and outside the Australian Search and Rescue Region.
- Under the United Nations Convention on the Law of the Sea (UNCLOS), masters of vessels at sea, including those assigned to BPC, have a general obligation to render assistance, if in a position to do so, to any vessels which they are aware are in distress at sea, and to proceed with all speed to their assistance. This is further articulated in the International Convention for the Safety of Life at Sea (SOLAS Convention).
- The Navigation Act 1912 (Cth) s265 describes general Australian ships' duties with respect to SOLAS, including that while s3 of the Act excuses Australian Defence Force (ADF) ships from these obligations, ADF ships will seek to assist wherever possible.
- Additionally, the International Convention on Search and Rescue (SAR Convention) further articulates obligations on ships' masters to render assistance to vessels requiring assistance, without regard to their nationality, status or the circumstances in which they are found.
- No differentiation is made regarding whether a search and rescue is undertaken for a suspected irregular entry vessel or any other vessel. A person's immigration status is irrelevant to the duty to render assistance under the SOLAS Convention.

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- RCC Australia's requests for assistance to Customs and Border Protection are not limited to the provision of aerial and surface assets. Requests for assistance can also take the form of provision of information relating to vessels in the reported SAR area, communications assistance (i.e. broadcast to shipping), assistance with source information support and liaison functions.
- BPC has an obligation to consider the request for assistance and to assess if a response is possible. In considering the ability to respond, a variety of factors are considered including:
 - the ability of merchant vessels close to the scene to respond
 - the ability of a foreign navy (or coastguard equivalent) to respond to the incident in their SRR
 - the ability to ensure Australia meets its obligations in its own SRR
 - the ability to protect Australian interests within the EEZ and territorial waters.

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Transfer of rescued people to Christmas Island

- The decision to transfer those rescued at sea to Christmas Island, or any other place, is shaped by international law.

Legal Obligations

- The International Convention on Maritime Search and Rescue (SAR Convention) provides the scope of the duty to rescue as “an operation to retrieve persons in distress, provide for their initial medical and other needs and deliver them to a place of safety”.
- Three principles under international law shape the decision regarding where persons rescued at sea are taken:
 - survivors must be taken to a place of safety;
 - further deviation from the assisting vessel’s intended voyage should be minimised; and,
 - States should coordinate to arrange disembarkation as soon as reasonably practical.
- The responsibility to provide a place of safety, or to ensure that a place of safety is provided, falls on the Government responsible for the Search and Rescue Region in which the survivors were recovered. However the unique circumstances of each case must be considered.
- Under international law, there is no reference to the nearest port being the appropriate place to disembark survivors, nor is the closest coastal State obliged to accept them. Rather, as referenced in the SAR Convention, assisting vessels have the obligation to deliver the persons to a “place of safety”. This is the principle under which masters of ships rendering assistance, including those assigned to BPC, operate.

What is a ‘place of safety’?

- The International Maritime Organisation (IMO) Guidelines on the Treatment of Persons Rescued at Sea defines a place of safety as one where the survivors’ safety of life is no longer threatened, and where their basic human needs (such

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as food, shelter and medical needs) can be met. Further, it is also a place from which transportation arrangements can be made for the survivors' next or final destination.

- An assisting ship may be deemed a place of safety should it meet the stated requirements, however it should not be considered a place of safety based solely on the fact that the survivors are no longer in immediate danger once aboard the ship. An assisting ship may not have appropriate facilities and equipment to sustain additional persons on board without endangering its own safety, or to properly care for the survivors. Even if the ship is capable of safely accommodating the survivors and may serve as a temporary place of safety, it should be relieved of this responsibility as soon as alternative arrangements can be made.
- Delivery to a place of safety should take into account the particular circumstances of the case. These circumstances may include factors such as the situation on board the assisting ship, on scene conditions, medical needs, and availability of transportation or other rescue units. Each case is unique, and selection of a place of safety may need to account for a variety of important factors.
- Where the persons rescued at sea are asylum seekers or refugees, the Convention on the Status of Refugees should be considered. Article 33 of this Convention provides that:
 - 'No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.'

Minimising deviation from the assisting vessel's intended voyage

- Under the SAR Convention, a ship which provides assistance to persons in distress should not be subject to undue delay, financial burden or other related difficulties after assisting persons at sea; therefore coastal States should relieve the ship as soon as practicable.

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Coordination between States

- As each SAR case can involve different circumstances, the SAR and SOLAS Conventions have been designed to give responsible Governments flexibility to address each situation on a case-by-case basis. As such, coordination between States is stressed in these Conventions, particularly in ensuring that disembarkation of survivors is arranged as soon as reasonably practical, and that masters of vessels providing assistance are released from their obligations with minimum further deviation from the vessel's intended voyage.

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Impact of regional processing arrangements*If asked – What has been the impact of regional processing arrangements?*

- It is too early to judge the impact of regional processing arrangements.
- We have seen behavioural changes from some cohorts of potential asylum seekers.
- However, we are also aware that people smugglers provide counter messaging to potential asylum seekers.
- We expect to have a better understanding of the impact by the end of the year.
- Further questions should be referred to the PM&C for answer.

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Australian authorities allowed to enter the Indonesian SRR

- The Indonesian Search and Rescue Region (SRR) consists of High Seas, the Indonesian Exclusive Economic Zone (EEZ) and Territorial Sea.
- Vessels, including Australian Defence assets, do not need to seek permission to enter the SRR of another State, as the right to innocent passage exists within the Territorial Sea, along with the right to freedom of navigation on the High Seas and within a State's EEZ.
- Under the IMO *Guidelines for the Treatment of Persons Rescued at Sea*, the first Rescue Coordination Centre (RCC) to be aware of a distress situation is responsible for co-ordinating the response until the State whose SRR the incident is within assumes responsibility.
- The first RCC notified should immediately begin efforts to notify the responsible RCC. Once the responsible RCC is notified, that RCC should immediately accept responsibility for coordinating the rescue efforts.
- In past experiences, BASARNAS, having been notified that assistance is required in their SRR, has often not been able to accept responsibility for the SAR response. On these occasions, responsibility has remained with RCC Australia.
- RCC Australia can, and regularly does, request BPC-assigned assets assistance in SAR operations. All requests to BPC from RCC Australia for assistance in responding to safety of life at sea (SOLAS) incidents are afforded the highest level of response. BPC surface and aerial assets have assisted RCC Australia to respond to reports of possible vessels in distress located both inside and outside the Australian SRR.
- Under the SAR Convention, all RCCs have a duty to provide assistance, (within operational capability) when requested by another RCC. This assistance can be in the form of vessels, aircraft, personnel or equipment. BASARNAS, when coordinating SAR responses, has often requested assistance from RCC Australia. To meet this request, RCC Australia has in turn requested the support of assets assigned to BPC, requiring them to enter the Indonesian SRR.

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The 'Arrangement Between Australia and Indonesia for the coordination of SAR services'

- A SAR Arrangement is an arrangement between countries put into place in accordance with the Maritime SAR Convention and is used to confirm the SRR boundary and coordination arrangements. These would normally apply on or near the SRR boundary but when neighbouring SAR authorities have limited capacity to coordinate or respond Australia often finds itself coordinating and responding to SAR events well inside neighbouring SRRs
- AMSA has a working relationship with BASARNAS, the operational details of which are set out in a document signed in 2004 and submitted with the IMO in accordance with paragraph 2.1.4 of the Annex to the SAR Convention and noted by the IMO on 13 April 2004 ("2004 Arrangement"). As well as delineating the SRRs for Australia and Indonesia, the 2004 Arrangement acknowledges that each SRR covers land areas of the other party and notes that cooperation should be as close as possible.
- The 2004 Arrangement provides for less formality for entering the other State's air space or territorial sea to respond to an incident but notes that approval will first be sought and notified by the appropriate RCC before entering air defence identification zones.
- The 2004 Arrangement provides that coordination of a SAR incident may be transferred to the other RCC if it is more favourably placed to assume control of the mission by reason of better communications, proximity to the search areas, more readily available SAR units or facilities and sets out the procedure for the transfer. The 2004 Arrangement also provides that the initiating RCC will retain responsibility until the accepting RCC formally advises the initiating RCC that it has assumed responsibility for the overall SAR coordination, or part of the coordination.

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Strengthening Indonesian SAR Capability

- Respective search and rescue agencies, BASARNAS and AMSA, have been working closely together since 2007 to improve capability and coordination of search and rescue activities in our region. Activities undertaken to date include search and rescue exercises, short-term officer secondment and training of search and rescue mission coordinators (SMC) in maritime and aviation search and rescue operations.
- Search and rescue arrangements were discussed during high level meetings between Ministers from both countries in Jakarta in early September.
- Ministers agreed to expand the \$38.4 million *Indonesia Transport Safety Assistance Package* which began in 2007, to provide for additional bilateral coordination on search and rescue activities.
- Under the agreement, the Australian Government will make an additional \$4.4m available to enhance coordination between BASARNAS and AMSA and provide for an exchange of expertise and experience to improve search and rescue outcomes in the region.
- The extended arrangements will establish an exchange program of search and rescue specialists between BASARNAS and AMSA and enhance access by Indonesia to the latest ship tracking information and satellite communications technology.
- Australia will also share its experience and expertise on the coordination of search and rescue activities to assist in the deployment of appropriate vessels to assist people in distress.
- Additionally, processes are being developed to facilitate rapid clearance for Australian aircraft to operate in Indonesian Territorial Airspace, and, if necessary, to land to refuel at agreed Indonesian airfields when engaged in search and rescue operations.
- Any further questions regarding airspace clearance for SAR operations should be referred to the Department of Infrastructure and Transport, or AMSA.

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Sharing Intelligence in the Context of SAR/SOLAS Situations

- Customs and Border Protection and other Australian Government agencies receive a range of information about maritime people smuggling vessels travelling from and within waters beyond the Australian Search and Rescue Region. Some of this information proves accurate, some of it does not.
- If Customs and Border Protection receives information from any source, or becomes aware of a potential vessel in need of assistance, that information is communicated to AMSA, as the lead Australian authority for SAR, as quickly as possible. AMSA may then subsequently request the release of BPC-assigned assets to undertake SAR functions.
- During SOLAS situations, Australian authorities work together with partner agencies, including counterparts in Indonesia, to ensure the most accurate information is guiding actions at the earliest possible opportunity.
- Australian authorities have developed greater awareness within the maritime domain, increasing the ability to detect and respond to vessels in need of assistance in Australian waters.
- However, where a SOLAS situation is not called by the Master of the vessel and/or the vessel is not carrying electronic identification transponders, or does not notify authorities of its intended movements (as is the case with SIEVs) the possible location of a vessel in distress is assessed from information that can be indicative rather than precise.
- If Australian authorities receive information that a vessel may have departed for Australia and the vessel does not arrive, this does not mean it has necessarily been lost at sea.

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- In responding to SOLAS incidents, Customs and Border Protection's information sharing arrangements are guided by the following principles:
 - Proactive dissemination of information as early as possible, and at the lowest possible classification to ensure accessibility by all relevant parties.
 - Follow-up to ensure that desired outcomes have been achieved and relevant response actions taken.
- Importantly, no two SOLAS incidents are the same. Although Customs and Border Protection strives to be as seamless as it can be in terms of facilitating the flow of information between relevant agencies, SOLAS incidents are inherently complex with information regarding the location and condition of the vessel often being ambiguous, uncertain or insufficiently precise to support effective SAR operations.
 - Effective responses to these incidents can be sidetracked or delayed by multiple conflicting lines of reporting, often suggestive of separate incidents in different locations, merging over time into a single incident.

If asked : What have you done to improve the timeliness of the reporting of information regarding possible vessels in distress?

- Areas for improvement in the sharing of information between agencies continue to be identified through a practice of ongoing review following SOLAS incidents, including the SAR events on 21 and 27 June 2012. In September 2012, a separate review provided clarification regarding those occasions when whole-of government support should be requested.
- On 21 September 2012, BPC conducted a SOLAS table-top exercise with participants from AMSA and the Department of Infrastructure and Transport, and Defence. The exercise examined our whole-of-government response to past SAR incidents to highlight operational considerations and discuss outcomes, including the flow of information and complexities inherent in responding to SAR events. The exercise helped participants develop a greater understanding of the whole-of-government response to SOLAS incidents and the factors affecting decision making.

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- Events such as that of 12-13 May 2012, when Customs and Border Protection and AMSA received multiple reports of a vessel in distress all at different locations, are routinely evaluated for where improvement in our information-sharing processes can be made.
 - When information regarding the vessel in distress was received, all parties were informed as soon as possible. For example, when CNOC received calls directly from a number of sources to the Customs Hotline number they passed this information directly to AMSA. CNOC then informed the AMSOC who notified BPC-IC.
 - BPC-IC Duty Staff opened lines of communication with the other government agencies and provided them with operational updates to ensure there was an appropriate prioritisation of resources, and relayed findings which incorporated value-added assessments. The established links between other government agencies, BPC-IC and AMSOC allowed for the timely passage and correlation of information.
 - There was effective operational information sharing between Customs and Border Protection in Canberra and Customs and Border Protection officials at post in Jakarta, which aided information sharing with Indonesian authorities.
 - An area for improvement identified was in the ability of the BPC-IC to maintain coverage during a prolonged incident. BPC-IC is currently drafting SOPs to better position it to manage prolonged incidents in the future.
- Incidents such as these are never the same, and as they arise we continue to identify areas for improvement. This will be ongoing.
- Specific effort has been directed at improving and harmonising stakeholder agency practices in relation to handling of information related to SOLAS situations. Key outcomes of this work include:
 - improved procedures governing the handling of information related to SOLAS situations so that information in relation to a maritime distress situation is communicated to AMSA as soon as possible;
 - ensuring agencies have policies and procedures that provide consistent direction to staff who may be inexperienced in these situations;

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- enhanced interagency awareness of each agency's roles, responsibilities and constraints when responding to potential maritime distress situations; and
- a post-incident and an annual review process, so that procedures and agency policies remain relevant and workable over time.
- Improved timeliness in the passing of appropriate information to the relevant agencies has been achieved through regular and prompt post activity desk top analyses attended by all stakeholder agencies. These desk top activities have enabled those at the operator-level to critically assess the responsiveness and adequacy of agency-level responses and to modify practices where necessary for improvement.
- Relevant agencies now operate with improved collaboration and with the benefit of increased awareness of the operational constraints and requirements of the relevant SAR authorities.

