

[9.39 a.m.]

DAVIDSON, Mr Clive, Chief Executive Officer, Australian Maritime Safety Authority

CHAIR—Our first witness today is Mr Clive Davidson. Do you have any comments to make by way of an opening statement?

Mr Davidson—I have none.

CHAIR—Are you happy if we now, therefore, proceed to questions?

Mr Davidson—Yes.

Senator JACINTA COLLINS—Mr Davidson, I had not actually sought for you to appear today, but I will take the opportunity to go through with you the questions on notice that you answered, in relation to file notes referring to communications with the RCC. That was you; you are the relevant person to raise this with?

Mr Davidson—Correct.

CHAIR—These are answers given to questions on notice that have not, as I understand it, been released. Is that right?

Senator JACINTA COLLINS—I believe perhaps not. It is unclear whether the clearing process we went through last week in relation to the Defence documentation also incorporated these. Perhaps I can clarify one point, Mr Davidson: did these answers to questions on notice go through the minister's office?

Mr Davidson—No, they are answers from me to the committee.

Senator JACINTA COLLINS—They have not been through the minister's office?

Mr Davidson—They have.

Senator JACINTA COLLINS—They have been through the minister's office?

CHAIR—Before we proceed, can I put this question: does the committee resolve to release this material? There being no objection, it is so agreed. You may proceed, Senator Collins.

Senator JACINTA COLLINS—Mr Davidson, I would like to take you to the last file note that we were given, I think, through the secretariat. We sought some clarification so that we could read the words. Perhaps I will take you through what I understand this file note to read, and you can confirm that for me firstly. There is a call; was it a telephone call between Headquarters Australian Theatre, Defence, and the RCC on 22 October at 5.46? Is that a.m.?

Mr Davidson—That would be UTC time.

Senator JACINTA COLLINS—What does UTC time convert to?

Mr Davidson—About nine hours behind current Eastern Standard Time.

Senator JACINTA COLLINS—Is the basis of this file note a telephone conversation?

Mr Davidson—Yes, it is.

Senator JACINTA COLLINS—Defence rings the RCC and says, ‘Just got your fax. What is your source?’ Now, that fax is?

Mr Davidson—The fax is the one that appears at the second page of the documents that were released.

Senator JACINTA COLLINS—This is the fax advice to BASARNAS re overdue SIEV?

Mr Davidson—No, it is the fax from Coastwatch to AusSAR. Sorry, you are correct. I apologise; you are right.

Senator JACINTA COLLINS—I am right.

Mr Davidson—You are right. It is the fax just prior to that.

Senator JACINTA COLLINS—Just before we go back to that file note, what does ‘Marabahaya Marabahaya Marabahaya’ mean?

Mr Davidson—‘Attention Attention Attention’.

Senator JACINTA COLLINS—So this fax that Defence is about to conduct this telephone conversation about indicates that—and I quote:

RCC Australia has been advised that a vessel carrying an unknown number of persons departed the west coast of Java on Friday 19 October 2001 transiting the Sunda Straits heading for Christmas Island. This vessel has not yet arrived and concerns have been expressed for its safety.

Passed for information and action as considered necessary.

Defence then talks back to the RCC in this phone conversation, saying:

Just got your fax. What is your source?

The RCC says Coastwatch is the source.

Mr Davidson—That is correct.

Senator JACINTA COLLINS—Defence then says—I am not sure what the ‘R’ here refers to, before we get to the content of that next phrase.

Mr Davidson—‘Response’.

Senator JACINTA COLLINS—Okay. Defence says:

We already have a large search for this vessel for surveillance matters.

The next comment is: ‘Search and rescue?’

Mr Davidson—Yes.

Senator JACINTA COLLINS—Defence then says back:

No. Only surveillance.

Mr Davidson—That is correct, yes.

Senator JACINTA COLLINS—And then there is just an ‘R’ at the bottom. I wonder if you can explain to me what that ‘R’ at the bottom means.

Mr Davidson—It would have been a response, which would have been ‘Thanks’ or ‘Goodbye’.

Senator JACINTA COLLINS—It is a closing-off?

Mr Davidson—Yes. It just says the ‘end of the transmission.’ It says they responded to that in some fashion, but it was not material in terms of anything.

Senator JACINTA COLLINS—Are there any further communications relevant to AMSA that are related to this incident?

Mr Davidson—That is the sum total of our file on the matter.

Senator JACINTA COLLINS—This is the last of it?

Mr Davidson—Yes.

Senator JACINTA COLLINS—So even though you issued a warning and Defence came back to you and said, ‘We are conducting a large search for this vessel but only for surveillance matters,’ no further action was taken regarding the expressed concern for the safety of the people on board the vessel from AMSA’s perspective?

