

**Missing Suspected Irregular Entry Vessel****Issues**

Media reported on 18 January that an Afghan community leader in Australia claimed that a boat carrying 105 Afghan persons seeking to enter Australia had left Indonesia on 2 October 2009 and had not arrived. Several of the media reports carried the comment that Australian Government agencies had no knowledge of such a boat.

**Talking points**

- I am aware of media reports on 18 January that an Afghan community leader in Australia claimed that a boat carrying 105 Afghan persons seeking to enter Australia had left Indonesia on 2 October 2009 and had not arrived.
- I note that several of the media reports carried the comment that Australian Government agencies had no knowledge of such a boat.
- At the time of the reported incident Australian Government agencies were working with overseas partners to monitor a number of Potential Irregular Immigrant ventures to Australia. The information available on these ventures did not definitively indicate points of departure or arrival for vessels, nor potential departure or arrival times.
- Nevertheless, Australian agencies acted on information received on 3 October that indicated a boat, possibly en route to Christmas Island, was in distress. Although the location of this vessel was unclear, it appeared to be in the Indonesian Search and Rescue Region.
- Australian agencies passed this information on to their Indonesian partners. The relevant Indonesian authority (BASARNAS) advised on 3 October that it was unable to identify a vessel in distress in the relevant area. Subsequent surveillance activities that day by Border Protection Command did not detect a vessel in distress.
- Following further information that the vessel was no longer in distress late on 3 October, Border Protection Command assets continued to monitor the Christmas Island approaches. They did not detect a vessel fitting that description in the subsequent days and Australian Government agencies received no further information on the vessel in October.

- In November, Australian agencies began receiving reports of people who had allegedly departed Indonesia in October, on a vessel that had not arrived in Australia. Checks on Christmas Island and with international organisations overseas have failed to identify these individuals.
- We do not know for certain the fate of the vessel that was potentially targeting Christmas Island. We hope that it turned back to Indonesia.
- The circumstances of this case demonstrate clearly that the Government must continue its efforts to deter, disrupt and detect maritime people smuggling ventures – ventures that often see vulnerable people put on unsafe vessels for the long and hazardous journey to Australia.

#### **IF NEEDED**

- Once the likely location of the vessel was determined, Australian authorities requested that the Indonesian search and rescue authorities assume responsibility for coordinating actions as the location was in their Search and Rescue Region.
- The Indonesian authorities accepted responsibility and advised later on 3 October that no search and rescue situation existed in the advised location.

#### **IF ASKED (Response to community concerns)**

- A framework is in place to ensure that community concerns regarding possible missing vessels, believed to be linked to people smuggling, are dealt with responsively.
- All information received by agencies regarding possible missing vessels is communicated to a central point within Customs and Border Protection. This in turn enables whole-of-government consideration and informs the government's response to that information.
- Customs and Border Protection, including Border Protection Command, have long standing arrangements with Australian Maritime Safety Authority (AMSA). Where there is information to suggest that a venture may possibly be in distress, such information is referred to AMSA as the competent agency to undertake search and rescue activities as AMSA consider appropriate.
- With regards to the possible missing vessel of 02 October 2009, I am advised the Department of Immigration and Citizenship (DIAC) has interviewed community members that contacted the agency regarding the vessel. I understand DIAC subsequently made inquiries to determine whether their relatives were already in Australia.

- I further understand DIAC advised the members of the community that their relatives were not in Australia and have implemented a mechanism so, should relatives arrive in Australia, the relatives will be advised that a community member holds concerns for their safety. I refer you to DIAC should you seek further detail on activity undertaken by that agency.
- Customs and Border Protection has received an enquiry from a concerned community member. In its response, Customs and Border Protection requested that if the community member receives more information that may help us to locate the possible missing vessel or those on board to provide it via the Customs and Border Protection Hotline as soon as possible.

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05 February 2010

## Background

At the time of the reported disappearance of the boat in October 2009, Australian agencies were working with Indonesian partners to identify and disrupt several Potential Irregular Immigrant ventures. This included the venture that has become known as the Merak boat – the vessel carrying 255 Sri Lankans intercepted by Indonesia authorities in early October 2009.

Intelligence reporting on potential ventures at the time came from multiple sources, but was limited in nature, often incomplete and with little corroboration of the pieces of information available. The reporting was not often definitive on points of departure or arrival for vessels, nor on potential departure or arrival times.

Consequently, agencies had a quite confused picture of potential ventures being mounted from Indonesia. It was in this context that reports were received of a vessel in distress. The nature of the information received did not allow agencies to form a definitive view of where the distress situation may have been. At one point there were three potential locations reported where the vessel may have been in distress, in difficulty or had simply lost its way.

One piece of information on 3 October indicated a boat in distress which appeared to have Christmas Island as its intended arrival point. The location of this vessel was unclear, however, it appeared to be in the Indonesian Search and Rescue Region.