Tony Kevin's claims regarding layered separation between PSIAT and BPC

- The publication of Tony Kevin's latest book, *Reluctant Rescuers* (self-published, June 2012), is likely to lead to additional questions on the effectiveness of Australia's border protection system and the intelligence system that underpins it.
- In media reporting, author and former diplomat Tony Kevin claims that four SIEVs have foundered or are missing because of an "opaque system of a layered separation between the intelligence collection and analysis process, and BPC's ocean surveillance".
- According to Mr Kevin, these vessels comprise SIEV X, SIEV 221, and the alleged missing vessels of October 2009 and November 2010.
- As is accepted practice, I do not intend to detail the nature or sources of intelligence used by the Customs and Border Protection and BPC.
- I can state that Mr Kevin's summation that there is a separation between Customs and Border Protection's intelligence analysis activities relating to maritime people smuggling and the advice provided to BPC is incorrect.
- Customs and Border Protection undertakes maritime people smuggling intelligence analysis to ensure that BPC is provided with the intelligence

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support required to position its surveillance and interception assets to maximum effect.

- To this end, there is regular and structured working-level engagement between Customs and Border Protection's maritime people smuggling intelligence analysis program and BPC.

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Claims of Distress

- All notifications of distress to Australian government authorities are treated seriously.
- If Customs and Border Protection receives information from any source, or becomes aware of a potential vessel in distress, that information is communicated to the AMSA, as the lead Australian authority for SAR, as quickly as possible. AMSA's Rescue Coordination Centre (RCC Australia) may then subsequently request the release of BPC-assigned assets to undertake SAR functions.
- All requests to BPC from RCC Australia for assistance in responding to safety of life at sea (SOLAS) incidents are afforded the highest level of response. No differentiation is made regarding whether a search and rescue is undertaken for a suspected irregular entry vessel (SIEV) or any other vessel. A person's immigration status is irrelevant to the duty to render assistance under the SOLAS Convention.
- Under the United Nations Convention on the Law of the Sea (UNCLOS) and the SOLAS Convention, masters of vessels at sea, including those assigned to BPC, have a general obligation to render assistance, if in a position to do so, to any vessels which they are aware are in distress at sea, and to proceed with all speed to their assistance.
- When vessels are located during a search and rescue operation, attempts are made to confirm whether or not the vessels are the subject of any distress calls that may have been made.
- When assistance is rendered to a vessel, making an assessment of whether or not distress calls are valid is not the primary responsibility of assets and personnel responding to such calls. However, as a matter of course, BPC boarding parties will assess the seaworthiness of vessels reported to be in distress.
- The majority of the SIEVs intercepted by BPC are found to be in an unseaworthy state often with inexperienced crew and poor safety and navigation equipment.

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SOLAS Incidents 2010-2012

Year	Total SIEV arrivals	Total SIEVs that were a potential vessel in distress or SOLAS incident	s47C, s47E(d)	Of total SOLAS, how many initiated communications requesting assistance	s47C, s47E(d)
2010	134	28 (21%)		10 of 28 (36%)	
2011	69	19 (28%)		14 of 19 (74%)	
2012 (to 16 Oct 12)	189	58 (31%)		51 of 58 (88%)	

s47C, s47E(d)

- BPC maintains statistics relevant to SIEVs, including those involved in potential distress situations and those that have involved requests for assistance. While AMSA maintains statistics specific to the Rescue Coordination Centre's involvement with SIEVs, BPC's statistics include events where the masters of vessels have requested assistance directly from BPC assets (i.e. there was no involvement from the RCC).

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Crew departing vessel prior to interception

- There have been reported instances of experienced mariners being utilised to navigate ventures to departure points along the southern coast of Java, or the islands of the eastern archipelago, before being substituted with less experienced (or 'expendable') crew for the onwards journey to Christmas Island or Ashmore Islands. This is necessary due to the skills required to transit south through the archipelago from home ports in the north.
- Crew are inexperienced minors in many cases. They are usually supplied with sat phones and GPS units, but occasionally report being instructed to simply follow a wet compass bearing. Some are not experienced with GPS operation but often have some limited experience working on fishing boats; however, do not have experience on boats with large numbers of passengers. Moreover, they are typically unable to effectively manage significant engine faults, poor weather or emergency situations with large numbers of passengers.

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Relatives of IMA seeking information

- In accordance with Australia's privacy laws, the Australian Government is not able to release information about people who have arrived in Australia seeking asylum.
- However, shortly after irregular maritime arrivals are transferred into the care of the Department of Immigration and Citizenship, they are given the opportunity to contact relatives to let them know they are alive and safe.
- Customs and Border Protection has developed the following protocol for handling enquiries regarding missing vessels:
 - Australian government agencies forward all enquires to Customs and Border Protection
 - When enquiries are received, they are shared between Customs and Border Protection, DIAC, AFP and any agency deemed relevant
 - Where names of people are provided these are shared with DIAC and AFP to check their information holdings. In particular, DIAC checks its nominal rolls to see if named individuals have arrived in Australia.
 - Australian government agencies also provide names and other relevant information to international counterpart agencies and international organisations

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RESOURCES

Budget

- The budget for Headquarters Border Protection Command (BPC) is allocated from Customs and Border Protection Program 1.4 (Civil Maritime Surveillance and Response). This budget provides for the running costs of BPC HQ, and while it includes Customs and Border Protection staffing costs, does not include costs for Defence staff operating out of BPC HQ. This cost is covered by Defence.

BPC Budget

2009-10	2010-11	2011-12	2012-13
\$14.2m	\$14.4m	\$15.5m	\$15.5m

- The budget for Maritime Operations Support is also allocated from Program 1.4 (Civil Maritime Surveillance and Response). This budget provides for the costs of aerial and satellite surveillance and the costs of running the Customs and Border Protection Marine Unit which incorporates eight Bay Class vessels and their crews, and three contracted vessels with associated Marine Unit Enforcement Officers.

MOSD Budget

2009-10	2010-11	2011-12	2012-13
\$240.6m	\$235.9m	\$247.2m	\$254.1m

Cost of search and rescue to Customs and Border Protection

- Search and rescue (SAR) is not a core Customs and Border Protection function. As such, Customs and Border Protection is reimbursed by the Australian Maritime

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Safety Authority (AMSA) for costs incurred when participating in live aerial SAR incidents.

- There is currently no reimbursement when Customs and Border Protection vessels participate in live SAR activities.
- Costs reimbursed include Customs and Border Protection contracted aircraft costs incurred during the live SAR operation and any associated aircraft crew deployment and accommodation costs.
- In 2011-12, Customs and Border Protection was reimbursed approximately \$1 million for live SAR aerial support when tasked by AMSA.
- In 2012-13, Customs and Border Protection has budgeted to be reimbursed a further \$1 million for live SAR aerial support.

Operation Resolute Budget

- Questions regarding the budget for Operation Resolute should be referred to Defence for answer.

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BPC – Assigned surface asset availability

Average Assets Available on a Daily Basis Each Month			
Year	Customs & Border Protection Vessels	Australian Defence Force (ADF) Vessels*	Combined Customs and Border Protection & ADF Vessels
Jan-10	8.35	7.68	16.03
Feb-10	8.89	7.43	16.32
Mar-10	8.84	7.81	16.65
Apr-10	8.97	8.10	17.07
May-10	7.68	7.06	14.74
Jun-10	7.80	6.96	14.76
Jul-10	7.77	6.94	14.71
Aug-10	8.32	7.45	15.77
Sep-10	8.27	7.67	15.94
Oct-10	7.65	8.61	16.26
Nov-10	8.53	9.27	17.8
Dec-10	9.65	9.26	18.91
Average 2010	8.39	7.85	16.24
Jan-11	8.77	7.10	15.87
Feb-11	8.57	7.57	16.14
Mar-11	8.81	7.52	16.33
Apr-11	9.87	7.87	17.74
May-11	8.23	8.90	17.13
Jun-11	8.67	7.97	16.64
Jul-11	8.71	8.29	17.00
Aug-11	9.19	7.65	16.84
Sep-11	8.50	6.30	14.8
Oct-11	7.84	7.32	15.16
Nov-11	9.23	7.53	16.76
Dec-11	8.55	7.06	15.61
Average 2011	8.75	7.59	16.34
Jan-12	9.32	6.45	15.77
Feb-12	8.64	4.34^^	12.98
Mar-12	7.45	6.19	13.64
Apr-12	9.00	6.30	15.3
May-12	9.32	5.52	14.84
Jun-12	8.13	3.06^^	11.19
Jul-12	8.16	6.00	14.16
Aug-12	8.97	8.30	17.27
Average 2012 YTD	8.10	5.77	13.87

^These figures were calculated by dividing the number of days in a month by the number of days assets were available for tasking, to determine the average number of vessels available on any given day.

*Includes Armidale Class and other Navy assets assigned to BPC (e.g. Hydrographic survey vessels)

^^JTF639 advise these figures are a result of the number of ACPBs that were required to undergo essential maintenance that month.

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BPC-assigned Customs and Border Protection surface asset availability

- Customs and Border Protection provides eleven vessels to Border Protection Command; eight *Bay Class* vessels, the Australian Customs and Border Protection Service Vessel (ACV) *Ocean Protector*, the ACV *Triton*, and the ACV *Ashmore Guardian*.
- Customs and Border Protection has been able to maximise vessel long haul availability by delivering more ACV *Triton* patrol days and prioritising the ACV *Ocean Protector* to northern waters when necessary. During 2011–12, the ACV *Triton* completed 312 patrol days, 72 days more than its PBS requirement, and the ACV *Ocean Protector* conducted 75 of its 121 patrols days in the north.
- In the past two months, Customs and Border Protection's vessels have experienced the following unplanned non-operational days:

	<i>Bay Class</i> fleet (2400 p.a. 200 p.m.)	<i>ACV Ocean Protector</i> (120 p.a.)	<i>ACV Triton</i> (240 p.a.)	<i>ACV Ashmore Guardian</i> (330 p.a.)
July 2012	56 days (of 248 days)	Nil	Nil	Nil
August 2012	49 days (of 248 days)	22 (of 31 days)	Nil	Nil

- There are a number of reasons why *Bay Class* vessels have been non-operational at various times in the past six months. These mainly include unscheduled absences due to injury or illness, as well as scheduled maintenance.
- In the current fiscal and operational environment it is a challenge to achieve a balance between the immediate operational demands on the current fleet and to contain costs, while also transitioning to the new *Cape Class* vessels.
- The following table shows the target number of patrol days for each capability and the number of patrol days actually allocated to BPC in 2011-12. The target number of days remains the same for 2012-13.

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	Target	Actual
<i>ACV Ocean Protector:</i>	120 days	121 days
<i>ACV Triton:</i>	240 days	312 days
<i>ACV Ashmore Guardian:</i>	330 days	331 days
<i>Bay Class fleet:</i>	2,400 days	2,315 days
Combined total:	3,090 days	3,079 days

BPC-assigned Defence surface asset availability

- Under Operation RESOLUTE, Navy's contribution to BPC is adjusted around operational requirements. In general, Navy provides up to seven Armidale Class Patrol Boats (ACPBs) with an additional ACPB available at 48 hours notice, and one Major Fleet Unit (MFU) on standby. COMBPC reviews the surface asset requirement against the operational environment on a quarterly basis.
- Defence has reduced ACPB availability to increase the number of days available to conduct essential maintenance. ACPB availability will be reduced until December 2012, after which there will be a gradual increase to full capacity by June 2013.
- During this time, the priority for ACPB availability and tasking remains Operation RESOLUTE and the generation of that capability (including crew mission readiness workup).
- There is significant collaboration between Customs and Border Protection and Defence to ensure appropriate assets are made available to Border Protection Command (BPC) for maritime security operations.
- From 1 January 2012 to 27 August 2012, ACPBs assigned to Operation RESOLUTE achieved 84% of required availability. This percentage is expected to increase as the ACPB maintenance remediation program progresses.

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Are ACPBs being sent to sea with outstanding defects and technical problems?

- The majority of outstanding defects across the fleet are of a low priority and do not impinge on the ability of vessels to safely conduct their missions.
- Any emergent defects arising that impact the mission capability or technical integrity of a platform, or lead to a condition of class, are rectified before the vessel is assigned or reassigned to operations.
- The nature of operations at sea will have defects arise on vessels, which are risk assessed for their impact on mission readiness and safety, with an appropriate repair plan implemented.

Why are Navy Hydrographic Survey ships being used in border protection operations, and not performing their intended function?

- Navy determines the platforms they provide BPC to meet operational requirements. This question should be referred to Defence for response.

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The use of the ACV Ocean Protector in northern waters

- Some of ACV Ocean Protector's planned Southern Ocean patrols have been diverted to northern Australian waters in response to the increased number of irregular maritime arrivals.
- Although the *ACV Ocean Protector* is funded to conduct 3 x 40 day patrols in the Southern Ocean, it has been diverted to northern Australian waters in response to the increased number of irregular maritime arrivals. Southern Ocean patrols scheduled to commence in July 2011, November 2011 and June 2012 were fully or partially diverted to northern waters.
- In 2011-12 the *ACV Ocean Protector* completed 75 of its 121 patrol days in northern waters transporting potential irregular immigrants, in lieu of patrolling in the Southern Ocean.
- In 2012-13, *ACV Ocean Protector* has to date completed 18 of its patrol days in northern waters in lieu of undertaking those patrol days in the Southern Ocean.
- *ACV Ocean Protector*'s last Southern Ocean patrol was in January and February 2012.
- *ACV Ocean Protector* completed its last patrol on 18 July 2012 and is currently undertaking annual maintenance before commencing its next patrol.
- In 2011-12 modifications to *ACV Ocean Protector* were completed to further enhance northern waters capability, allowing carriage of up to 200 transportees if required. This is the largest transport capability available to Border Protection Command for use in northern waters operations in recent years.

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Crew availability

Issue

- Crew availability, and in particular unscheduled crew absences (sickness and injury), continues to be an issue. This impacts on vessel availability and the operational capacity of the Customs and Border Protection fleet.

Talking Points

- In the current financial year, to 31 August 2012, there have been 45 patrol days lost due to unscheduled absences. These absences are primarily from *Bay* Class crews where multiple absences have occurred in a single roster period. Further, four full patrols across the *Bay* Class fleet have been one officer below the minimum operational crewing level which has limited operations, but compliant with minimum Navigation Act requirements to put to sea..
- The broader operational tempo currently experienced in the maritime environment has placed additional pressure on crew numbers. The situation has been exacerbated by the high tempo areas near the Cocos (Keeling) Islands Territory, requiring the deployment of a *Bay* Class vessel and additional crew members.
- The optimal manning level onboard a *Bay* Class vessel is ten officers; as a result of the current unscheduled crew absences, most *Bay* Class patrols are reduced to eight officers.
- Vessels also have minimum manning requirements in relation to the number and level of qualifications. If the level or number of qualifications fall below the minimum, the vessel is unable to commence patrol. Despite a level of flexibility to move officers between vessels and having some extra qualified officers, there have been occasions where patrols have been delayed or cancelled and crew redistributed to other vessels.
- Last financial year, the number of unscheduled absences per month was also relatively high. This resulted in eleven and a half full patrols across the *Bay* class being one officer below minimum crewing levels.