Mr Davidson—That is correct, yes.

Senator JACINTA COLLINS—From what I can gather, the main reason you are here this morning—and in the light of that communication I think this issue is even more important—is

to give you an opportunity to clarify an apparent conflict between your evidence and the evidence of Admiral Bonser of Coastwatch. Let me take you through that. The fundamental issue here is: why did AusSAR not issue a broadcast alert to shipping on 22 October once advised by Coastwatch that SIEVX was assessed as probably overdue? The material we have from your last appearance says that normally you would not issue a broadcast in the absence of a specific known distress alert—that is on the *Hansard*, reference 1372. But we need to understand why Bonser, when he appeared before us, indicated that his understanding was that a broadcast to shipping can be issued once an assessment has been made that a vessel is overdue, and that could be not only in cases where specific distress signals have been received. Indeed, that was the point of Coastwatch informing AusSAR that the vessel was overdue on 22 October. Could you address that point for us, please?

Mr Davidson—To the best that I can, Senator. I think the circumstance is that there is no certainty that AMSA would broadcast to shipping, particularly when the nature of the information coming from Coastwatch was very small and unclear. In the follow-up phone call coming from Defence there was a suggestion that they in fact had a large surveillance exercise going, presumably to locate the vessel. The specific question was asked: was there a search and rescue? The answer was no. On that basis, since the matter had been brought to our attention by Coastwatch, since within Coastwatch the sense was that the RCC ought to be advised, and since the vessel was believed to be in the Indonesian search and rescue region, we felt that, in the same way, we ought to immediately convey that information to our counterparts in BASARNAS. But at that stage there was no knowledge of location of the vessel or whether, indeed, it had departed; and there was no indication that it was in distress or likely to be in distress. The sum total of our information was that contained in the fax from Coastwatch and it said, ‘A vessel carrying an unknown number’ of potential illegal immigrants.

Senator JACINTA COLLINS—Can you take me to that.

Mr Davidson—In the material that was tendered in response to the questions there is a telephone conference note, and the second page is the fax received from Coastwatch.

Senator JACINTA COLLINS—Let us go to this very first one because I want to understand the difference between what information was before Coastwatch and what was identified as already residing elsewhere in the system. The first page here is advice from Coastwatch.

Mr Davidson—There was a telephone call from Coastwatch to the Rescue Coordination Centre in AMSA, which said:

Coastwatch intel wants me to advise you of a suspected over due SIEV. (gave contact of manager).

The response: ‘Please fax across.’ The reply to that was ‘OK’. That was at UTC 4.37 and it came across subsequently to that. It is on the next page.

Senator JACINTA COLLINS—Where it says ‘A number of sources are reporting ...’.

Mr Davidson—And that is the sum total of AMSA’s information on the nature of that vessel.

Senator JACINTA COLLINS—It says ‘By our calculations this vessel is now overdue’. Where does the reference to concerns for safety come from? What then goes into the warning is that concerns had been expressed for its safety.

Mr Davidson—I will go to the next telephone conference, which was from the Rescue Coordination Centre to Coastwatch. It says:

Touching base to ensure Defence are aware and that this area is out of our SRR—

that is the search and rescue region. The answer from Coastwatch said:

Yes—realise that—ensuring you are aware and we will keep you in the loop over the coming days.

The response was:

Can we use your exact words in a fax to BASARNAS (SAR colleagues Indonesia)—

that is search and rescue colleagues in Indonesia. The reply from Coastwatch was:

Yes—exact words.

RCC said:

OK, thank you.

The next one is a file note, which is a calculation of the approximate steaming time of a vessel at four knots, five knots and six knots to cover 300 nautical miles. In other words, it was confirming, in our minds, that it was potentially overdue if it had departed and was indeed steaming towards Christmas Island.

Senator JACINTA COLLINS—So the express safety concern was based on Coastwatch’s calculations that, on steaming times, it was overdue?

Mr Davidson—I think the generation of concerns expressed for its safety would have been the sense that our people would have got from having been informed by Coastwatch in the manner in which they had been.

Senator JACINTA COLLINS—But without detail about—

Mr Davidson—Having absolutely no—I suspect that it was adding colour, probably from conversations or just from the sense that we had been informed and were passing it to BASARNAS.

Senator JACINTA COLLINS—This is where we need to go back to the question of the relevance of whether it was in the Australian search and rescue zone as compared with Indonesia’s. My impression—and correct me if I am wrong—is that Coastwatch often conducts search and rescue in the Indonesian search and rescue zone.