As the information developed, it became clear that there may have been a safety of life at sea (SOLAS) situation. The nearest Australian Government vessel was some 360 nautical miles from the likely location. Once the Suspected Irregular Entry Vessel's (SIEV) location was clearer, Border Protection Command provided advice on the situation to the Australian Maritime Safety Authority. This occurred within four hours of the initial report of distress.

The Australian Maritime Safety Authority immediately passed the likely location information to its Indonesian counterpart BASARNAS requesting that it assume coordination for any search and rescue.

BASARNAS reported back the same day that it had coordinated actions in the area with the Indonesian navy and with the Indonesian Coastal Radio Station and that there was no distress incident in the location provided.

Concurrently with the Indonesian action to mount a search and rescue response, Border Protection Command deployed a surveillance aircraft to monitor maritime activity along the likely track of the vessel. Despite indications late on 3 October that the vessel was again underway, the Border Protection Command surveillance activities (both airborne and surface) did not detect a vessel of interest that day – nor subsequent days.

Potentially relevant information received between 5 and 10 October was again inconclusive on the status of the venture and the intended arrival point. However, the Australian Federal Police passed information concerning the vessel to Indonesian partners to assist with locating it.

There was no further information received on the suspect vessel targeting Christmas Island in the month of October. Agencies continued to watch for the suspect vessel until 29 October when the decision was taken to cease active monitoring of it, as a period of over three weeks would have been ample time for the vessel to make its way to Christmas Island.

Starting in November and continuing into December, the Department of Immigration and Citizenship was approached by individuals claiming to know persons who had been on a vessel that had departed Indonesia in early October and had not arrived in Australia. The Department undertook checks at Christmas Island and through Posts overseas to attempt to determine whether the named individuals were being processed on Christmas Island or were still overseas. These checks were not able to identify the named individuals.

In addition, the Australian Federal Police received information in early December suggesting that a vessel had not arrived. Once again, checks to identify potential passengers who might already be on Christmas Island were inconclusive.

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- The circumstances of this case demonstrate clearly that the Government must continue its efforts to deter, disrupt and detect maritime people smuggling ventures – ventures that often see vulnerable people put on unsafe vessels for the long and hazardous journey to Australia.

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## Background

At the time of the reported disappearance of the boat in October 2009, Australian agencies were working with Indonesian partners to identify and disrupt several Potential Irregular Immigrant ventures. This included the venture that has become known as the Merak boat – the vessel carrying 255 Sri Lankans intercepted by Indonesia authorities in early October 2009.

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BASARNAS reported back the same day that it had coordinated actions in the area with the Indonesian navy and with the Indonesian Coastal Radio Station and that there was no distress incident in the location provided.

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**Missing Suspected Irregular Entry Vessels****Issues**

Over the past 12 months the media has reported on people smuggling vessels that have either gone missing or experienced difficulty within Australian and Indonesian search and rescue zones. Several of the media reports made reference to Australian Government agency knowledge of the incidents.

**Talking points**

- All information received by agencies regarding suspected irregular entry vessels is communicated to a central point within Customs and Border Protection. This in turn enables whole-of-government consideration and informs the government's response to that information.
- Customs and Border Protection, including Border Protection Command, has long-standing arrangements with the Australian Maritime Safety Authority (AMSA). Where there is information to suggest that a vessel may be in distress, such information is referred to AMSA as the Government's lead agency for search and rescue in the Australian Search and Rescue Region. The response is then coordinated by AMSA as appropriate.
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- A framework is in place to ensure that community concerns regarding all possible missing vessels, including those believed to be linked to people smuggling, are dealt with responsively.
- We do not know – and will never likely know – the exact number of vessels that go missing or the number of people who may have died on the high seas trying to reach Australia.
- Deaths that have occurred highlight the dangerous nature of the maritime people smuggling trade.

**IF ASKED ABOUT A REPORTED MISSING VENTURE FROM LATE LAST YEAR –  
As reported by the media on 18 January 2010**

- Customs and Border Protection does not have any recent information in relation to media reports of a vessel that went missing late in 2009.

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## **Background to Missing Vessel in October 2009**

At the time of the reported disappearance of the boat in October 2009, Australian agencies were working with Indonesian partners to identify and disrupt several Potential Irregular Immigrant ventures. This included the venture that has become known as the Merak boat – the vessel carrying 255 Sri Lankans intercepted by Indonesia authorities in early October 2009.

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## Missing Suspected Irregular Entry Vessels

### Issues

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### Talking points

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- A framework is in place to ensure that community concerns regarding all possible missing vessels, including those believed to be linked to people smuggling, are dealt with responsively.
- We do not know – and will never likely know – the exact number of vessels that go missing or the number of people who may have died on the high seas trying to reach Australia.
- We have developed our awareness and response mechanisms to give us a greater degree of confidence in terms of domain awareness and ability to respond in Australian waters;

however, in those instances where SOLAS is not called by the Master, the vessel is not carrying VMS or AIS transponders, or does not notify authorities of its intended movements we rely on intelligence that is indicative rather than precise.

- Deaths that have occurred highlight the dangerous nature of the maritime people smuggling trade.