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- Additionally, there are a number of officers who are not fit for sea or duty, mainly due to injury. There is potentially a long lead time before these officers can return to sea because of the requirement for them to achieve a minimum fitness standard.
- This situation has been exacerbated by needing to balance the number of affordable seagoing staff with rising supplier costs, mainly fuel.
- In the 2011-12 financial year, the reduced pool of available crew resulted in a reduction in *Bay* Class patrol days as officers were required to be redeployed to the ACV *Triton* to perform three additional ACV *Triton* patrols. This required supplementation of crew.
- The availability of ACV *Triton* crew and *Bay* class crew for patrols has also been affected by the requirement that crew involved in past SIEV boarding operations attend court proceedings.

Leave liability

- Customs and Border Protection experiences a significant leave liability as a result of these crewing and operational issues. To ensure adequate manning, only two officers from any one *Bay* Class can proceed on leave or training per patrol.

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Christmas Island Radar

Issue

- Following completion of the radar trial on Christmas Island, Customs and Border Protection has commenced the establishment of a permanent surveillance system on Christmas Island, based the coherent S band as the primary radar. To ensure continuity of radar coverage at Christmas Island, especially through the monsoon season, the existing system will continue to operate until the new system is introduced.

Talking points

- Christmas Island possesses unique geographic and environmental challenges for any surveillance systems, including radar. Radar is the only technology likely to provide day and night warning of an arrival at Christmas Island at a sufficient range to enable an interception.
- From February 2011 until April 2012, three radars were trialled at Christmas Island. The trials incorporated a system where radars were installed together with tracking software and successfully tested the transmission of information to Border Protection Command Headquarters in Canberra.
- The trials determined that the coherent S band radar is most able to reliably detect small vessels in a wide range of conditions.

On 1 November 2011, the coherent S band radar detected SIEV 273 and the response vessel at Christmas Island was able to intercept this vessel. Additionally, SIEVs 281 and 287 were detected by the trial radar on 23 November and 6 December respectively, enabling successful interceptions by BPC assets.

- Following completion of the radar trial on Christmas Island, Customs and Border Protection has commenced the establishment of a permanent surveillance system on Christmas Island, based the coherent S band as the primary radar.
- The permanent system needs to be established on a new site, as the current trial site has a poor field of coverage to the east and the north east of Christmas Island is a regular SIEV arrival approach. Supporting equipment such as the tracking tool needs to be upgraded to provide a reliable, robust capability.

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- The contract for the construction and installation of the radar tower is in place. Arrangements are also well developed for the equipment shelter and assorted electronics to support the radar. It is anticipated that the tower will be shipped to Christmas Island this year. There is a risk that it may not be able to be unshipped due to the sea states.
- To ensure continuity of radar coverage at Christmas Island, especially through the monsoon season, the existing system will continue to operate until the new system is introduced, with the transition program designed to minimise downtime by sequentially installing radar heads.

Background to the Christmas Island Radar

- Although the radar trial began prior to the Christmas Island SIEV 221 tragedy of 15 December 2010, both the Customs and Border Protection Internal Review of the SIEV 221 tragedy and the Coroner's report into the deaths involved in the tragedy involved the radar trial make recommendations relevant to the radar trial.
- The Internal Review specifically recommended, "That the trial of a land based radar surveillance system of the northern maritime approaches to Christmas Island be completed and considered as a priority." (Recommendation 2)
- The Coroner's report made two relevant recommendations:
 - ...that Border Protection Command continues to examine ways of improving its surveillance capability around Christmas Island so that the risk of SIEVs arriving undetected is reduced. (Recommendation 1)
 - ...that Border Protection Command implement a surveillance strategy, possibly with the assistance of other Commonwealth authorities and organisations on the island such as the AFP, which heightens its coverage at times when the weather and sea conditions are rough. (Recommendation 2)
- Effective radar surveillance of the Christmas Island approaches enables Border Protection Command to program patrol boat activity more effectively to support better posture against arrivals.

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REVIEWS/REPORTS

Internal Review - SAR 2012/4106 and SAR 2012/4259

- Customs and Border Protection, together with AMSA and Defence, has conducted a review into the circumstances surrounding the respective sinking and capsizing, and subsequent operational response, to the SAR 2012/4259 and SAR 2012/4106 incidents.
- The Review has been given to the Minister for Home Affairs who, along with a number of his Ministerial colleagues, is currently considering the recommendations. The Government's response to the review will be submitted for agreement in late October.
- A Coronial Inquest will be conducted by the Coroner of Western Australia. A date has not yet been announced for the Inquest.
- Further information regarding these two SAR events can be found in the Significant SAR/SOLAS section of this brief.

SIEV 221

Customs and Border Protection Internal Review

- The Internal Review established a reliable narrative of events to enable an assessment of the effectiveness of internal policies, processes or procedures used to respond to the incident. This assessment was used to determine whether any immediate remedial changes were required.
- The Internal Review concluded that all Customs and Border Protection personnel acted appropriately and exercised good judgment in responding to the incident. The Review also noted that all persons involved acted in accordance with relevant policies and procedures.
- The Internal Review contained eight recommendations for immediate action. All recommendations have been implemented.

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- Recommendation 2 of the Internal Review was to conduct a trial of a land based radar surveillance of the northern maritime approaches to Christmas Island. This trial has been completed, and work on the permanent radar site is ongoing.
- The permanent radar on Christmas Island will not be operational prior to the 2012-13 monsoon season commencing the end of October 2012, due to the complexity of the key inputs required. To ensure continuity of radar coverage at Christmas Island during this time, the existing radar will continue to operate until the permanent radar is operational.

Parliamentary Inquiry

- On 2 March 2011, the Parliament established the Joint Select Committee on the Christmas Island Tragedy (The Committee) to inquire into the SIEV 221 incident.
- The Committee report was released on 29 June 2011 and tabled in the House of Representatives on 4 July 2011. The Committee acknowledged that the response to the horrific tragedy that took place on 15 December 2010 was professional, courageous and as effective as it could possibly be under the prevailing weather conditions.
- The Joint Select Committee also supported the findings of the Customs and Border Protection SIEV 221 Internal Review and “agrees that everyone involved acted in accordance with policies and processes relevant to their role”.
- The Committee made three consensus recommendations and included a further nine recommendations contained in comments by Senators Crossin and Hanson-Young.
- The Government response to the Joint Select Committee Report was presented to the House of Representatives on 12 October 2011 by the then Minister for Home Affairs and tabled in the Senate on 13 October 2011.
- The Government response agreed to the three key recommendations made by The Committee, which have all been implemented.

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- The nine additional recommendations contained in the comments made by Senators Crossin and Hanson-Young have largely been agreed and are being implemented with the exception of four recommendations, which were not agreed either in whole or in part.

WA Coronial Inquest

- A Coronial Inquest into the Christmas Island Tragedy was established, with Directions Hearings commencing on 16 February 2011 in Perth, Western Australia. It was conducted by the State Coroner of Western Australia Mr A.N. Hope. The Coroner's findings and recommendations were handed down on 23 February 2012.
- The Commonwealth has agreed with ten of the Coroner's recommendations. Of these, seven are completed and work is underway on another three.
- The remaining recommendation (Recommendation 11 – establishment of a military liaison officer on Christmas Island) previously under consideration has not been agreed, as the effect required by this recommendation has been implemented through alternative arrangements.

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Commonwealth response to Coronial Inquest into SIEV 221 – as of 17 Sep 12

Recommendation	Response	Status of Recommendation
<p>Recommendation 1:</p> <p>Surveillance Capability Around Christmas Island</p> <p>I recommend that Border Protection Command continues to examine ways of improving its surveillance capability around Christmas Island so that the risk of SIEVs arriving undetected is reduced.</p>	<p>Agreed</p>	<p>Complete and ongoing</p> <p>Border Protection Command (BPC) continues to assess and analyse its surveillance capability. This remains an intelligence led, risk based process that includes the daily assessment of current information through to a quarterly operations planning cycle.</p> <p>Customs and Border Protection and Defence have implemented revised surveillance arrangements at Christmas Island during the 2011 – 2012 monsoon period. These arrangements have included an additional surveillance aircraft and response vessel in the vicinity of Christmas Island.</p> <p>The trial has now concluded and analysis is underway to assess the costs and implications of establishing a permanent radar system. While this is happening, the radar is still operational.</p>
<p>Recommendation 2:</p> <p>I recommend that Border Protection Command implement a surveillance strategy, possibly with the assistance of other Commonwealth authorities and organisations on the island such as the AFP, which heightens its coverage at times when the weather and sea conditions are rough.</p>	<p>Agreed</p>	<p>Complete and ongoing.</p> <p>BPC has increased the deployment of vessels and aircraft to Christmas Island in the 2011-12 monsoon period, over periods of poor sea conditions, and where operational demands indicate that increased capability may be required.</p> <p>The Christmas Island radar trial has now concluded. The analysis from the trial has informed how Customs and Border Protection will proceed to develop a permanent radar system at Christmas Island, incorporating a coherent S band radar, although the existing radar will continue to operate until the permanent radar is operational to ensure radar coverage is maintained.</p> <p>Progress is being made on the development of the permanent radar. The contract for the</p>

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		<p>construction and installation of the radar tower has been signed and it is expected that the tower will be in place before this Christmas.</p> <p>It is expected that the permanent radar will be complete by September 2013. However, many factors are beyond project control, such as bad weather including monsoonal conditions affecting the capacity to unload or install equipment at Christmas Island. Significant delays may result from these conditions.</p> <p>A surveillance strategy has been agreed by Commonwealth agencies and promulgated in relevant operational protocols. The strategy is being applied in practical terms and facilitates on-Island awareness of the status of surveillance assets, and provides for the assistance of agencies on-Island during periods where additional coverage is required.</p>
<p>Recommendation 3:</p> <p>Search and Rescue Model and Response System (SARMAP)</p> <p>I recommend that the AFP take steps to determine whether access can be obtained to the National Search and Rescue Council endorsed SARMAP program covering the Australian Search and Rescue Region as well as adjoining tiles for Indonesia. Steps should be taken to ensure that if possible coverage would include high traffic areas where SIEVs enter the Australian Search and Rescue region allowing timely search and rescue plans to be drawn up for any potential incidents.</p>	Agreed	<p>Complete</p> <p>Since August 2011, AFP has engaged with SARMAP to procure this product and at AFP request SARMAP has developed a current and tidal database for waters surrounding Christmas Island as well as the adjoining tiles for Indonesia.</p> <p>This will provide coverage of waters surrounding Christmas Island, Cocos (Keeling) Islands and Ashmore Reef, including major sea lanes in these regions. This was delivered to the Christmas Island Search and Rescue Mission Coordinator in March 2012.</p>
<p>Recommendation 4:</p> <p>Training in Search and Rescue Management</p> <p>I recommend that the AFP takes steps to ensure that</p>	Agreed in principle	<p>Complete and ongoing.</p> <p>The Commonwealth accepts the intent of the Coroner's recommendation.</p> <p>The AFP has appointed a National Search and Rescue Coordinator who has completed the</p>

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<p>there are on Christmas Island at all times appropriately trained AFP officers who have completed the National Police Search and Rescue Manager's Course and that upskilling should be ongoing to establish a cadre of trained search and rescue personnel.</p>		<p>National Police Search and Rescue Manager's course and will act to provide overarching expert advice on search and rescue operations.</p> <p>Since the Coroner's recommendations, five members of the AFP have completed a Queensland Police course equivalent to the National Police Search and Rescue Manager's Course. This course provides participants with the same qualification as that obtained by completing the National Police Search and Rescue Manager's Course. The AFP will continue to place additional members on similar courses to establish a cadre of qualified search and rescue members. At any one time there is an appropriately trained person to coordinate any search and rescue activity on Christmas Island. AFP members who are currently deployed on Christmas Island have completed the residential phase of the Assistant Search and Rescue Mission Coordinators Course. These members are in the process of completing post course workbooks which will result in the award of a Diploma in Public Safety – Police Search and Rescue Coordination.</p> <p>This is an accredited course facilitated by Queensland Police through their roles as Secretariat and a Registered Training Organisation. The AFP is satisfied that this course provides AFP members on Christmas Island with the required knowledge and skills for search and rescue operations on Christmas Island.</p> <p>Succession planning has also been implemented to ensure that this capacity is always available on Christmas Island. As part of this succession planning, the AFP has enrolled three additional members who may be deployed on Christmas Island on the upcoming Assistant Search and Rescue Mission Coordinators Course scheduled for August 2012.</p>
<p>Recommendation 5:</p> <p>The Provision of a Suitable Search and Rescue Vessel for the AFP on Christmas Island</p> <p>I recommend that the AFP be provided with a search and rescue vessel which is suitable to the specific conditions of Christmas Island.</p>	<p>Agreed</p>	<p>Nearing Completion</p> <p>Preparation for the procurement of vessels for the AFP and Volunteer Marine Rescue Service (VMRS) on Christmas Island has commenced with a preferred supplier for 8.5m NAIAD designed Rigid Hull Inflatable Boats (RHIBs) following consultation with the VMRS, the Christmas Island Harbour Master and the Western Australian Fire and Emergency Services Authority (WA FESA). Three vessels are scheduled to be delivered to the shipping yard on 22 November 2012 in order to be prepared for a 2 December 2012 shipping date. Please note that this date will be subject to review to accommodate unplanned impacts such</p>

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<p>I further Recommend that steps be taken to ensure that if for any reason the search and rescue vessel is not available, there is a replacement vessel on Christmas Island capable of providing an emergency response in difficult sea conditions.</p>		<p>as adverse weather conditions.</p> <p>However, it must be noted that the severe sea conditions that can prevail on Christmas Island may affect the operation of these vessels on a given day.</p> <p>In the interim, the Volunteer Marine Rescue Service has a replacement vessel in operation on Christmas Island. The Australian Federal Police also has replacement vessels in operation on both Christmas and the Cocos (Keeling) Islands.</p>
<p>Recommendation 6:</p> <p>The Possible Acquisition of Personal Water Craft (PWC) or Jet Skis</p> <p>I recommend that consideration should be given to acquiring two personal water craft for deployment by appropriately trained and equipped staff of the AFP or the VMRS or both on Christmas Island.</p>	<p>For further consideration</p>	<p>Under consideration</p> <p>The AFP has procured the services of a specialist marine consultant to assess the feasibility of jet skis as a Search and Rescue capability for Christmas Island.</p> <p>The consultant's report was provided to the AFP on 31 May 2012.</p> <p>The AFP's preliminary assessment of this report is that Personal Water Craft will not be suitable vessels for use on Christmas Island due to the prevailing sea conditions and workplace health and safety issues. A formal assessment is currently being prepared and the outcomes will be advised accordingly.</p>
<p>Recommendation 7:</p> <p>The Ethel Beach Boat Ramp</p> <p>I recommend that the Commonwealth and the Shire of Christmas Island take steps to ensure that the Ethel Beach boat ramp is significantly upgraded, that it should be provided with shelter in the form of a rock groyne or similar buffer and that provision should be made so that a person can walk beside the ramp on a stable footing; or If this is not considered likely to be effective in providing an appropriate means of deploying a rescue vessel in</p>	<p>Agreed</p>	<p>Underway</p> <p>Work has commenced to enhance the vessel launch and recovery arrangements at Ethel Beach.</p> <p>Any vessel launch and recovery at Ethel Beach will always be at the discretion of the vessel's Master.</p>