Mr Davidson—Coastwatch conducts surveillance; I would not say often. In fact, from memory, I would be hard-pressed to recall an activity in which they were conducting search and rescue. In the evidence I gave the last time, I explained that the first party anywhere in the world that becomes aware of a distress situation must take all steps to attempt to get some sort of rescue in place. At the same time, they take steps to hand that off to the competent authority that has responsibility for that search and rescue region. In this particular case, there was no evidence of a distress. There was a suggestion that a vessel may have departed and that, on calculations, it was overdue, if it had indeed departed. Since Coastwatch felt it was important that that information be provided to us, we equally felt it was important that it should be provided to BASARNAS. That, in essence, is the beginning and the end of it.

Senator JACINTA COLLINS—So when the *Palapa* was identified in the Indonesian search and rescue zone, it was solely for surveillance purposes, was it?

Mr Davidson—It was under surveillance from the Coastwatch aircraft, yes.

Senator JACINTA COLLINS—And, similarly, SIEV4—was that solely for surveillance purposes?

Mr Davidson—I am not familiar with that one.

Senator JACINTA COLLINS—By the time we were in SIEV4, Coastwatch had been moved away and Defence was conducting surveillance; that is right. If we go to the final telephone conversation, why would the question be asked as to whether Defence was searching for the vessel solely for surveillance matters?

Mr Davidson—It was asked because our responsibility is exclusively about search and rescue, and it is quite appropriate that the people responsible for search and rescue would confirm with the Defence people that there was no search and rescue issue.

Senator JACINTA COLLINS—Just go back a moment: you indicated a moment ago that one of the maritime principles, for want of a better expression, is that it is the responsibility of any party that is out there to assist, if it becomes aware of distress, in search and rescue. This conversation confirms that Defence are conducting a large search for this vessel but at the same time say, ‘But we are not concerned about search and rescue.’ Why would that be?

Mr Davidson—I can only assume that, at the time, they were not concerned about it for search and rescue purposes.

Senator JACINTA COLLINS—Why weren’t they concerned? You had just issued a warning.

Mr Davidson—No, we provided the information that had been given to us by Coastwatch to BASARNAS. It was simply advising them in the terms that we had, essentially, received from Coastwatch. We had received the information and it was appropriate that the adjacent search and rescue authority also receive it.

Senator JACINTA COLLINS—As I understand the way BASARNAS operates, it often calls on Australia to conduct its search and rescue for it. That is what happened with the *Pelapa*.

Mr Davidson—That is not correct.

Senator JACINTA COLLINS—In the case of the *Pelapa*, Australian aerial surveillance was not looking for BASARNAS?

Mr Davidson—In the case of the *Pelapa*, Coastwatch were conducting surveillance for potentially illegal immigrant vessels, and they located one.

Senator JACINTA COLLINS—They were not performing any search and rescue role at the request of Indonesian authorities?

Mr Davidson—No.

Senator JACINTA COLLINS—And that never occurs, to your understanding?

Mr Davidson—No, it did not.

Senator JACINTA COLLINS—No, I am asking whether it ever occurs, to your understanding.

Mr Davidson—I am not aware of any circumstance where BASARNAS has requested us to conduct search and rescue events on their behalf.

Senator JACINTA COLLINS—Okay. I still want to go back to your earlier point, which was this: if, in terms of maritime standards, you become aware that there is a potential distress situation and you are there, it is your responsibility to assist with search and rescue. Is that the case?

Mr Davidson—Yes, that is the case.

Senator JACINTA COLLINS—If we look at this last conversation from Headquarters Australian Theatre, they know because they have received a copy of your fax to BASARNAS saying that there is a potential distress situation in the zone where they are surveilling. When RCC then says to them, ‘Search and rescue,’ they say, ‘No, only surveillance,’ and nothing else gets done.

Mr Davidson—The true circumstance is that the Headquarters Australian Theatre had precisely the same information that was conveyed to AMSA in that fax that came from Coastwatch. When they read the fax from us to BASARNAS they wanted to confirm that we were talking about the same vessel and that the language that was in essence added to that, which was, ‘concerns have been expressed for its safety,’ was introducing other knowledge that someone else had injected into the issue. So Defence were trying to confirm whether there was something different or more knowledge that they did not have. That conversation then took

place and it confirmed that we had generated that fax to BASARNAS based on only the knowledge that was in the Coastwatch fax and—

Senator JACINTA COLLINS—Where is that conversation?