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Date: 21 February 2011

## **Background to Missing Vessel in October 2009**

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Intelligence reporting on potential ventures at the time came from multiple sources, but was limited in nature, often incomplete and with little corroboration of the pieces of information available. The reporting was not often definitive on points of departure or arrival for vessels, nor on potential departure or arrival times.

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Concurrently with the Indonesian action to mount a search and rescue response, Border Protection Command deployed a surveillance aircraft to monitor maritime activity along the likely track of the vessel. Despite indications late on 3 October that the vessel was again underway, the Border Protection Command surveillance activities (both airborne and surface) did not detect a vessel of interest that day – nor subsequent days.

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Starting in November and continuing into December, the Department of Immigration and Citizenship was approached by individuals claiming to know persons who had been on a vessel that had departed Indonesia in early October and had not arrived in Australia. The Department undertook checks at Christmas Island and through Posts overseas to attempt to determine whether the named individuals were being processed on Christmas Island or were still overseas. These checks were not able to identify the named individuals.

In addition, the Australian Federal Police received information in early December suggesting that a vessel had not arrived. Once again, checks to identify potential passengers who might already be on Christmas Island were inconclusive.

Customs and Border Protection does not have any recent information in relation to media reports on 18 January 2010 of a vessel that went missing late in 2009.

### Document Control Table

No.	Date	Author	Comments	Cleared by and date
0.1	31/01/11	s47F	First draft	
0.2	1/02/11	s47F	Amendments requested by ND	ND 1/02/11
0.3	3/02/11	s47F	Minor edits	ND 3/02/11
0.4	21/02/11	s47F	Amendments requested by Minister's Office	ND 21/02/11
2.0	21/2/11	s47F	Sent to CEO for clearance	CEO 21/2/11

## Missing Suspected Irregular Entry Vessels

### Issues

Over the past 18 months the media has reported on people smuggling vessels that have either gone missing or experienced difficulty within Australian and Indonesian search and rescue zones. Several of the media reports made reference to Australian Government agency knowledge of the incidents. Most recently, the *Sun Herald* reported on 8 May 2011 that a ship with 97 people on board left Indonesia for Australia in November 2010 and that there has been no contact with it since.

### Talking points

- Australian Government agencies receive a range of reports about potential irregular immigrant maritime vessels travelling from and within waters beyond the Australian SAR zone. Some of this information proves accurate, and some of it does not.
- We work together with partner agencies including counterparts in Indonesia to ensure we have the most accurate information possible.
- If we receive information that a vessel may have departed for Australia and it does not arrive, it does not mean it has necessarily been lost at sea.
- Reports may be received concerning ventures in various stages of preparation which sometimes do not eventuate or depart for Australia. This means it is often impossible to reconcile reported departures from Indonesia with arrivals.
- Customs and Border Protection would like to reiterate that we would not ordinarily receive official notification about ships that sink or people who drown in other countries' waters.
- We would like to stress that we work in close partnership with our regional neighbours to provide safety of life assistance to vessels on the high seas.
- We have developed our awareness and response mechanisms to give us a greater degree of confidence in terms of domain awareness and ability to respond in Australian waters; however, in those instances where SOLAS is not called by the Master, the vessel is not carrying VMS or AIS transponders, or does not notify authorities of its intended movements we rely on intelligence that is indicative rather than precise.

- In the event that Customs and Border Protection receives information concerning a possible SOLAS incident, we refer such information to AMSA as the Government's lead agency for search and rescue in the Australian Search and Rescue Region. The response is then coordinated by AMSA as appropriate.
- Should the likely location of a vessel in distress be determined as being in the Search and Rescue region of another country, AMSA notifies the search and rescue authorities of that country. AMSA will request that they assume responsibility for coordinating an appropriate response; however AMSA would continue to coordinate a response until the other country has taken over coordination. It is possible that in certain circumstances AMSA may offer to retain coordination of the response.
- It is important to note that Australia's maritime domain covers an area of 11 million square nautical miles and equates to around 11% of the Earth's oceans.
- The occurrence of maritime people smuggling vessels sinking and related fatalities, highlights the dangerous nature of the maritime people smuggling trade.

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Date: 24 May 2011

## Background

The *Sun-Herald* report of 8 May 2011 follows a similar report from the same journalist in December 2010 relating to a potentially missing vessel with 97 passengers. This recent report also includes reference to specific organisers that were believed to be involved and indicates a departure date of 13 November 2010.

While elements of the story appear true, there has been no corroboration to date to indicate that all elements of the story related to a single venture that did not arrive. On the contrary:

- SIEV 217 arrived at Christmas Island on 2 December with 97 passengers on board;
- SIEVs 211 and 212 likely departed from different locations in Indonesia around 13 November 2010, and were assessed at the time to have been organised by most of the organisers mentioned in the *Sun-Herald* report; and
- SIEVs 215 (arrived 27 November), 219 (arrived 10 December), and 220 (arrived 14 December) were organised by the remaining organisers listed in the *Sun Herald* report.