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adverse conditions, such other action be taken as is necessary to ensure that there is a means of deploying a rescue vessel in adverse conditions.		
<p>Recommendation 8:</p> <p>The Suitability of the Vessel provided to the VMRS</p> <p>I recommend that the Commonwealth liaise closely with representatives of the Christmas Island VMRS prior to purchasing or replacing any vessels for the VMRS in the future.</p>	Agreed	<p>Complete</p> <p>Meetings about the requirements for the replacement VMRS vessel were held between the AFP, the Commander of the Christmas Island Volunteer Marine Rescue Service and the Christmas Island Harbour Master during January 2012.</p> <p>Consultation on function and performance specification for the vessel has also been undertaken with Western Australian Fire and Emergency Services Authority (WA FESA) and the Harbourmaster. Comments have also been received from the Harbourmaster regarding the launch and recovery system for the vessel.</p>
<p>Recommendation 9</p> <p>Repair and Maintenance of VMRS Vessels on Christmas Island</p> <p>I recommend that the Christmas Island VMRS be given autonomy to maintain operational readiness for the VMRS rescue vessel(s) and an appropriate budget be provided to allow this to take place.</p> <p>Recommendation 10:</p> <p>The Need for the Christmas Island VMRS Vessel to be Commercially Surveyed</p> <p>I recommend that arrangements be put in place which would remove the requirements for Masters of Volunteer Marine Rescue vessels to hold a commercial certificate of</p>	For further consideration	<p>Under consideration</p> <p>The Commonwealth provides the VMRS with a vessel for its use, and ensures that the vessel complies with all requisite standards. The Commonwealth therefore retains an interest in the vessel and potential liability in the event of any incident involving the vessel.</p> <p>Qualifications for master and crew for small Commonwealth ships are established by law (Marine Orders, which are delegated legislation). The Commonwealth does not consider it appropriate to lower the standard of qualification for VMR vessels. This is especially so because of the risk environment that they sometimes are called on to operate in.</p> <p>The Commonwealth Government intends that the regulatory environment for all ships operating in Australian waters will change from 1 January 2013. It is anticipated that craft operated by a VMR (whether owned by the Commonwealth or not) will fall within the appropriate category of regulation under the National Law.</p> <p>At this stage, it is proposed that the qualifications for crew will be based on the level of risk</p>

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competency. Operators could then be qualified through the FESA Volunteer Marine Rescue Training pathway as skippers and crew. This would increase the number of available skippers in the event of a search and rescue incident and would make appropriate training easier to arrange.		as assessed by the operator, subject to acceptance by the National Regulator. In this context the Commonwealth will continue to consider these recommendations in the context of proposed legislative change.
Recommendation 11: Reinstating the Military Liaison Officer Position at Christmas Island and Providing Facilities for a Shore Party I recommend that BPC establish an onshore presence as recommended by Lieutenant Commander Livingstone.	Not Agreed	Complete. Enhanced coordination arrangements between agencies on Christmas Island have already been implemented in accordance with the recommendations of the Customs and Border Protection Internal Review, the Joint Select Committee Inquiry and the Christmas Island Emergency Management Committee Report. These arrangements meet the effect required by the recommendation.
Recommendation 12: Establishing a Mooring Buoy in the vicinity of Ethel Beach I recommend that the Commonwealth ensure that there is a mooring buoy which will enable the mooring of SIEVs to take place and free up the Christmas Island response vessel for ongoing surveillance duties.	Agreed	Underway Regional Australia has allocated \$4.5 million to install deep sea moorings and land platforms at the Nui Nui port facility on the eastern side of Christmas Island. The proposed works, while ensuring the safe delivery of supplies to Christmas Island during the swell season, will also provide a mooring point for SIEVs in the vicinity of Ethel beach, satisfying the Coroner of Western Australia's Recommendation 12. Installation of the mooring system is scheduled for completion by March 2013. Installation of the landing platform and steps is likely to occur in late 2013 (and is not related to Coroner's recommendations).

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<p>Recommendation 13:</p> <p>Complete the Hydrographic Survey of Christmas Island</p> <p>I recommend that the Commonwealth prioritise completion of a hydrographic survey of Christmas Island and ensure that such a survey is completed in the near future.</p>	<p>Agreed</p>	<p>Complete</p> <p>The Hydrographic surveying task has been completed and the data has been received by the Australian Hydrographic Office. This data has been validated and included on charts that were published in July 2012.</p>
<p>Recommendation 14:</p> <p>Jet Intake Blockage</p> <p>I recommend that the issue of RHIB jet intake protection be allocated a high priority and that there be ongoing investigation of possible solutions to reduce the problem.</p>	<p>Agreed</p>	<p>Complete</p> <p>Vessel manufacturers, following consultation with Defence and Customs and Border Protection, recommended no changes be made to the intake systems, noting that adequate features are in place to deal with blockages.</p>

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COCOS (KEELING) ISLANDS

SIEV arrivals at Cocos (Keeling) Islands

- There have been 56 SIEV arrivals at the Cocos (Keeling) Islands since 2001 (to 15 October 2012).
- In 2012, there have been four undetected arrivals to Cocos (Keeling) Islands, meaning four SIEVs were not intercepted prior to the vessel making landfall.

Arrivals	Boats	People
2012	53*	2532
2011	1	81
2001	2	139
TOTAL	56	2752

Current Government	54	2613
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*Includes four undetected arrivals, which landed at North Keeling Island, approximately 20nm north of the other islands of Cocos (Keeling) Islands.

Customs and Border Protection presence at Cocos (Keeling) Islands

- Following the increase in SIEV arrivals to Cocos (Keeling) Islands from May 2012, Customs and Border Protection deployed a response team (eight officers) and an inshore response vessel to Cocos (Keeling) Islands on 12 June 2012. As at 26 September 2012, there are nine Customs and Border Protection officers on Cocos (Keeling) Islands.
- This presence is tasked with carrying out a range of activities in response to SIEV arrivals, including:
 - 24 hour monitoring for SIEV arrivals;
 - on-shore reception and initial processing of persons arriving on SIEVs; and
 - assisting DIAC/SERCO with the care and custody of PIIs pending their transfer to Christmas Island.
- This presence is subject to ongoing review and is staffed on a rotational basis with Officers drawn from around Australia.

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- Prior to 23 July 2012, Border Protection Command (BPC) had not conducted regular surface surveillance in the area of the Cocos (Keeling) Islands, due to available intelligence and the historical trend of very few SIEV arrivals.
- On 23 July 2012, BPC deployed ACV *Hervey Bay* to provide an additional surveillance and response capability at the Island. It is anticipated that ACV *Hervey Bay* will remain there until the end of October 2012, as the vessel is not suitable to operate in monsoon weather conditions. Options to replace ACV *Hervey Bay* are currently being assessed.
- Other Commonwealth assets at Cocos (Keeling) Islands include:
 - ACV 640 Tender – can proceed up to 20nm offshore.
 - MV *Minti Sedaya* – can proceed up to 30nm offshore.
 - An AFP Rigid-hulled Inflatable Boat (RHIB) – can proceed up to 20nm offshore.
 - MV *RJ Hawke*- can proceed up to 30nm offshore.
- The practical range of vessels is further limited by a range of factors including weather conditions, crew qualifications, and the assessment of the master of the vessel.

Impact of the monsoon season on operationsAccess to the lagoon and shelter

- The CKI lagoon is currently used for passenger transfer, re fuelling and a level of shelter under normal weather conditions. In the event of tropical monsoon events (storms and cyclone activity) the low lying nature of the islands provide little to no effective shelter in the lagoon. All services within the lagoon cease to operate and there are currently no options for cyclone rated moorings. Navigation within the lagoon is hazardous in all but benign conditions.
- A *Bay Class* vessel is surveyed only for operations within the Australian Exclusive Economic Zone (EEZ), in this case the Cocos (Keeling) Islands EEZ. The current deployment of ACV *Hervey Bay* is subject to a specific AMSA exemption for passage outside of the EEZ (e.g. transit from the mainland), which would be placed at risk if the deployment was extended into the monsoon season, with passage to be taken in higher risk conditions.

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Lack of alternate re-fuelling options

- Christmas Island, with limitations, is the current alternative re-fuelling option for a *Bay Class* vessel positioned at Cocos (Keeling) Islands. During the monsoon season, re-fuelling a *Bay Class* at Christmas Island is hazardous due to the unsheltered nature of the re-fuelling site at Smith Point. A *Bay Class* vessel could be re-fuelled from another vessel (e.g. ACV *Ocean Protector*); however, this can only be achieved in calm conditions and in well sheltered environments to prevent damage to both vessels.
- Any other conceivable re-fuelling options are likely to pose a significant vessel endurance challenge, even during normal operating conditions.

Aerial Surveillance

- The remoteness of the Cocos (Keeling) Islands presents significant challenges for aerial surveillance, particularly with the ability to hold alternate airfields to account for weather or other airfield limitations. Aerial surveillance of the approaches to Cocos (Keeling) Islands are performed on an intelligence-led basis. Following the completion of runway repairs at the end of August 2012, RAAF maritime patrol aircraft flights can again recover to Cocos (Keeling) Islands when operational circumstances warrant.

Impact on operations of the geographic isolation of the Cocos (Keeling) Islands

- The challenge of the geographic isolation of the Cocos (Keeling) Islands must be understood. Christmas Island is approximately 1000 nautical miles (approximately 1800 kilometres) from the nearest Australian mainland port, Broome. Cocos (Keeling) Islands are approximately another 600 nautical miles (approximately 1080 kilometres) south-west of Christmas Island.
- The operation of BPC-assigned aircraft at the Cocos (Keeling) Islands can be impacted by the amount of fuel available on the islands, and the subsequent need to ration existing stores. The isolation of the Cocos (Keeling) Islands not only impacts on the delivery of fuel, but also means aircraft will naturally consume a large volume of fuel transiting to and from the islands.
- The geographic isolation impacts the operation of BPC-assigned patrol vessels at the Cocos (Keeling) Islands, with two days required for a patrol vessel to

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transit from Christmas Island to Cocos (Keeling) Islands. The facilities to sustain the presence of a patrol vessel (e.g. fuelling, sheltered anchorages, wharves) are extremely limited at Cocos (Keeling) Islands.

Role of the Australian Federal Police on Cocos (Keeling) Islands

- A team of two AFP members and two local special constables provide a community policing service to the Cocos (Keeling) Islands. A further two AFP officers have been temporarily deployed since 15 June 2012.
- In addition to all mainland community policing duties, which include court duties and enforcing Western Australian legislation, police members provide the following ancillary functions:
 - Customs duties
 - Immigration duties
 - search and rescue coordination
 - marine patrol
 - emergency management

Other government agency staffing on Cocos (Keeling) Islands

- DIAC officers on island – 2.
- DIAC Medic support on island – 2.
- DIAC Interpreter support on island - 2.
- Serco on island – 6 including 1 cook.

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SIGNIFICANT SAR/SOLAS EVENTS

AUSSAR 2012/5710 – 29 August SAR

Date: 29-30 August 2012

Location: 45 nautical miles west of Java, Indonesia (or 225 nautical miles north-north-west of Christmas Island), inside the Indonesian Search and Rescue Region.

Incident:

- **29 August** – After receiving two phone calls from a vessel requesting assistance off the coast of Indonesia, RCC Australia broadcast a distress message to vessels in the area while also advising BASARNAS, the Indonesian search and rescue agency. The initial assessed location of the vessel was 144 nm north-north-east of Christmas Island.
- At 4.20am AEST, RCC Australia contacted BPC to assess available air assets for a possible SAR tasking. RCC Australia was informed that BPC had two RAAF maritime patrol aircraft and one Customs and Border Protection Dash-8 aircraft available that day.
- 6.18am AEST - Border Protection Command was advised by RCC Australia that Indonesian SAR authority BASARNAS were taking coordination of this incident.
- BASARNAS reportedly deployed a helicopter and two surface assets in response to the SAR, but the vessel requesting assistance was not found and BASARNAS released the Indonesian assets from the tasking.
- 4.00pm AEST - A Customs and Border Protection Dash-8 departed Christmas Island to conduct routine surveillance of the approaches to the Island. The Dash-8 searched a position north of Christmas Island, inside the Indonesian Search and Rescue Region, where it was calculated the vessel might be if it had continued towards Christmas Island.
- During this surveillance, RCC Australia obtained an updated vessel location from commercially available satellite telephone positional data.
 - o RCC Australia requested BPC release the Dash-8 to search for the missing vessel in the new position. The Dash-8 was at that stage close to completing its surveillance flight, and was low on fuel with very limited capacity for ongoing search and rescue activity. The Dash-8 returned to Christmas Island with the intention to refuel. Due to fuel, weather and crew duty limitations, the Dash-8 was unable to re-launch to support the RCC Australia request.
- RCC Australia tasked the APL *Bahrain*, which had responded to an earlier broadcast to shipping, to attend the broader search area. APL *Bahrain*, diverted to

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the new search area and MV *Gwendolin* was also diverted to the area to assist in the search operation.