Mr Davidson—It is the final conversation from Headquarters Australian Theatre: ‘Just got your fax. What is your source?’ We said, ‘Coastwatch.’ The basis of that was to confirm that, indeed, everyone was dealing with the same situation and the same vessels. They were just trying to confirm whether, in some process, some more information had not been injected that led to the concern for its safety. I would say that the colour of that has been injected either from conversations with Coastwatch or by people within the Rescue Coordination Centre. There was no information that would suggest that that was the case, other than its condition.

Senator JACINTA COLLINS—What you have in part confirmed is that AusSAR was not aware of the detail of the AFP report, but Defence was.

Mr Davidson—That is all we had in that—

Senator JACINTA COLLINS—According to our evidence from Bonser, the AFP information that went to Defence that described further the issue about concern was not received by AusSAR.

Mr Davidson—That is correct. It was not.

Senator JACINTA COLLINS—The remaining question I have about AusSAR’s role here is that when you reached the decision not to issue an alert to shipping, which Bonser seems to indicate was the purpose for advising you in the first place, why was the point not made at the time that there was insufficient information to warrant such an alert and Coastwatch was not asked to provide further information if that were necessary?

Mr Davidson—With due respect to Admiral Bonser’s knowledge of search and rescue, the actual processes that take place within the search and rescue centre are matters of judgment within the centre, and the conclusion that my people drew was that it did not warrant a broadcast to shipping. That is a judgment that they have to make in each circumstance. There is general guidance in various manuals about the various phases of a SAR—a search and rescue—and, in the technical parlance, this is the uncertainty phase: there is insufficient information, a concern has been expressed and then people search for collateral or confirming information that warrants some action being taken. If we were to send a broadcast out to shipping on every overdue notice we get, there would be a continuous, unending stream of overdue notices out to shipping, because people are overdue every single day.

Senator JACINTA COLLINS—What concerns me is that we do not see any sign of the search for further information. We do not see AusSAR going back to Coastwatch and saying, ‘There is not enough information here. What more have you got?’ We do not hear of AusSAR going back to Coastwatch and saying, ‘Fine. Thank you. But there is not enough concern to warrant what you seem to anticipate would occur.’ We do not see AusSAR saying to Defence, ‘What else is there?’ We just see a conversation with Defence, where Defence says, ‘We are conducting a large search.’

Mr Davidson—I think you need to set it in the context of the resources that were available at the time and that would have been deployed to act if there was a search and rescue event. Quite frankly, the nature of the information from Coastwatch was hardly alarmist and hardly raised a high degree of concern. That was confirmed in a conversation with the Headquarters Australian Theatre, where the sense of the conversation and, indeed, the results of that were essentially that they were out there looking for it, so if there was a situation they had the assets on the ground and in the air. I am not terribly sure what you are expecting the search and rescue centre to have done over and above that. We confirmed, in terms of the calculations for a vessel travelling at the various speeds, that it was indeed overdue. It was passed to us from Coastwatch and therefore it was appropriate that we pass that on to BASARNAS. As Coastwatch obviously felt there was sufficient reason for us to be pre-alerted, we should pre-alert BASARNAS in exactly the same fashion, because it was in their search and rescue region.

Senator BRANDIS—Are you quite satisfied that in its assessment of this vessel your agency treated this vessel in the same way that it would treat any other vessel? In other words, were the operational procedures of your agency applied in this case in the same way as they would have been applied in any other case?

Mr Davidson—Yes, I am, Senator.

Senator JACINTA COLLINS—Going back to the last communication, I want to understand what confidence AusSAR received from this final communication. As you have said, this was the end of the matter as far as you were concerned once you spoke to Defence. You spoke to Defence and they said:

We already have a large search for this vessel for surveillance matters.

Would AusSAR take that to mean that they were looking specifically for this vessel or that they would expect to pick up this vessel in their routine surveillance?

Mr Davidson—It was taken to mean that they were specifically looking for that vessel.

Senator JACINTA COLLINS—Would you expect that, in line with your earlier comment, if Defence is in the area where a potential distress alert has been issued, then search and rescue is also their responsibility?

Mr Davidson—Yes.

Senator JACINTA COLLINS—Thank you. That concludes my questions.

Senator FAULKNER—I have a question on another matter. Thank you for answering the questions in relation to conversations you had with Mr Moore-Wilton, at least in part. Did Mr Moore-Wilton have other contact with AMSA apart from you in the period from 26 August through to early September?

Mr Davidson—No, he did not.

Senator FAULKNER—So those two conversations, one on the morning of Wednesday, 29 August and one on 4 September are the only conversations that Mr Moore-Wilton had with officers of AMSA?

Mr Davidson—Yes, to the best of my knowledge.