Australian authorities continue to review all available holdings to determine the veracity of reporting on missing vessels and identify the whereabouts of the passengers mentioned. The absence of corroborating information six months after the suggested departure date in this instance contrasts with the missing venture of October 2009 that was also cited in the *Sun-Herald* article.

### *The Missing Venture of October 2009*

At the time of the reported disappearance of the boat in October 2009, Australian agencies were working with Indonesian partners to identify and disrupt several Potential Irregular Immigrant ventures. This included the venture that has become known as the Merak boat – the vessel carrying 255 Sri Lankans intercepted by Indonesia authorities in early October 2009.

Intelligence reporting on potential ventures at the time came from multiple sources, but was limited in nature, often incomplete and with little corroboration of the pieces of information available. The reporting was not often definitive on points of departure or arrival for vessels, nor on potential departure or arrival times.

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0.2	1/02/11	[REDACTED]	Approved by ND Intelligence & Targeting	02/05/2011
0.3	13/05/11	[REDACTED]	Amendments to reflect new media report	16/5/2011
0.4	16/5/11	J. Buckpitt	Approved by ND Intelligence & Targeting	16/05/2011
1.0	24/05/11	[REDACTED]	Amendments requested by the Ministers Office	24/05/2011
2.0	24/05/11	J. Gibbon	Amendments made as requested by [REDACTED] on 20/05/2011	24/05/2011
3.0	24/05/11	[REDACTED]	Forwarded to ND for clearance	24/05/2011

**Missing and Distressed People Smuggling Vessels****Issues**

- Media reporting of September 2011 claims that Customs and Border Protection has made contradictory statements about a vessel that reportedly departed Indonesia in October 2009, and remains unaccounted for. The reporting has focused on two purported contradictions brought about by:
  - i. Customs and Border Protection previously stating it did not have a precise location for the vessel but did provide “coordinates” to the Australian Maritime Safety Authority.
  - ii. the Minister for Home Affairs stating that “subsequent credible information” indicated that the difficulties experienced by the vessel had been resolved, yet the vessel was unable to be found.

The media reporting also suggests that the Minister for Home Affairs has not disclosed relevant information about the vessel to the Parliament and to the family members of those missing.

- Media reporting of December 2010 and May 2011 suggests that Customs and Border Protection was unaware of, and unresponsive to, claims that a vessel carrying 97 refugees departed Indonesia on or around 13 November 2010 and remains unaccounted for, presumed lost at sea. The reporting has focused on:
  - iii. a statement by Customs and Border Protection of December 26, 2010 indicating that, at that time, the agency was not aware of claims of a missing boat and had not initiated rescue action in the period in which it may have been near or in Australian waters.
  - iv. a statement by Customs and Border Protection of May 8, 2011 indicating that the agency had not received any calls about this vessel.
  - v. a purported contradiction between the statement mentioned in (iv.) and advice provided by the Department of Immigration and Citizenship that it had received a number of enquiries relating to people who were believed by family members to have travelled from Indonesia to Australia around 13 November and had not been heard from since.
- On 9 September 2011, Customs and Border Protection received a media enquiry from Natalie O’Brien of *The Sun Herald* requesting further information about these issues.
- On 16 September 2011, the Shadow Minister for Justice, Customs and Border Protection wrote to the Minister for Home Affairs requesting clarification of these issues.
- On 17 September 2011, Natalie O’Brien of *The Sun Herald* requested information on these issues from Customs and Border Protection under Freedom of Information laws.

## Talking points

- Australian Government agencies receive a range of reports about maritime people smuggling vessels travelling from and within waters beyond the Australian search and rescue region (SRR). Some of this information proves accurate, and some of it does not.
- Australian authorities work together with partner agencies including counterparts in Indonesia to ensure the most accurate information possible is being used.
- Australian authorities have developed awareness and response mechanisms to gain a greater degree of confidence in maritime domain awareness and the ability to respond to vessels in distress in Australian waters. However, in those instances where a safety of life at sea (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, the possible location of a vessel in distress is assessed from intelligence that is indicative rather than precise.
- In the event that Customs and Border Protection receives information concerning a possible SOLAS incident, the information is referred to Australian Maritime Safety Authority (AMSA) as the lead agency for search and rescue in the Australian SRR who coordinates the response.
- Should the likely location of a vessel in distress be determined as being in the SRR of another country, AMSA notifies the search and rescue authorities of that country. AMSA will request that that country's relevant authority assume responsibility for coordinating an appropriate response; however, AMSA would continue to coordinate a response until transfer of responsibility has occurred.
- Although Border Protection Command (BPC) is not a search and rescue organisation, 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 under the SOLAS Convention. BPC-assigned assets may be tasked by the AMSA's Rescue Coordination Centre, through Commander BPC, to undertake search and rescue-related activities.
- 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.
- Reports may be received concerning ventures in various stages of preparation which sometimes do not eventuate or depart for Australia. This means it is often impossible to reconcile reported departures from Indonesia with arrivals in Australia. In accordance with long standing practice, it is inappropriate to comment on intelligence matters and the origin of related information.