- Both merchant vessels (APL *Bahrain* and MV *Gwendolin*) continued the search throughout the evening of 29 August and early morning.
- At approximately 10.15pm AEST, RCC Australia formally requested military aircraft assistance. A RAAF maritime patrol aircraft was assigned, with BPC also releasing a Customs and Border Protection Dash-8 aircraft.
- **30 August** – At approximately 3.47am AEST, MV APL *Bahrain* located survivors around 45 nautical miles west of Java, or approximately 230nm north-north-west of Christmas Island.
- At 4.13am AEST, RCC Australia requested military surface asset assistance. HMAS *Maitland* was subsequently assigned for SAR tasking.
- 12.00pm AEST - RCC Australia advised BPC that BASARNAS has stated that Merak, if needed, can provide hospital and ambulance services.
- 4.00pm AEST - HMAS *Maitland* arrived on scene to assist merchant vessels in responding to the vessel requesting assistance. A RAAF maritime patrol aircraft and a Customs and Border Protection Dash-8 aircraft also assisted in the search.
- HMAS *Maitland*, along with four merchant vessels, rescued 55 survivors and recovered one deceased person. It is thought that up to 150 people had been on board the vessel.
- 9.00pm AEST – BASARNAS contacted RCC Australia to advise that the intention is for all survivors to be taken to Merak, Indonesia.
- 10.18pm AEST – RCC Australia sent a signal to all vessels with survivors, requesting they proceed to Merak, Indonesia, as arrangements had been made with Indonesian authorities for the purpose of survivor transfer and medical care. [APL *Bahrain* – 15 survivors, HMAS *Maitland* – 34, MV *AS Carella* – 5 (4 survivors and 1 deceased), MV *Gwendolen* – 1, MV *Da Ging Xia* – 1]
- **31 August** – 00.57am AEST – BASARNAS provided RCC Australia with the lat/long of the rendezvous position, which was 33nm south-east of Merak, or 6nm off the west coast of Java. This position was provided to all vessels in transit to the area.
- By 11.30am AEST – all 55 survivors and one deceased person were transferred to one BASARNAS vessel and an Indonesian maritime police (POLAIR) vessel.
- 12.15pm AEST - all survivors and one deceased were disembarked at the port of Merak. Initially, up to 47 people had refused to disembark for a period of time. A number of survivors were taken to hospital for medical treatment.

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- The search and rescue continued on 31 August. Several merchant vessels and two civilian aircraft were involved in the morning search.
- Medical professionals advised that the timeframe for survivability would elapse at 3.00pm. Search and rescue operations formally ceased after this time, at the direction of BASARNAS.

Loss of Life: One deceased person was recovered. A possible 94 people remain unaccounted for, though the exact number may never be known.

Post Incident Inquiry: While no formal inquiry was undertaken, a number of claims made by survivors regarding their treatment onboard HMAS *Maitland* are not true. Media reporting about the incident alleged that the survivors who had been rescued by HMAS *Maitland* had been refused water, food and medical assistance while onboard, and that they had been told they would be taken to Darwin. These allegations are false. All survivors were provided with food and water, and although some passengers chose not to eat, food was provided to them nonetheless. The passengers were not told they were being transferred to Darwin, but to the nearest port to provide medical attention.

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AUSSAR 2012/5367 - SIEV 411 (MV *Parsifal*)**Date:** 13 August 2012**Location:** 176nm north of Christmas Island, and within the Indonesian Search and Rescue Region**Incident:**

- **13 August** - Between 4.50pm and 9.31pm AEST – RCC Australia reported a number of phone calls and SMS contact with a person reporting a vessel requesting assistance. A number of disparate locations between Indonesia and Christmas Island were provided to RCC Australia.
- 11.25am AEST - HMAS *Maitland*, at the request of RCC Australia, proceeded to the last reported position of the vessel, 172 nautical miles north-north-west of Christmas Island. RCC Australia also tasked a number of merchant vessels in the area including the MV *Parsifal* to provide assistance to locate the vessel.
- **14 August** – 5.39am AEST - MV *Parsifal* located a vessel thought to be the vessel in need of assistance. The vessel was 176 nautical miles north of Christmas Island.
- 8.05am AEST - MV *Parsifal* rendered assistance and embarked the 67 people from the vessel.
- Records held by BPC do not indicate the reasons why the master of MV *Parsifal* embarked the people from the vessel requesting assistance. The vessel did, however, self-report in earlier conversations with RCC Australia that it had a hole in the side of the vessel and was taking on water. Further questions regarding the actions of MV *Parsifal* and, the decision to embark the passengers, should be referred to AMSA as the coordinators of the SAR response.
- RCC Australia contacted the MV *Parsifal*, whose master advised that he intended to continue his voyage to Singapore. The master also advised that the weather conditions were not suitable for transfer of the recovered persons to HMAS *Maitland*.
 - o The master was within his rights under the IMO Guidelines for the Treatment of Persons Rescued at Sea to take the passengers to Singapore, which is an appropriate place of safety. This course of action would have also significantly minimised deviation from the MV *Parsifal*'s intended voyage, a key objective and consideration in the determination of where survivors are disembarked.
- 8.19am AEST – RCC Australia advised the SAR effort had concluded, and all Defence assets, including HMAS *Maitland*, were released.
- 8.45am AEST – The master of MV *Parsifal* contacted RCC Australia reporting a situation was developing on board after the rescued passengers were advised they

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were being taken to Singapore. An RCC Australia log notes “men have become aggressive: they want Australians to rescue them. The master has decided to turn his ship towards Christmas Island.” A subsequent statement from the ship owner, Wallenius Marine, indicated that when the survivors were told they were heading to Singapore “the survivors became agitated and threatened self-harm and the master decided that they could pose a security threat the *Parsifal*’s crew and vessel”.

- 8.52am AEST – RCC Australia advised Defence of the security situation and requested HMAS *Maitland* respond. Defence advised that based on the operational circumstances, environmental and safety considerations, and information known at the time, an operational assessment was made that Defence could not provide assistance. Defence made a recommendation that MV *Parsifal* consider altering course to calm the situation.
- 9.00am AEST – Following discussions with RCC Australia, the master agreed to divert to Christmas Island. The master advised the survivors of the new destination and the survivors calmed down immediately.
- 9.22am AEST – Defence advised RCC Australia that it had legal advice that indicated it could not provide security assistance onboard a foreign flagged vessel.
- 10.15am AEST – Australian Embassy Jakarta confirmed that the Indonesian Navy had tasked one of its vessels to respond in support to “assist and take action ASAP”. Subsequently, on advice from RCC Australia, BPC advised the Australian Embassy Jakarta that there was no longer a requirement for Indonesian assistance.
- During MV *Parsifal*’s transit to Christmas Island, HMAS *Maitland* shadowed the vessel without incident.
- 8.00pm AEST - On MV *Parsifal*’s arrival at Christmas Island, HMAS *Wollongong* provided assistance with the transfer of the survivors to Australian Government authorities on Christmas Island.

Loss of Life: No loss of life

Post Incident Inquiry: No inquiry

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AUSSAR 2012/5349 - SIEV 410 (MV Maersk Diadema)**Date:** 13 August 2012**Location:** 46 nautical miles south of Pesanggaran, Indonesia and inside the Indonesian Search and Rescue Region.**Incident:**

- **13 August** – 8.30am AEST - the Defence switchboard received a call from an unknown caller stating that a vessel had departed Bali two days previously. RCC Australia established communications with the caller, who advised that they were on a vessel with 65 people onboard. The caller advised that the vessel was in need of assistance.
- A RAAF maritime patrol aircraft, under the coordination of RCC Australia, reported sighting a contact of interest (COI) approximately 48 nautical miles south of the south-east corner of East Java. The aircraft reported 39 persons sighted on deck with the majority wearing lifejackets. The vessel was low in the water but was still underway.
- 6.50pm AEST - in response to a RCC Australia distress relay broadcast message, *MV Maersk Diadema*, located the vessel reportedly in need of assistance. At the time of detection, the vessel was 520 nautical miles north-west of Ashmore Islands and 46 nautical miles south of Pesanggaran, Indonesia.
- By 8.30pm AEST - The *MV Maersk Diadema* had embarked 62 people from the vessel. During the transfer of people from the vessel to the *MV Maersk Diadema*, six people departed the scene (in the vessel), heading towards Indonesia.
- Records held by BPC do not indicate the reasons why the master of *MV Maersk Diadema* embarked the people from the vessel reported to be requesting assistance. The vessel did, however, self-report in earlier conversations with RCC Australia that it had a hole in the side of the vessel and was taking on water. Further questions regarding the actions of *MV Maersk Diadema* and, the decision to embark the passengers, should be referred to AMSA as the coordinators of the SAR response.
- Following completion of the transfer, the master of *MV Maersk Diadema* advised RCC Australia that the MV was only surveyed to safely carry an additional 30 people, and enquired as to the possibility of transferring the rescued passengers to a larger, safer ship.
- *ACV Triton* was subsequently released by BPC to support the SAR operation, and to rendezvous with *MV Maersk Diadema* to embark survivors.
- **14 August** – 12.35pm AEST - *ACV Triton* advised that all 62 persons from the *MV Maersk Diadema* had been embarked onto *ACV Triton* without incident, in a

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position approximately 430 nm east-north-east of Christmas Island. All persons were transferred to Australian government authorities on Christmas Island.

Loss of Life: No loss of life

Post Incident Inquiry: No inquiry.

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AUSSAR 2012/4722 (MV Sea Fortune)**Date:** 17 July 2012**Location:** Approximately 670nm North West of Cocos (Keeling) Islands, and inside the Australian Search and Rescue Region.**Incident:**

- **16 July** - RCC Australia received a communication from the MV *ER Durban* that it had sighted a vessel that was drifting with one person on deck signalling with a white flag or rag. The master of the MV *ER Durban* declined to pick up the passengers as he assessed that it might be an attempt by pirates to facilitate an attack.
- **17 July** - RCC Australia transmitted a distress message regarding the vessel requesting assistance and asked MV *ER Durban* to identify and contact any vessels in the vicinity of the vessel requesting assistance to divert to the scene. MV *Sea Fortune* responded to calls from MV *ER Durban* and travelled to the last known position of the vessel requesting assistance, where it was determined that the vessel was out of fuel, food and water and the engine was disabled.
- The MV *Sea Fortune* subsequently embarked 11 people suspected to be of Sri Lankan nationality onto the ship.
- Once the people from the vessel requesting assistance were on board the ship, the MV *Sea Fortune* continued her voyage to Singapore.
 - o The master was within his rights under the IMO Guidelines for the Treatment of Persons Rescued at Sea to take the passengers to Singapore, which is an appropriate place of safety. This course of action would have also significantly minimised deviation from the MV *Sea Fortune's* intended voyage, a key objective and consideration in the determination of where survivors are disembarked.
- Once the merchant vessel arrived in Singapore, the master of the MV *Sea Fortune* alleges that the ship was boarded by officials from Sri Lanka and Singapore who issued passports and plane tickets to Sri Lanka to the passengers on board.
- However, the passengers reportedly declined this offer and asked for asylum in a third country (preferably Australia).
- Officials from Singapore Immigration reportedly revoked their permission to disembark and detained all 11 people from the vessel that had requested assistance on board the MV *Sea Fortune*.
- Advice from DFAT indicates the eventual disembarkation of survivors was an arrangement between the vessel owner and the representative (unknown) of a third country. DFAT had no involvement in this arrangement. The survivors did not go to Singapore, or back to Sri Lanka.

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Loss of Life: No loss of life.

Post Incident Inquiry: No inquiry.

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AUSSAR 2012/4259 – SIEV 359**Date:** 27 June 2012**Location:** 107 nm north of Christmas Island, and inside the Indonesian Search and Rescue Region.**Incident:**

- **27 Jun 12** – 6.17 am AEST – The Australian Federal Police (AFP) received a call from a person on board a vessel requesting assistance. The caller provided a partial GPS location before disconnecting. AFP passed this information to Customs and Border Protection and RCC Australia.
- In a subsequent call from the vessel to the AFP, the caller indicated a position approximately 2 nautical miles from Christmas Island. Further calls from the vessel indicated that the vessel was approximately 107 nautical miles north of Christmas Island in the Indonesian Search and Rescue Region.
- RCC Australia accepted responsibility for coordination for the search and rescue at 6.32 am AEST and immediately commenced tasking Defence assets and requesting assistance from civilian merchant vessels. RCC Australia passed information on the calls for assistance to the Indonesian Search and Rescue Agency BASARNAS.
- 10.01 am AEST - a merchant vessel *MV Bison Express* advised RCC Australia that it was on scene and had the vessel in sight. *MV Bison Express* reported that the vessel was afloat.
- 10.11 am AEST - the Master of the *MV Bison Express* advised RCC Australia that due to the small size of the vessel requesting assistance, he had determined it was unsafe to lower his rescue lifeboats.
- 10.33 am AEST – RCC Australia requested *MV Bison Express* and *MV Tancred* to remain in the area to maintain visual contact with the vessel, until HMAS *Maitland* arrived on scene. Once HMAS *Maitland* arrived on scene, the intent was for HMAS *Maitland*, along with the *MV Tancred* (who was too small to take all passengers onboard itself), to recover passengers from the vessel.
- 11.36 am AEST – RCC Australia was advised by the Master of the *MV Bison Express* that the vessel was sinking and there were people in the water.
- *MV Bison Express* deployed cargo nets and life rafts to render assistance and was assisted by other merchant vessels *MV Tancred* and *MV Yechie* who were also on scene.
- 12.50 pm AEST - HMAS *Maitland* arrived at the location of the vessel and assumed duty as On Scene Coordinator.
- 1.00 pm AEST - A RAAF AP-3C Orion maritime patrol aircraft arrived at the location.

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- 3.42pm AEST- HMAS *Leeuwin* arrived on scene to assist in the search and rescue effort.
- A total of 130 survivors, and one deceased person were recovered from the water. [HMAS *Maitland* – 53 survivors, MV *Tancred* – 69 and one deceased, MV *Bison Express* – 9].
- 8.48pm AEST – all survivors and one deceased were transferred to HMAS *Leeuwin*, a larger vessel with greater capacity and facilities to hold the additional 131 people. HMAS *Leeuwin* subsequently commenced transit for Christmas Island.
 - o Consistent with obligations under the Safety of Life at Sea Convention people rescued at sea are required to be taken to a place of safety. Appropriate health, medical and other services are available on Christmas Island.
- 9.35pm AEST – RCC Australia concluded the search, and released all assets to resume their normal duties. The recovery effort concluded with 130 survivors, the search was suspended on the basis that all persons were accounted for.
- **28 Jun 12** – 11.23 am AEST - Offload of survivors and one deceased person from HMAS *Leeuwin* to Australian government authorities on Christmas Island was completed.

Loss of Life: One person is confirmed as deceased.

Post-Incident inquiry: Customs and Border Protection, together with AMSA and Defence, has conducted a review into the circumstance surrounding the respective sinking and capsize, and operational response, to the SAR 2012/4259 and SAR 2012/4106 incidents. The Review has been given to the Minister for Home Affairs who, along with a number of his Ministerial colleagues, is currently considering the recommendations. The Government's response to the review will be submitted for agreement in late October. A Coronial Inquest will be conducted by the Coroner of Western Australia. A date has not yet been announced for the Inquest.