Senator FAULKNER—I am sorry, you have just qualified—

Mr Davidson—He did not have any other conversations.

Senator FAULKNER—Thank you. I did ask you about the content of those particular conversations. I will just turn up the answer to the question on notice that you provided. You said:

... neither of which had an impact on AMSA's operation.

My question is: could you outline those contacts for the benefit of the committee, please? Your answer to that is that they did not have any impact on AMSA's operations. With due respect, that is not really an answer to my question. So what were they about?

Mr Davidson—To the best of my recollection, the phone call of 29 August at about 9.30-odd in the morning resulted in a fax that was sent to the *Tampa* at 9.25 a.m. on that day.

Senator FAULKNER—And that was about?

Mr Davidson—That was advising the *Tampa* that helicopters were being readied, and a range of issues.

Senator FAULKNER—Have you made a copy of that fax available to this committee?

Mr Davidson—The *Tampa* timeline material has that fax. It said:

... sent message to *Tampa* forbidding vessel to enter Australian territorial waters. *Tampa* was advised that helicopter being readied to effect transfer of doctor and medical supplies today.

Senator FAULKNER—So would it be possible to get a copy of the original fax, the original note?

Mr Davidson—Yes.

Senator FAULKNER—Thank you very much, if you could take that on notice. And the second conversation of 4 September?

Mr Davidson—To the best of my recollection, it concerned newspaper articles that were being circulated at the time.

Senator FAULKNER—Could you give me more detail, please.

Mr Davidson—I honestly don't recall.

Senator FAULKNER—Through this period, you only had two conversations with Mr Moore-Wilton. That is right, isn't it?

Mr Davidson—Yes.

Senator FAULKNER—How often did you have a contact with the head of the Department of Prime Minister and Cabinet? Not that often, obviously.

Mr Davidson—Infrequently.

Senator FAULKNER—What was the purpose of a call on 4 September—what newspaper articles? What was the concern?

Mr Davidson—I believe that he had been contacted by a newspaper about some matter concerning AMSA and he wanted to confirm whether we had been talking with the press.

Senator FAULKNER—But what was the matter? Surely you remember, because you do not have too many conversations with Mr Moore-Wilton. What were you being accused of leaking?

Mr Davidson—To the best of my recollection, I think there had been an article in the press—I think it was the *Weekend Australian*—which was a relatively long piece that made various statements that included references to Mr Max Moore-Wilton. He wanted to know if we had been the source of that, if we had indeed talked to the press at any stage. I confirmed that no conversation had taken place with the press.

Senator FAULKNER—So Mr Moore-Wilton initiated both those calls?

Mr Davidson—He did, yes.

Senator FAULKNER—Did you take a file note of either of those calls?

Mr Davidson—No.

Senator FAULKNER—You have answered my question in relation to Ms Philippa Godwin and her conversations with AMSA. In question No. 6, I asked about Ms Godwin, and you have indicated that none of the two or three conversations with Ms Godwin on the evening of 26 August 2001 had an impact on AMSA's operations either, which is helpful. Could you tell me what they were about, please?

Mr Davidson—Essentially, it was exchanging information with Immigration on what my understanding was of the intent of the *Tampa* at that time and what Immigration's understanding was. Both the Rescue Coordination Centre and officers from Immigration were having conversations with the vessel separately, and we were merely exchanging the information that we had subsequent to those conversations.

Senator FAULKNER—In this period did you have any contact from any other senior members of the Department of the Prime Minister and Cabinet?

Mr Davidson—I need to refresh my memory on that.

Senator FAULKNER—Could you take it on notice to indicate who the contact was from and what the nature of the contact was. Also, could you do the same in relation to any senior members of DIMIA and DFAT and any other relevant members of the precursor to the People Smuggling Task Force, just so that we do not delay the committee. You may care to check your records; I appreciate that.

Mr Davidson—Yes.

Senator FAULKNER—I am interested not just in relation to you but in relation to any others. Obviously, on a Sunday evening when you are on duty I do accept, of course, that at the end of the day the buck stops with you as far as AMSA is concerned, but there may be other senior members of your organisation who may have been contacted at that time. If they were, the detail of such contact and the nature of such contact would be appreciated. I had the chance for a very cursory examination of the time line. At any stage was the captain of the *Tampa*, Captain Rinnan, given permission by AMSA to go to Christmas Island?

Mr Davidson—No, he was not.

Senator FAULKNER—Thank you.

CHAIR—We seem to have concluded our questions to you, Mr Davidson. I do not think it is likely that you will receive a recall, so thank you very much.

Proceedings suspended from 10.15 a.m. to 10.35 a.m.