- Customs and Border Protection does not ordinarily receive official notification about vessels that sink or people who drown in other countries' waters or on the high seas.
- Customs and Border Protection is not able to keep full and accurate statistics on the number of people who drown at sea while trying to reach Australia. We do not know—and will likely never know—the number of vessels that go missing or the number of people and their demographic that may have died while trying to reach Australia by sea.

***Alleged Missing Vessel: On / Around 13 November 2010***

- The statements made by Customs and Border Protection in *The Sunday Age* of 26 December 2010 and *The Sydney Morning Herald* of 8 May 2011 are correct. That is, at the time of the first media report Customs and Border Protection was not aware of claims of a missing vessel, and at the time of the second media report, it had not received any calls about it.

- Between 17-20 December 2010, the Department of Immigration and Citizenship (DIAC) received three enquiries, through its SIEV 221 Hotline, relating to possible missing people who were believed to have travelled from Indonesia to Australia on or around 13 November 2010. A fourth enquiry was received by DIAC on 4 January 2011.
- This is different to what was stated in correspondence from the Minister for Home Affairs to the Shadow Minister for Justice, Customs and Border Protection, which indicated that DIAC received the first of these enquiries on 4 January 2011.
- This difference has been brought about by a recent review of records conducted by both DIAC and Customs and Border Protection, which shows that DIAC forwarded details of all four enquiries to Customs and Border Protection on 4 January 2011.

- The three enquiries received by DIAC between 17-20 December were referred to AFP on 24 December 2010 via email address: [icc@afp.gov.au](mailto:icc@afp.gov.au). The fourth enquiry was referred to the AFP via email address [MIR-Op-Pallarenda@afp.gov.au](mailto:MIR-Op-Pallarenda@afp.gov.au) on 5 January 2011.
- 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 have since been received through enquiries made to DIAC or Customs and Border Protection. The one enquiry made directly to Customs and Border Protection was received on 29 July 2011 from a person in Iraq seeking information about their husband who may have been seeking to join a people smuggling vessel to Australia on October 7, 2010 and had not made contact since 15 November 2010.
- All details of this enquiry 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. Customs and Border Protection responded to this enquiry directly on 12 August 2011.
- All of the names of people reported as missing to Australian authorities have been supplied to the Indonesian National Police (INP). It is possible that additional names of alleged missing persons may continue to be provided to Australian agencies.
- An in-depth analysis of information obtained by the AFP suggested that, while it is possible that a vessel may have departed Indonesia for Christmas Island around this time, the AFP is unable to confirm whether this occurred. All information and analysis conducted by the AFP was forwarded to the INP on 2 September 2011.
- It is important to note that no maritime people smuggling venture identified and monitored by Australian agencies in November 2010 went unaccounted for.

#### ***Alleged Missing Vessel: October 2009***

- Following the publication of the report in *The Age* of 18 January 2010, Customs and Border protection reviewed its information holdings to ascertain if the agency had any relevant information.
- This review concluded that information Customs and Border Protection received about a vessel in distress on 3 October 2009 may have referred to this incident. At the time this information was received, Customs and Border Protection advised AMSA of a possible distress situation including possible vessel coordinates. It is important to note that while possible vessel coordinates were provided, the precise location of the vessel was unclear.
- As these coordinates were within the Indonesian search and rescue region, AMSA contacted the Indonesian National Search and Rescue Agency who accepted responsibility for coordinating the search but were unable to locate the vessel or any incident of distress. The agency responsible for coordinating the response in Indonesia advised that no vessel in distress was located.

- Subsequent information made available to Australian agencies that day indicated that the difficulties being experienced by the vessel had been rectified, and that it had resumed its voyage. Despite this, BPC continued to search for the vessel for several days after 03 October.
- In accordance with long standing practice, it is inappropriate to comment on intelligence matters.
- Every effort was made by Customs and Border Protection and partner Australian and foreign agencies to locate the vessel and verify the information received.
- Customs and Border Protection has previously provided extensive details on this vessel in response to Question on Notice 86 from Budget Estimates in May this year and during Budget Estimates on 25 May 2010.

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## Background

### *Missing Vessel: November 2010*

Media reporting of 26 December 2010 and 8 May 2011 suggests that a people smuggling vessel may have departed Indonesia for Australia on or around 13 November 2010 with 97 passengers onboard, and remains unaccounted for. The 8 May 2011 media report refers to persons believed to be involved in organising this venture.

DIAC has received 4 enquiries that may be related to this vessel. The first three enquiries were received between 17 and 20 December 2010. The fourth was received on 4 January 2011. All of these enquiries were made available to Customs and Border Protection on 4 January 2011.

In May 2011, the media provided the AFP with the names of 40 people it claimed had left Indonesia for Australia on a people smuggling vessel around 13 November 2010, and had not been heard of since. The AFP reviewed all information holdings and was unable to determine the whereabouts of the possible missing persons. AFP have provided all of the names of the people reported as missing to the Indonesian National Police (INP).