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AUSSAR 2012/4106 – SIEV 358**Date:** 21 June 2012**Location:** 110 nm north of Christmas Island, and inside the Indonesian Search and Rescue Region.**Incident:**

- **19 Jun 12** - On Tuesday 19 June at 9.52pm AEST, RCC Australia received the first in a series of calls from a vessel indicating it was experiencing difficulties. Later that evening, the location of this vessel was determined to be within Indonesia's search and rescue zone and as such RCC Australia forwarded the information to BASARNAS. The caller did not provide details of where the vessel was located.
- On the same day Border Protection Command also received information about the vessel that indicated the vessel was underway, the sea conditions were favourable and the people on board were well.
- RCC Australia assumed responsibility for the search and rescue while coordination by BASARNAS, the Indonesian search and rescue agency, was being confirmed.
- **20 Jun 12** – From 1.06am AEST, RCC Australia received further calls from a vessel indicating it was experiencing difficulties. At that stage the vessel was reported to be 38 nautical miles south of the Indonesian mainland. RCC Australia advised the vessel to return to Indonesia if it was experiencing difficulty. RCC Australia passed this information to BASARNAS.
- 7.45am AEST – BASARNAS verbally accepted coordination of the search and rescue response. This was followed up in writing with a facsimile from BASARNAS at 9.00am AEST.
- 1.16pm AEST – RCC Australia received another call from the vessel providing an update on its location. This information was passed to BASARNAS.
- 5.15pm AEST - a Customs and Border Protection surveillance aircraft undergoing routine surveillance detected a vessel then suspected as being the source of the distress calls. The vessel was underway, travelling in a southerly direction with no visual signs of distress reported.
- 8.10 to 8.50pm AEST - RCC Australia received further phone calls from the vessel. (No further phone calls were received by RCC Australia after this time although RCC Australia attempted to call the vessel with no success)
- On Wednesday evening, two BPC assigned vessels at Christmas Island were prepared to respond if assistance was requested.

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- **21 Jun 12** – At 11.07am AEST BPC received additional information that raised concerns about the safety of the vessel. The information was passed to RCC Australia at 11.37am AEST who then passed the information to BASARNAS.
- 1.05pm AEST– COMBPC requested HMA Ships *Larrakia* and *Wollongong* commence passage north of Christmas Island in anticipation of a possible search and rescue response.
- 1.21pm AEST - A programmed Customs and Border Protection surveillance flight departed Christmas Island and was tasked to relocate the vessel.
- 2.58pm AEST - the Customs and Border Protection surveillance aircraft detected the capsized vessel 109 nautical miles south of the Sunda Strait in Indonesia. The information was passed to RCC Australia.
- The Customs and Border Protection aircraft continued to monitor the situation. A RAAF AP-3C Orion maritime patrol aircraft was diverted to attend the scene.
- 4.30pm AEST - The RAAF aircraft arrived at the scene and commenced dropping air sea rescue kits (life rafts) shortly after arrival.
- 5.50pm AEST - a merchant vessel arrived, followed by two more merchant vessels responding to the RCC Australia request for assistance, and commenced rescue efforts.
- 7.20pm AEST HMA Ships *Larrakia* and *Wollongong* arrived at the location and commenced search and rescue operations.
- 10.21pm – At the request of BASARNAS, RCC Australia accepted transfer of the coordination of the incident from BASARNAS.
- An RCC Australia Dornier and another RAAF AP-3C Orion maritime patrol aircraft provided further assistance throughout the night.
- 110 survivors were recovered on 21 Jun 12.
- **22 Jun 12** - RCC Australia continued to coordinate an exhaustive search and rescue operation, encompassing an RCC Australia Dornier aircraft, Defence surface and air assets, Customs and Border Protection air assets, assistance from four merchant vessels and civilian aircraft.
- No further survivors were recovered on this day.
- **23 Jun 12** - The search and rescue operation continued throughout Saturday, 23 June, with RCC Australia coordinating Defence surface and air assets, Customs and Border Protection air assets and assistance from merchant vessels.
- 8.15pm AEST - RCC Australia suspended the search for survivors. The decision to suspend the search was based on medical advice regarding the prospect of

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survivability after this length of time, and after reports from surface and air assets confirmed that there are no further survivors in the search area.

- After the suspension of the search by RCC Australia, the participating ships and aircraft were released to resume their normal operations.

Loss of Life: 17 confirmed deceased. A possible 75 people are unaccounted for, though the exact number may never be known.

Post-Incident inquiry and actions: Customs and Border Protection, together with AMSA and Defence, has conducted a review into the circumstance surrounding the respective sinking and capsize, and operational response, to the SAR 2012/4259 and SAR 2012/4106 incidents. The Review has been given to the Minister for Home Affairs who, along with a number of his Ministerial colleagues, is currently considering the recommendations. The Government's response to the review will be submitted for agreement in late October. A Coronial Inquest will be conducted by the Coroner of Western Australia. A date has not yet been announced for the Inquest.

The AFP's prosecution of the crew of the SAR 2012/4106 vessel is continuing. The AFP arrested and charged the two crew members with four offences under the Migration Act on 27 September 2012. A date for the trial of the crew members has not yet been set.

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AUSSAR 2012/3659 - SIEV 341**Date:** 31 May 2012**Location:** Detected 48 nautical miles north of Christmas Island, and intercepted nine nautical miles north of Christmas Island.**Incident:**

- **31 May 2012** - At approximately 5.19 pm AEST - RCC Australia received a phone call from a person claiming to be onboard a vessel with 147 people. Based on positional data provided by the caller, the vessel was located approximately 195 nautical miles north of Christmas Island. The caller reported that the vessel was overcrowded and had no drinking water and a small food supply. In a subsequent call, the caller stated that the bilge pump onboard the vessel was not working and the vessel was in danger of sinking.
- 6.25 pm AEST - RCC Australia communicated this information to BPC and to BASARNAS. BASARNAS was requested to take coordination of the response as the positional data indicated the vessel was within the Indonesian SRR.
- In anticipation of a possible request for BPC assistance, BPC began assessing what assets it had available.
- 8.40pm AEST – Although RCC Australia had not requested BPC assistance, BPC advised RCC Australia that it had one Dash-8 aircraft and HMAS *Ararat* at located at Christmas Island. It was also assessed that a RAAF maritime patrol aircraft was available from Darwin.
- 9.02 pm AEST - RCC Australia issued a broadcast to shipping regarding the vessel in need of assistance. Vessels in the vicinity of the area were asked to advise of any sightings of the vessel and render assistance if possible.
- 10.14pm AEST – RCC Australia advised BPC that BASARNAS had accepted coordination of the incident, but that BASARNAS had not provided advice as to any assistance they may require from RCC Australia.
- **1 June 2012** – 9.51 am AEST – RCC Australia advised BPC that despite repeated attempts to obtain the contact number from the original caller on board the vessel, the caller would not reveal his contact number. RCC Australia had also attempted to contact the vessel on a number provided by another caller on board, but the calls were unsuccessful and went directly to an engaged tone.
- 10.45 am AEST – RCC Australia advised BPC that BASARNAS had advised that its attempts to contact the vessel were also unsuccessful. BASARNAS advised they would continue to investigate the reported position of the vessel and that they would maintain coordination of the SAR operation. BASARNAS advised they would request RCC Australia assistance if it looked like the vessel was close to Christmas Island.
- BPC did not receive any request for SAR assistance from RCC Australia on behalf of BASARNAS.
- **2 June 2012** - 7.05 pm AEST - a RAAF maritime patrol aircraft, operating under the control of BPC, detected a COI that was observed to be dead in the water

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approximately 48 nautical miles north of Christmas Island. The aircraft reported sighting at least 35 people on board.

- At the time of this detection, HMAS *Ararat* was escorting SIEV 340 to Christmas Island, which had been intercepted 8.5 nm north-west of Christmas Island at 5.52pm AEST that day. Following the detection at 7.05pm AEST, HMAS *Ararat* was tasked to proceed to intercept the COI after transferring those on board SIEV 340 to Australian government authorities on Christmas Island.
- 7.49 pm AEST – RCC Australia advised BPC that the position of the detected COI correlates with the assessed course of the vessel subject to the earlier phone calls.
- 9.27 pm AEST – HMAS *Ararat* completed transferring the people from SIEV 340 to authorities of Christmas Island and commenced passage to intercept the previously reported COI.
- **3 June 2012** - At approximately 1.09 am AEST on Sunday 3 June 2012, HMAS *Ararat* boarded the COI approximately nine nautical miles north of Christmas Island.
- HMAS *Ararat* reported that passengers on board the vessel stated they had made phone calls two days ago. The name of the caller matched the records of RCC Australia in relation to the vessel that had requested assistance on 31 May 2012.
- 12.15pm AEST – HMAS *Ararat* had completed the transfer of all 153 people onboard SIEV 341 to Australia authorities on Christmas Island.

Loss of Life: No loss of life

Post Incident Inquiry: No inquiry

Journalist Natalie O'Brien referred to this SIEV in an article published on 7 October 2012 titled "Slow response to distress calls from asylum boat". The article states that "a boat carrying 35 asylum seekers, which made distress calls to Australian authorities, floundered for three days before it was discovered 'dead in the water' during a routine fly-over by an RAAF maritime patrol aircraft".

It is important to note that BASARNAS had accepted coordination of the SAR response for this vessel. Although BPC was not requested to provide support for this SAR, BPC was prepared to provide assistance and had quickly provided information to RCC Australia regarding available response assets soon after BPC was aware of the calls for assistance. All assets involved in the eventual detection and interception of this SIEV were operating under the control of BPC, and not RCC Australia.

While the RAAF maritime patrol aircraft reported that the vessel was 'dead in the water' upon detection, the vessel was able to travel from its detection location of 48 nm north of Christmas Island, to where it was intercepted at nine nautical miles north of Christmas Island.

SIEV 341 had a total of 153 persons onboard; however when the vessel was first detected by the RAAF maritime patrol aircraft on 2 June 2012, only 35 persons were visible on deck.

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Sumbawa**Date:** 12 April 2012**Location:** In the vicinity of Sumbawa and Lombok islands, Indonesia, and inside the Indonesian Search and Rescue Region.**Incident:**

- **12 Apr 12** – Approximately 4.00pm AEST on Thursday 12 April, RCC Australia received a call from the Refugee Advocacy Centre in Brisbane advising that it had received information that a vessel was sinking off the Indonesian island of Sumbawa.
- At 4.53pm AEST, all known information was passed to BASARNAS, by RCC Australia, who then formally assumed control of the incident. BASARNAS coordinated the search and undertook search and rescue operations with a rescue vessel and helicopter. Australian agencies provided information to assist with these efforts.
- At 4.25pm AEST the AFP reports a capsized vessel was found to the west of Pedauh Pesing Island, this information is passed onto BASARNAS.
- **13 Apr 12** – At 12.20am AEST, the Australian Embassy, Jakarta, received a call from the vessel of interest that the vessel was underway, but the steering was broken.
- At 11.45pm AEST, Customs and Border Protection Jakarta received information from BASARNAS that the vessel requesting assistance was yet to be located, and that the search continues.
- At 8.36pm AEST the Australian Embassy, Jakarta, advised RCC Australia that a vessel had run aground in the vicinity of Hotel Bumbangu in south-east Lombok.
- At 10.30pm AEST the Australian Embassy, Jakarta, advised that that it had received information from three of its sources that people from possible smuggling vessels had been taken ashore in various locations and were accommodated at local hotels.

It is possible that the passengers from SIEV 320, intercepted on Wednesday 18 April 2012, were involved in the venture that was the subject of this search and rescue, coordinated by Indonesian authorities, in the Sumbawa/Lombok area.

It is unclear as to whether the vessel run aground in the vicinity of Hotel Bumbangu was related to this incident, or the earlier reported capsized vessel west of Pedauh Pesing Island.

Loss of Life: No loss of life.**Post-Incident inquiry:** No inquiry.

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MT Hermia**Date:** 8 April 2012**Location:** Approximately 10 nautical miles off the Indonesian coast of West Java, and inside the Indonesian Search and Rescue Region.**Incident:**

- At 6.06am AEST on Sunday 8 April 2012, RCC Australia advised Customs and Border Protection (AMSOC) that a person within Australia had reported that a vessel with 100 people onboard was approaching Christmas Island and was broken down. RCC Australia later reported that the caller was in Indonesia.
- At 8.32am AEST a BPC-assigned Customs and Border Protection Dash-8 aircraft was released to RCC Australia for SAR tasking, and subsequently located the vessel requesting assistance in the Sunda Strait, between Java and Sumatra, at 10.35am AEST.
- The Customs and Border Protection Dash-8 aircraft reported that the MT *Hermia*, a merchant vessel responding to the RCC Australia distress relay message, was on the scene and recovering people from the vessel. This report was immediately passed to RCC Australia for action and on forwarding to BASARNAS.
- BASARNAS accepted coordination of the search and rescue after being notified by RCC Australia.
- After arriving in the port of Merak, Indonesia, onboard the MT *Hermia*, the 120 rescued passengers refused to disembark. The passengers requested guarantees that they would not be sent to Indonesian detention centres, and that Australian officials would assess their claims for asylum.
- After coming to an agreement with Indonesian immigration officials, all persons disembarked the MT *Hermia* in the port of Merak, Indonesia, on the morning of Monday 9 April 2012.

Media reporting claiming this vessel was 'intercepted' as a result of a joint Australian-Indonesian operation is not correct. BPC responded to a Search and Rescue tasking from RCC Australia, which was later coordinated by BASARNAS.

Questions about the ongoing management of this group should be put to the Indonesian Government as this is an Indonesian Government matter.

Loss of Life: No loss of life.**Post-Incident inquiry:** No inquiry.

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Yacht Rahmani**Date:** 5 April 2012**Location:** Approximately 65 nautical miles north-west of the Tiwi Islands, and inside the Australian Search and Rescue Region.**Incident:**

- **5 Apr 12** - At approximately midnight AEST on Thursday 5 April 2012 an Australian commercial fishing vessel, AFV *Moonstriker*, advised Customs and Border Protection it was in the vicinity of a yacht that was requesting assistance approximately 140 miles north of Darwin (65 nautical miles north of the Tiwi Islands). Customs and Border Protection immediately informed RCC Australia.
- **6 Apr 12** – At 12.11am AEST RCC Australia requested assistance from Customs and Border Protection to respond to the scene.
- At 12.34am AEST ACV *Arnhem Bay* was released from BPC to RCC Australia to respond.
- At approximately 4.30am AEST 6 April 2012, ACV *Arnhem Bay* boarded the yacht and reported 10 people on board, who claimed to be Chinese citizens, in transit to New Zealand to seek asylum. The people asked for food, water and diesel fuel.
- RCC Australia identified significant concerns for the safe navigation of the yacht, including the absence of suitable navigation charts, EPIRB or satellite phone, and its planned transit through the Torres Strait. On this basis, RCC Australia recommended ACV *Arnhem Bay* escort Yacht *Rahmani* to Darwin for the purposes of re-supply, prior to recommencing its transit.
- **7 April 12** - Following a request from the Master of Yacht *Rahmani*, ACV *Arnhem Bay* towed the yacht to Darwin, arriving at Cullen Bay at approximately 10.33 am AEST Saturday 7 April 2012.
- **11 Apr 12** - The 10 Chinese nationals decided not to continue with their transit to New Zealand, and to apply for refugee status in Australia.