In July 2011, Customs and Border Protection received an enquiry from a person in Iraq concerning the whereabouts of their husband. The enquiry suggested that the person's husband may have been intending to board a people smuggling vessel from Indonesia to Australia on 7 October 2010. The person claimed to have last heard from their husband on 15 November 2010.

This enquiry was forwarded to AFP and DIAC who were unable to identify the individual or locate any record of them having arrived in Australia. The Customs National Operation Centre provided this response to the person on 12 August 2011.

In August 2011, AFP completed an in-depth analysis of information obtained since May 2011. This suggested, but did not confirm, that a maritime people smuggling vessel may have departed Indonesia in November 2010. AFP forwarded all information and its analysis to the INP on 2 September 2011.

A number of suspect irregular entry vessel (SIEV) arrivals have similarities with elements of the information provided in media reporting:

- SIEV 217 arrived at Christmas Island on 2 December 2010 with 97 passengers on board;
- SIEVs 211 and 212 likely departed from different locations in Indonesia around 13 November 2010, and were assessed at the time to have been organised by most of the organisers mentioned in the *Sun-Herald* report; and
- SIEVs 215 (arrived 27 November), 219 (arrived 10 December), and 220 (arrived 14 December) were organised by the remaining organisers listed in the *Sun Herald* report.

Australian authorities continue to monitor enquiries and review information holdings to determine the veracity of these media reports and the whereabouts of possible missing people.

*Missing Vessel: October 2009*

Media reporting of 11 September 2011 has claimed that Australian authorities have “never publicly revealed the details” of a people smuggling vessel presumed to be missing after leaving Indonesia on 3 October 2009.

Around midday on 3 October 2009, Border Protection Command received information from CBP Jakarta that a vessel was 100 nautical miles from Christmas Island and was taking on water. This information also provided coordinates for this vessel. These indicated the vessel was in the Indonesian Search and Rescue Region.

At 3:48pm that day, AMSA RCC provided the information, including the coordinates to its Indonesian counterpart BASARNAS, and requested that it assume responsibility for coordinating any search and rescue activity in Indonesian waters.

Concurrently with the Indonesian search and rescue response, BPC deployed a surveillance aircraft to monitor maritime activity along the likely track of the vessel.

Later that day, CBP Jakarta advised that new information had come to hand indicating that the difficulties being experienced by the vessel had been rectified, and that it had resumed its voyage.

Despite this, BPC continued to conduct surveillance, both airborne and surface, for several days after 3 October.

Around that time, BASARNAS reported to AMSA that there was no vessel or distress incident found in the location provided.

Potentially relevant information received between 5 and 10 October was again inconclusive on the status of the venture and the intended arrival point. AFP passed information concerning the vessel to Indonesian partners to assist with locating it.

There was no further information received on the vessel in the month of October. Agencies continued to monitor the situation until 29 October 2009, at which point a decision was taken to cease active monitoring of it.

Throughout November and December 2009, DIAC was approached by individuals claiming to know persons who had been on a vessel that had departed Indonesia in early October 2009 and had not arrived in Australia. DIAC undertook checks at Christmas Island and through Posts overseas in an attempt to determine whether the named individuals were being processed on Christmas Island or were still overseas. These checks were not able to identify the named individuals.

In addition, in December 2010, AFP received further information suggesting that a vessel had not arrived. Once again, checks to identify potential passengers who might already be on Christmas Island were inconclusive.

### Document Control Table

No.	Date	Author	Comments	Cleared by and date
0.1	31/01/11	s47F	First draft	
0.2	1/02/11	s47F	Amendments requested by ND	ND 1/02/11
0.3	3/02/11	s47F	Minor edits	ND 3/02/11
0.4	21/02/11	s47F	Amendments requested by Minister's Office	ND 21/02/11
0.5	13/05/11	s47F	Amendments to reflect new media report	
0.6	12/09/11	s47F	Amendments to reflect new media reporting	ND 12/09/11
0.7	04/10/11	s47F	Amendments to reflect the response to a letter from the Shadow Minister for Justice, Customs and Border Protection	ND 17/10/11
0.8	17/10/11	s47F	Amendment to reflect DIAC and ACBPS review of information holdings.	<u>COO cleared</u> <u>17/10/11</u>

**Australian Customs and Border Protection Service****Key Issue 16****Foundered Vessels:****1 Nov 2011, 17 Dec 2011, 1 Feb 2012, 4 Feb 2012.****Issues****Foundered Vessel - 1 November 2011**

- 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 0600hrs local time.
- 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.
- At approximately 0600hrs local time, 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.
- At approximately 0725hrs local time - 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 may have been in distress earlier that morning.
- Australian authorities (DIAC) first became aware that a vessel had actually foundered at 0847hrs local.
- ACBPS (Jakarta) commenced attempts to contact (phone) the Indonesian Search and Rescue Authority (BASARNAS) at 0936hrs local.
- ACBPS (Jakarta) contacted (email) BASARNAS and BAKORKAMLA (Indonesian Maritime Security Coordination Agency) at 0946hrs local.

**Foundered Vessel - 17 December 2011**

- According to Indonesian authorities, at approximately 0700hrs local time on 17 December 2011, a people smuggling vessel foundered around 40 nautical miles off the coast of Prigi, central Java.
- 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.
- Australian authorities (AFP) first became aware that a vessel had possibly foundered at approximately 1900hrs on 17 December 2011.
- ACBPS (Jakarta) contacted the Australian Maritime Safety Authority (AMSA) Rescue Coordination Centre (RCC) at 2042hrs local and BASARNAS at 2057hrs local. BASARNAS indicated they were already aware of the incident.
- 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 years and a half years imprisonment in relation to domestic Indonesian offences.

#### **Foundered Vessel – 1 February 2012**

- According to Malaysian authorities, at approximately 0630hrs local on 1 February 2012 a people smuggling vessel foundered about 500 metres off the coast of Johor, Malaysia.
- Australian authorities first became aware of this incident through Malaysian media reporting on the following day, 2 February 2012.
- Australian authorities were unaware of the existence of this particular people smuggling vessel, and have only a general level of awareness that potential irregular immigrants travel from around Johor to Indonesia en route to Australia.
- There was no information available to Australian authorities that could have assisted Malaysian authorities to stop the vessel from departing.

#### **Foundered Vessel – 4 February 2012**

- According to Indonesian authorities, at approximately 1300hrs local on 4 February 2012 a people smuggling vessel foundered around 1 nautical mile off the coast of Cipatujah (*'See-pa-too-jah'*) southern Java. All persons on board the vessel were reportedly rescued.
- Australian authorities had a general level of awareness that a people smuggling vessel might have been preparing to depart southern Java around 4 February 2012.
- There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel from departing.
- Australian authorities (DIAC) first became aware that a vessel may be in distress at approximately 0830hrs local time. ACBPS (Jakarta) contacted BASARNAS at approximately 0935hrs local.

### Talking points

- For each of these incidents, Australian authorities had no information that could have assisted local authorities to stop the vessels from departing.
- Where possible, Australian authorities were responsive in offering Search and Rescue (SAR) assistance to their Indonesian counterparts.
- In the days following such incidents, it is not unusual for the number of passengers to vary, including reports of passengers deceased and rescued.

### Foundered Vessel – 1 November 2011

- According to Indonesian authorities and passengers on board, at approximately 0500hrs local (G) 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 0600hrs local time.
- Prior to this, Australian authorities had only a general awareness that a people smuggling vessel may depart from southern Java around 1 November. **If asked:** I am unable to elaborate on this as it would involve discussing intelligence in a public forum.
- There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel from departing.
- At approximately 0600hrs local time, Australian authorities became aware of information indicating that a people smuggling vessel may have been in distress earlier that morning - this was later found to relate to the foundered vessel.
- At approximately 0725hrs local time - almost 2.5 hours after the vessel foundered and 1.5 hours after rescue operations commenced - Australian authorities became aware of the location of the people smuggling vessel may have been in distress earlier that morning.
- Australian authorities (DIAC) were first advised that a vessel had actually foundered at 0847hrs local time. **If asked:** I am unable to elaborate on how

Australian authorities became aware of these situations as this would involve discussing intelligence and sensitive sources in a public forum.

- At 0855hrs local, DIAC made follow up contact with the source of the information that a vessel had foundered.
- At 0917hrs local, DIAC advised other Australian agencies at Australian Embassy Jakarta, including ACBPS and AFP.
- At 0924hrs local, ACBPS (Jakarta) notified the AMSA-RCC. At 0927, ACBPS (Jakarta) notified Customs National Operations Centre (CNOC).
- At 0936hrs local, ACBPS (Jakarta) commenced attempts to contact BASARNAS by phone. ACBPS (Jakarta) notified BASARNAS and BAKORKAMLA (Indonesian Maritime Security Coordination Agency) by email at 0946hrs local time.
- ACBPS made numerous unsuccessful attempts to contact BASARNAS up until 1302hrs local.
- At 1302hrs local, BASARNAS contacted ACBPS (Jakarta) and advised that SAR assets were being deployed to the Pangandaran area from BASARNAS Cilacap and Bandung office.
- The Indonesian National Police (INP) investigation into this incident is ongoing. It would be inappropriate to comment on this investigation.
- To assist the INP investigation, the AFP deployed two investigators, one locally engaged staff member, and one contracted interpreter.
- Media reporting at the time of the incident claimed that another vessel may have departed at the same time and area as the vessel that foundered. Australian authorities have been unable to confirm this claim.
- According to Indonesian authorities, the vessel was carrying up to 75 passengers, and that:
  - 45 were rescued (36 Iranians, 6 Pakistanis and 3 Afghans).
  - 8 are confirmed deceased (4 adult females and 4 children).
  - the remaining passengers are unaccounted for.
  - 3 Indonesian crew have been arrested and detained.