Yacht *Rahmani* was not designated by responding surface assets as a Suspected Irregular Entry Vessel. The on water response to Yacht *Rahmani* was consistent with international Safety of Life at Sea (SOLAS) obligations. Yacht *Rahmani* presented as a 'force majeure' emergency arrival of a transiting vessel seeking assistance, and the on water response was consistent with this assessment.

Loss of Life: No loss of life.**Post-Incident inquiry:** No inquiry.

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Prigi Beach**Date:** 17 December 2011**Location:** Approximately 40 nautical miles off the coast of Prigi, central Java, and inside the Indonesian Search and Rescue Region.**Incident:**

- **17 Dec 11** - According to Indonesian authorities, at approximately 7.00am local time, a people smuggling vessel foundered around 40 nautical miles off the coast of Prigi, central Java.
- 7.00pm local - Australian authorities (AFP) first became aware that a vessel had foundered, and that rescue operations were underway. Australian agencies notified the relevant Indonesian authority at 7.18pm local.
- Customs and Border Protection (Jakarta) contacted RCC Australia at 8.42pm local and BASARNAS at 8.57pm local. BASARNAS indicated they were already aware of the incident.
- **19-20 Dec 11** - HMAS *Ararat* and a RAAF maritime patrol aircraft conducted aerial and surface searches on 19 and 20 December 2011.
- **21 Dec 11** - Australian government involvement in the SAR operation concluded at 1.30am AEST when HMAS *Ararat* concluded search operations.

Media reporting indicated that known people smuggler Sayed Abbas was involved in organising the venture from detention in Indonesia. It would not be appropriate to comment on this.

- If asked: Abbas has been the subject of an Australian Government extradition request since 8 June 2011. However, on 21 September 2011, INP advised that Abbas was sentenced to two and a half years imprisonment in relation to domestic Indonesian offences.

Australian authorities had a general level of awareness that a people smuggling vessel may depart from Java around 17 December.

There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel from departing.

Loss of Life: The vessel was suspected to be carrying around 250 passengers, 49 of which were rescued. 103 passengers are confirmed deceased with approximately 98 passengers unaccounted for, presumed drowned.

Post-Incident inquiry: At the request of the Indonesian National Police (INP), the AFP deployed members based in Indonesia to assist with the identification and investigation of the venture's organisers, including two investigators, one interpreter and one locally engaged staff member. Any further questions on this investigation should be directed to the AFP.

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Pangandaran**Date:** 1 November 2011**Location:** 5 nautical miles off the coast of southern Java/Pangandaran, Indonesia.**Incident:**

- According to Indonesian authorities and passengers on board, at approximately 0500hrs local (i.e. Indonesian) time on 1 November 2011, a people smuggling vessel foundered around 5 nautical miles off the coast of southern Java/Pangandaran. Indonesian authorities, including local police and the Indonesian Navy, as well as local fishermen, are reported to have begun rescue operations at around 6.00am local time.
- 6.00am local - Australian authorities became aware that a people smuggling vessel may have been in distress earlier that morning. This was later found to relate to the foundered vessel.
- 7.25am local - (over 2 hours after the vessel foundered and 1 hour after rescue operations commenced) Australian authorities became aware of the location of the people smuggling vessel that may have been in distress earlier that morning.
- 8.47am local - Australian authorities (DIAC) first became aware that a vessel had actually foundered.
- 9.36am local - Customs and Border Protection, Jakarta, commenced attempts to contact (phone) BASARNAS.
- 9.46am local - Customs and Border Protection (Jakarta) contacted (email) BASARNAS and BAKORKAMLA (Indonesian Maritime Security Coordination Agency).

Australian authorities had a general level of awareness that a people smuggling vessel may depart from southern Java around 1 November.

There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel from departing.

Loss of Life: The vessel was suspected to be carrying 75 passengers, 45 of which were rescued. Eight passengers are confirmed deceased (4 adult females, 4 children). Approximately 22 passengers are unaccounted for, presumed drowned.

Post-Incident inquiry: No inquiry.

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SIEV 221

Please note: Page X of this brief (Reviews/Reports) contains further information on SIEV 221 inquiries

Date: 15 December 2010

Location: Christmas Island

Incident: On 15 December 2010, a vessel now known as SIEV 221 foundered on rocks at Rocky Point, Christmas Island, resulting in a mass safety of life at sea incident and the loss of life. In total, 42 people survived the shipwreck of SIEV 221—41 of whom were rescued from the water and one who made it safely to land.

- **15 Dec 11-** 5.47am local time - Customs and Border Protection first became aware of SIEV 221 after it was sighted north of Flying Fish Cove, off Christmas Island at 5.40am Christmas Island local time by a Customs and Border Protection officer on temporary duty at the island. When the vessel was initially sighted it did not appear to be in distress.
- 6.05am local time - HMAS *Pirie* was tasked to investigate the vessel by Border Protection Command Headquarters Joint Taskforce 639 (HQJTF 639) at approximately 6:05am local time.
- At the same time as the tasking, HMAS *Pirie* was responding to a report from its steaming party embarked on the hulk of an earlier intercepted vessel (SIEV 220), that the hulk's steering had failed and it was drifting towards the rocks south west of Ethel Beach. HMAS *Pirie* had consequently deployed her RHIB and additional crew to attend to SIEV 220.
- What commenced as a response to a vessel sighting quickly developed into a search and rescue operation by BPC response assets in treacherous weather conditions in close proximity to the cliffs that SIEV 221 foundered upon.
- 6.10am local time, the Australian Maritime Security Operations Centre (AMSOC) received reports of two '000' calls relayed by Western Australian Police Operations via the Australian Maritime Safety Authority Rescue Coordination Centre (AMSA RCC), indicating a vessel was requesting assistance between Christmas Island and Ashmore Reef. At that stage there was no information or indication that the vessel being investigated by HMAS *Pirie* was the subject of the '000' calls.
- 6.16am local time - SIEV 221 was first reported to be in distress by Customs and Border Protection officers at Christmas Island.
- 6.22am local time - Customs and Border Protection at Christmas Island reported by telephone to HQJTF639 that the contact of interest (COI) was now 50 metres off Rocky Point, had lost engines and drifting towards the rocks. In response to this report HQJTF 639 directed HMAS *Pirie* to proceed at full power to the scene.

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- 6.30am local time - HMAS *Pirie* had recovered her RHIB and part of the deployed steaming party, altered course and was proceeding at full speed to the location of SIEV 221.
- 6.35am local time - HMAS *Pirie* advised ACV *Triton* that the COI had no engine power and was on the rocks and requested ACV *Triton*'s assistance with the hulk of SIEV 220.
- 6.40am local time - HMAS *Pirie* experienced an engineering fault in the main port engine which resulted in a system initiated shutdown. As a result HMAS *Pirie*'s speed was temporarily reduced whilst the fault was rectified. ACV *Triton* increased speed and commenced preparations to launch tenders.
- HMAS *Pirie*'s RHIBs reached the scene of the accident by 7.05am local time and commenced rendering assistance.
- ACV *Triton* launched its tenders by 7.05am local time and they arrived on the scene to assist in recovery operations at around 7.22am local time.

Loss of life: A total of 30 deceased were recovered, comprising 11 adult males, 11 adult females, three juvenile males, two juvenile females, one infant male and two infant females. Up to 20 people are missing, presumed drowned.

Post-incident inquiry: SIEV 221 was subject to an Internal Review, Coronial Inquest and Parliamentary inquiry. See page X of this brief for further information.

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SIEV 143**Date:** 9 May 2010**Location:** 125 nm north-west of Cocos (Keeling) Islands, and inside the Australian Search and Rescue Region**Incident:** Over the period 30 April to 9 May 2010, two operations were undertaken north-west of Cocos (Keeling) Islands to assist a vessel requesting assistance (MV *Velankannimath*, also known as SIEV 143). RCC Australia coordinated the search and rescue effort and assistance was provided by Border Protection Command and merchant vessels transiting through the area.

- **30 Apr 10** - Customs and Border Protection received several phone calls relating to a vessel requesting assistance 125 nautical miles north of Cocos (Keeling) Islands inside the Australian Search and Rescue region. Customs undertook initial actions in response however shortly after RCC Australia accepted coordination of the event and commenced arranging assistance to the vessel. RCC Australia ascertained that the vessel had had no food or water for two days, was drifting and was out of fuel and required help. TH *Symphony* reported that they had responded to the request for assistance and located the vessel, providing fuel, food and water.
- **5 May 10** - After the vessel failed to arrive in the vicinity of its intended destination, AMSA initiated another SAR response. BPC assisted in attempts to communicate with the vessel requesting assistance. BPC's closest patrol vessel was approximately 30 hours from the location of the vessel requesting assistance, due to its geographically remote location. A RAAF AP-3C Orion aircraft were tasked to locate the vessel and five men who had left the vessel to swim to find help.
- **6 May 10** - A disabled vessel was located approximately 160 nautical miles west of Cocos (Keeling) Islands on the evening of Thursday 6 May and four merchant vessels diverted to the area to provide assistance to the people on board.
- 59 passengers from the disabled vessel were rescued by a Russian merchant vessel, MV *Postojna*, and were transferred to Cocos (Keeling) Islands on Sunday 9 May 2010. Five people reported as missing from the vessel are presumed deceased - drowned at sea.

Loss of life: Five adult males.**Post-incident inquiry:** The AFP has conducted an investigation into the five missing people from SIEV 143. Any questions on this matter should be directed to the AFP.

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SIEV 69**Date:** 1 November 2009**Location:** 350 nm north west of Cocos (Keeling) Islands, and inside the Australian Search and Rescue Region.**Incident:**

- **1 Nov 09** - RCC Australia received multiple phone calls from a vessel requesting assistance due to ingress of water, lack of food and lack of drinking water approximately 350 nm North West of Cocos Island. BPC had no surface assets in the area and at the request of RCC Australia, BPC provided Dash-8 and AP-3C Orion aerial surveillance capability to assist in the search and rescue effort. The merchant vessel the MV *LNG Pioneer* and a Taiwanese fishing vessel, the *Kuamgwin*, responded to the distress signal. 27 people were rescued, one body was recovered and approximately 11 people were lost at sea. All survivors and the one recovered deceased person were transferred to Christmas Island by the MV *LNG Pioneer*.

Loss of life: 12 (10 adult males and two juvenile males).**Post-incident inquiry:** A Coronial Inquest is being conducted into the deaths of 12 people from Suspected Irregular Entry Vessel (SIEV) 69. The Western Australian Coroner's office advised it is expected that the inquest will be of short duration. The Australian Maritime Safety Authority (AMSA) is the lead agency for Commonwealth interaction with Western Australian authorities regarding SIEV 69.

A directions hearing was held on 14 September 2012, at which the Coroner indicated the majority of his questions during the inquest would be for AMSA to answer. The formal hearing is scheduled to be held on 22-23 October 2012.

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SIEV 36

Date: 15 April 2009.

Location: In the vicinity of Ashmore Islands, inside the Australian Search and Rescue Region.

Incident:

- **15 Apr 09** - HMAS *Albany* intercepted and boarded SIEV 36 approximately 2 nautical miles south west of Ashmore Islands.
- **16 April 09** - control of SIEV 36 was handed over from HMAS *Albany* to HMAS *Childers*. For the PII, the transfer of control led them to believe that they were being returned to Indonesia something the Australian Defence Force (ADF) never intended. This fact was accepted by the Northern Territory Coroner.
- In response to this belief the PIIs became restless and non-compliant and sabotaged the SIEV's engines. An explosion was caused when one or more passengers deliberately ignited fuel collected in the bilge area below the deck area. The incident resulted in the loss of five lives, multiple casualties, and a significant medical evacuation effort involving Commonwealth and state agencies.

Loss of life: Five adult men.

Post-incident inquiry: The ADF conducted an Inquiry Officer (IO) Report. The IO Report was conducted by Brigadier Don Higgins and was completed by the end of June 2009. 59 recommendations were made, relating to doctrine, policy, procedures and training relevant to boarding operations in general as well as on their application in the boarding and control of SIEV 36. The Northern Territory Coroner also conducted a Coronial Inquest into the incident. The Coroner made findings into the incident but did not give any formal recommendations, referring instead to the IO Report and its 59 recommendations.

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Missing Vessels

Alleged missing vessel: 30 June 2012

Date: On or around 30 June 2012

Location: Off the coast of Indonesia

Incident:

- Australian authorities were first made aware that a vessel might be missing approximately 17 days after relatives and friends of those on board believed it had departed Indonesia for Australia.
- Media has reported that up to 67 people may have been on board.
- Australian government agencies do not have evidence to confirm that a people smuggling vessel carrying up to 67 people departed Indonesia on 31 June – 1 July 2012 but did not arrive in Australia.
- Given the number of enquiries received from a range of sources, and time that has passed with no word from those believed to have travelled on this vessel, we can only assume that the vessel's passengers have been lost at sea
- **11 July 2012** – the Australian Maritime Safety Authority (AMSA) received an enquiry from a person concerned about the fate of family members who were thought to have boarded a vessel in Jakarta on Thursday 28 June destined for Christmas Island.
- Between 16 July and 6 August, AMSA, DIAC and the Australian Federal Police (AFP) received a number of additional enquiries that possibly related to the same vessel and were forwarded to Customs and Border Protection, which coordinated the investigation.
- Each of these enquiries has been analysed by Customs and Border Protection, in consultation with DIAC and AFP.
- Relatives or family members who may be concerned about people who may have been on the vessel should contact the Department of Immigration and Citizenship.
- Any information an individual has about a vessel which may be in distress should be passed immediately to the relevant search and rescue organisation.

Summary of enquiries and actions taken:

- Nine enquiries were received by agencies as follows:

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- AMSA received three enquiries – one each on 11 and 24 July 2012 and 6 August 2012 (all forwarded to DIAC)
- DIAC received 15 enquiries (some forwarded by other agencies) – one each on 11, 16, 18, 19, 24, 26 July 2012 and 1, 6, 9, 10, 16, 23, 26 August 2012, and 12, 17 September 2012 (Note: there were six follow up enquiries to the 26 July enquiry on 3, 15, 16, 21, 22, 28 August 2012)
- AFP received three enquiries – two between 17-22nd July 2012 and one on 24 July 2012

Alleged missing vessel: May 2012

Date: Late-May 2012

Location: Waters between Indonesia and Australia

Incident:

- From June to August 2012, Australian agencies received eight enquiries from three concerned parties regarding a people smuggling vessel that allegedly departed Indonesia in late-May 2012 with around 21 people on board.
- However, the nature and quantity of available information, the relatively few enquiries received, and the fact that these enquiries related to the same individuals, means that Australian government agencies have insufficient information to determine conclusively whether or not this voyage took place.

Summary of enquiries and actions taken:

- The following enquiries were received by agencies from concerned parties regarding the fate of individuals or groups of people thought to be aboard this vessel as follows:
 - DIAC received five enquiries (some forwarded by other agencies) – two on the 18th June 2012, one each on 19, 20 June 2012 and one on 18 August 2012
 - AFP received two enquiries – one each on 27 July 2012 and 16 June 2012
 - SERCO received one enquiry on 18 August 2012
 - ACBPS received one enquiry on 20 June 2012 and we responded to this enquiry on 4 July 2012
- When enquiries of this nature are received, Australian government agencies review their information holdings to determine if the whereabouts of the person or people involved can be confirmed in Australia.

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- In this instance, agencies had no record of the named individuals arriving in Australia on a SIEV.
- Agencies also contacted UNHCR, IOM Indonesia, and Indonesian agencies including: Immigration, Search and Rescue Agency (BASARNAS), Maritime Security Board (BAKORKAMLA), National Police and Navy, in the event the missing people were located in Indonesian.

Alleged missing vessel: November 2010

Date: On or around 13 November 2010

Location: Unknown

Incident:

- An in-depth analysis of information obtained by the AFP suggests that, while it is possible that a vessel may have departed Indonesia for Christmas Island on or around 13 November 2010, the AFP is unable to confirm whether this occurred.
- However, given the time that has passed, and with no word from those believed to have travelled on this vessel, we can only assume that the vessel's passengers have been lost at sea.
- No maritime people smuggling venture identified and monitored by Australian agencies in November 2010 went unaccounted for.
- Customs and Border Protection is aware of a number of enquiries relating to possible missing persons believed to have travelled from Indonesia to Australia on or around 13 November 2010.
- All information and analysis conducted by the AFP has been forwarded to the Indonesian National Police (INP).
- All names of people reported as missing to Australian authorities have also been supplied to the INP. It is possible that additional names of alleged missing persons may continue to be provided to Australian agencies.
- Customs and Border Protection, DIAC and the AFP share all enquires received about potentially missing people smuggling vessels or PIIs. When enquiries are received, agencies review their information holdings to determine whether the subject of the enquiry and their whereabouts can be positively identified.

Post-incident inquiry: No formal inquiry into this incident has occurred. It should be noted a number of enquiries from the public have been made as to the whereabouts of this vessel, resulting in Customs and Border Protection, DIAC and the AFP reviewing information holdings.

Summary of enquiries and actions taken:

- Between 17-20 December 2010, DIAC received three enquiries of potentially missing persons associated with this vessel, through its SIEV 221 Hotline. A fourth enquiry was received by DIAC on 4 January 2011.

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- DIAC forwarded details of all four enquiries to Customs and Border Protection and the AFP. DIAC and the AFP were not able to identify these people, or locate any record of them having arrived in Australia.
- On 12 May 2011, the Australian Federal Police (AFP) received as part of a media enquiry the names of 40 people who were allegedly onboard the vessel. The AFP and DIAC reviewed all information holdings, including open source media reporting, and were unable to determine the whereabouts of the 40 people.
- Four additional names of alleged missing persons were then received through enquiries made to either DIAC or Customs and Border Protection. One of these enquiries was made directly to Customs and Border Protection on 29 July 2011 from a person in Iraq seeking information about her husband who may have been seeking to join a people smuggling vessel to Australia on 7 October 2010 and had not made contact since 15 November 2010. Neither Customs and Border Protection, DIAC or AFP were unable to determine the whereabouts of this person. Customs and Border Protection responded to this enquiry directly on 12 August 2011.
- Most recently, on 20 November 2011, a person that arrived on SIEV 278 claimed during entry interview that his cousin had boarded a vessel on 13 November 2010 that never arrived in Australia. AFP and DIAC reviewed their information holdings and were unable to locate the potential missing person.
- All details of these enquiries were passed on to DIAC and the AFP who reviewed their information holdings and were unable to identify this person, or locate any record of them having arrived in Australia.

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Alleged missing vessel: October 2009**Date:** 3 October 2009**Location:** Unverified location was reported as 17 nautical miles off the coast of Java (200 nautical miles north of Christmas Island) and inside the Indonesian Search and Rescue Region.**Incident:**

- **At 1200hrs AEST** on Saturday 3 October 2009, Customs and Border Protection received classified information from the Australian Embassy (Jakarta) indicating that a vessel was 100 kilometres from Christmas Island and taking on water.
- Partial coordinates were provided with the information and indicated a location of approximately 200 nautical miles from Christmas Island and spanning 3.43 square kilometres. This alternate location was 17 nautical miles off the coast of Java in the Indonesian Search and Rescue Region.
- I am unable to elaborate on the information and its source without prejudicing intelligence sources and methods. I can advise that the information was highly classified, ambiguous, and unverified.
- **At 1210 AEST**, the information, including the partial coordinates, was conveyed to the Border Protection Command (BPC) watch officer in the Australian Maritime Security Operations Centre (AMSOC).
- Following this, AMSOC:
 - o commenced determining the location, and the availability, fuel and logistics status of BPC assets in collaboration with Defence Joint Task Force 639 (Darwin) that could respond to the vessel in distress.
 - o contacted Australian Customs Vessel Oceanic Viking and determined its location was approximately 360 nautical miles south east of the partial coordinate.
 - o briefed ACV Oceanic Viking crew on the information received.
 - o assessed the capacity of HMAS Albany, which was at that time proceeding to the northern approaches of Christmas Island, to intercept the reported vessel noting that this was one of the two possible alternate locations according to the information received.
 - o initiated assessments of the course most likely to locate the vessel, given the paucity of information regarding its status, location, heading and speed.
- Throughout this time, Customs and Border Protection intelligence staff assessed the information's credibility and reliability, and whether it bore any relationship to expected SIEV arrivals at that time.

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- **At 1319 AEST** ACV Oceanic Viking was directed to the area of the partial coordinates, 200 nautical miles from Christmas Island.
- HMAS Albany was directed to remain on task in the vicinity of Christmas Island, noting that this was the possible alternate location, according to the information received.
- Throughout this time, AMSOC was in communication with Defence Joint Task Force 639 (Darwin) to determine the availability of maritime surveillance aircraft to respond to this situation.
- **At 1322 AEST** Commander Border Protection Command (COMBPC) and the on-call BPC Director discussed the status of the operational response to the information.
- As a result of this discussion, it was decided that the on-call BPC Director was to notify the Australian Maritime Safety Authority (AMSA) of a potential vessel in distress, once approval for release of the information from the originating agency had been received.
- Subsequently, the on-call BPC Director contacted the BPC on-call intelligence officer to formally progress this request via the secure systems used to liaise with the originating agency.
- According to the recollections of Customs and Border Protection officers, throughout this time staff sought further information from the originating agency regarding the location of the vessel and the nature of its distress to inform the planning of any operational response.
- During this time, the originating agency sought further details and to clarify the original information received.
- **At 1435 AEST** the BPC on-call intelligence analyst, following up telephone discussions, dispatched a secure communication to the originating agency requesting positional data on the potential vessel in distress at an unclassified level, for dissemination to AMSA.
- **At 1449 AEST** the originating agency approved disclosure of the partial coordinates at an unclassified level.
- **By 1533 AEST** the information and unclassified set of words were settled by BPC officers and the approved text, including the partial coordinate, was emailed to AMSA.
- **At 1548 AEST** AMSOC received an information copy of advice from AMSA to the Indonesian SAR authority (BASARNAS) requesting it assume coordination of any SAR response.
- **At 1840 AEST** a RAAF maritime patrol aircraft departed Darwin for surveillance tasking in response to the possible vessel in distress.
- **At 1945 AEST** AMSOC was advised by AMSA that BASARNAS had investigated the reports of the vessel in distress and did not consider that there was a SAR incident at the reported location.
- **At 1957 AEST** Customs and Border Protection received information from the Australian Embassy, Jakarta that the vessel earlier reported as possibly being in distress was no longer in distress.

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- **From 2230-0100 AEST** the RAAF maritime patrol aircraft surveilled a designated search area from the north of Christmas Island to a position corresponding to the partial coordinate. No vessels matching the report of the vessel in distress were sighted. The aircraft spent 2 hours and 5 minutes in the designated search area and covered 12, 794 square nautical miles.
- Considerations: A review of Customs and Border Protection's records, supported by officer recollections, indicates that officers faced a range of complex issues requiring consideration in the time between receiving the classified information and disseminating an approved rendering of it to AMSA. These issues included:
 - o the ambiguous nature of the information concerning the vessel's location, and the absence of additional information to provide clarity or verification.
 - o the large area (3.43 sq km) to which the partial coordinates referred to.
 - o the appropriate posturing of Defence and BPC assets to respond to a possible SAR or direct arrival scenario, based on ambiguous information.
 - o the appropriate reporting and response protocol if the vessel was located in the Indonesian Territorial Sea / Indonesian SAR Region.
 - o the procedure to be adopted to obtain approval to release highly classified information in an unclassified form to AMSA.
- Customs and Border Protection's response to the information received on 3 October 2009 should be considered with reference to the contemporaneous operating environment.
 - o At that time, Customs and Border Protection had no experience in managing SIEV Safety of Life at Sea (SOLAS) or SAR situations where ambiguous and unverified classified information related to a vessel in the territorial sea of another nation.
 - o Procedures for managing unfamiliar SOLAS situations, such as attendance of appropriately cleared AMSA officers within the Australian Maritime Security Operations Centre (AMSOC), were not yet developed.
 - o These circumstances were unfamiliar to officers from all agencies involved. Additionally, agencies were procedurally unprepared for these circumstances.

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- Customs and Border Protection's response to the information received on 3 October 2009 was formative in terms of shaping the protocols in place today.

Post-incident inquiry: No formal inquiry was undertaken, however since 2009 Customs and Border Protection has implemented a number of measures to ensure classified information that may relate to potential SIEV SOLAS or SAR situations is passed in a timely manner to operational response agencies. [See 'SOLAS procedures' above]

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FREEDOM OF INFORMATION REQUESTS

- Since the May 2012 Budget Estimates, Customs and Border Protection has received five Freedom of Information (FOI) requests as follows:
 - 30 May 2012 – in relation to counter-people smuggling communication activities in Indonesia and Malaysia [Documents released 20 September 2012];
 - 26 June 2012 – in relation to any change in the modus operandi of people smuggling ventures from Indonesia, specifically false distress calls to Australian authorities;
 - 27 June 2012 – in relation to Indonesia's capacity to respond to SIEVs in distress;
 - 7 August 2012 - in relation to a review of Australian agencies management of Safety of Life at Sea situations beyond Australia's Search and Rescue zone; and
 - 8 August 2012 - in relation to a SIEV believed to have gone missing on its way to Australia from Indonesia on 30 June 2012.
 - **NOTE: The first four FOI requests have been processed and the fifth is expected to be finalised prior to Supplementary Budget Estimates.**
- In addition to the above requests, on 8 August 2012 Customs and Border Protection officials at post in Jakarta received an enquiry similar to the FOI request of 30 May 2012 in relation to counter-people smuggling communication activities. The enquirer was advised that the documents were subject to a similar FOI enquiry and would soon be available on the FOI Disclosure Log on the Customs and Border Protection website. **[These documents are now available on the website].**
- In addition to the above five requests, we have responded to three prior FOI requests as follows:

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- 8 March 2012 – in relation to the December 2011 Prigi Trenggalek boat incident. [Documents released on 29 June 2012].
- 13 March 2012 – in relation to missing and foundered vessels between October 2009 and February 2011. [Documents released on 28 May 2012].
- 11 April 2012 – in relation to the asylum seeker boat in trouble in waters between Indonesia and Australia from 8 – 11 April 2012 (the MV *Hermia* incident). [Documents released on 29 June 2012].
- A continuing high level of media interest in missing and foundered vessels and SOLAS-related incidents will likely result in questions pertaining to the timeliness and adequacy of our operational response to these incidents.
 - Tony Kevin's latest book, *Reluctant Rescuers* (self-published, June 2012) may stimulate additional questioning regarding the efficacy of Australia's border protection system and the intelligence system underpinning it.

Natalie O'Brien article – 7 October 2012

- In an article published in the Sun Herald on 7 October 2012 by Natalie O'Brien titled "Slow response to distress calls from asylum boat", Ms O'Brien stated that the 'Australian Customs and Border Protection Service has refused FOI requests from the Sun Herald to release documents'. This statement is correct, and FOI legislation permits this in certain circumstances.
- The two occasions referred to by Ms O'Brien in the article are in relation to her requests for documents relating to Indonesia's capacity to respond to distress calls, and documents relating to the capsized vessel of 21 June 12 (AUSSAR 2012/4106).
- **Capacity to respond:** A decision was issued to Ms O'Brien in relation to her request on Indonesia's capacity to respond exempting the two documents in full from release as, the disclosed of the documents:

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- would or could reasonably be expected to cause damage to the Commonwealth's international relations, and
 - would divulge information communicated in confidence to the Commonwealth by a foreign government, agency of a foreign government or an international organisation.
- In this respect, the article is correct in that we have refused to release the two documents that fell within scope, though the exemption claimed has not been explained precisely.
- **21 Jun 12 vessel (SAR 4106):** Customs and Border Protection were able to negotiate and narrow the scope of Ms O'Brien's request for documents relating to the capsized vessel of 21 Jun 12 to include the WoG TPs and a BPC Operational Chronology. A decision was issued to Ms O'Brien releasing part of the WoG TPs, and claiming an exemption over the BPC Operational Chronology on the basis that disclosure of the chronology would prejudice the conduct of ongoing investigations/enquiries.

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Control table

	Internal Clearance	External Clearance
Policy Issues	COMBPC ND I&T (where appropriate)	AMSA
Resources	COMBPC ND MOS	Defence
Reviews/Reports	COMBPC Review Team Brennan Fraser-Bell	
Cocos	COMBPC ND C&E	
Significant SAR/SOLAS	COMBPC ND I&T (where appropriate)	AMSA
Missing Vessels	NDI&T COMBPC	
FOI	ND I&T COMBPC	

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