### **Foundered Vessel – 17 December 2011**

- According to Indonesian authorities, at approximately 0700hrs local (G) time on 17 December 2011, a people smuggling vessel foundered around 40 nautical miles off the coast of Prigi, central Java.
- Prior to this, Australian authorities had only a general level of awareness that a people smuggling vessel may depart from Java around 17 December. **If asked:** I am unable to elaborate on this as it would involve discussing intelligence in a public forum.
- There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel from departing.
- Australian authorities first became aware of this incident and that rescue operations had already begun at approximately 1900hrs local on 17 December 2011. **If asked:** I am unable to elaborate on how Australian authorities became aware of the incident at that time as it would involve discussing intelligence in a public forum.
- At 1918hrs local, Australian agencies notified the relevant authority in Indonesia.
- ACBPS (Jakarta) first became aware of this incident at 2013hrs local. ACBPS (Jakarta) contacted AMSA-RCC at 2042hrs local and the Australian Maritime Security Operations Centre at 2048hrs local.
- At 2057hrs local time ACBPS (Jakarta) contacted BASARNAS, who indicated they were already aware of the incident and that 25 people had already been rescued at 1500hrs local.
- At 2111hrs local, Australian authorities were advised that the vessel had 220 people on board and that most have been rescued. **If asked:** I am unable to elaborate on how Australian authorities became aware of this advice as it would involve discussing intelligence in a public forum.
- At 2241hrs local, BASARNAS requested the Australian Maritime Safety Authority (AMSA) coordinate the Search And Rescue (SAR) response.
- As the incident occurred in the Indonesian SAR zone, AMSA assessed that BASARNAS was best placed to coordinate the response and should maintain

- coordination. AMSA offered assistance in the form of maritime drift modelling, search area planning and a broadcast to shipping, if required.
- BASARNAS requested assistance from the AMSA Rescue Coordination Centre (RCC) on Monday 19 December 2011.
  - AMSA RCC subsequently requested support from the Australian Defence Force (ADF) and ACBPS. As a result the following assets were released for Search And Rescue (SAR) operations in support of the Indonesian authorities:
    - One RAAF AP-3C Orion maritime surveillance aircraft
    - Armidale Class Patrol Boat HMAS Ararat
    - One Customs and Border Protection DASH-8 aircraft.
  - The RAAF AP-3C Orion Maritime surveillance aircraft conducted two searches of a designated search area.
  - HMAS Ararat patrolled a designated search area for approximately 48 hours during the search and rescue operation.
  - Australian Government involvement in the SAR operation concluded on 21 December at 0130hrs when HMAS Ararat concluded search operations.
  - BASARNAS concluded the search and rescue operation on 26 December.
  - At the request of 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. AFP assistance to INP is ongoing.
  - The INP investigation into this incident is ongoing. It would be inappropriate to comment on this investigation or matters raised in media reporting.
  - Media reporting following the incident has suggested that:
    - known people smuggler Sayed Abbas was involved in organising the venture while in immigration detention in Indonesia.
    - the INP had passed details of an Australian man, 'Mr X', suspected of being involved in the venture to the AFP.

- the INP has detained 10 people suspected of being involved in organising the venture, including 5 military personnel.
- Following the incident, DIAC activated a dedicated hotline to receive details from the public or persons in detention about people believed to have been onboard the vessel.
- According to DIAC, 92 enquiries about the foundered vessel were received, which included calls made to the hotline, emails and information provided from persons in detention.
- DIAC has made the details of these enquiries available to the INP assist with their investigation. The details of the enquiries have also been made available to AFP and Customs and Border Protection.
- ACBPS has not received any direct enquires regarding the incident.
- According to BASARNAS, the vessel was believed to be carrying around 250 passengers.
  - 49 passengers were rescued, including 2 alleged crew.
  - 103 passengers are confirmed deceased.
  - the remaining passengers are unaccounted for.

#### **Foundered Vessel – 1 February 2012**

- According to Malaysian authorities, at approximately 0630hrs local on 1 February 2012 a people smuggling vessel foundered about 500 metres off the coast of Johor, Malaysia.
- Australian authorities were unaware of the existence of this particular people smuggling vessel, and have only a general level of awareness that potential irregular immigrants travel from around Johor to Indonesia en route to Australia.
- There was no information available to Australian authorities that could have assisted Malaysian authorities to stop the vessel departing.
- Australian authorities first became aware of this incident through Malaysian media reporting on 2 February 2012.

- Rescue efforts and investigations into the incident were undertaken by the Royal Malaysian Police (RMP) in Johor State with assistance from the Malaysian Maritime Enforcement Agency (MMEA).
- According to Malaysian authorities, the vessel was believed to be carrying around 29 passengers.
  - 18 were rescued (12 Afghans, 1 Pakistani and 5 Iraqis)
  - 11 are confirmed deceased (nationalities to be determined)
  - crew have not yet been identified or arrested.

#### **Foundered Vessel – 4 February 2012**

- According to Indonesian authorities, at approximately 1300hrs local (G) on 4 February 2012 a people smuggling vessel foundered around 1 nautical mile off the coast of Ciptajuh, southern Java.
- Prior to this, Australian authorities had a general level of awareness that a people smuggling vessel might have been preparing to depart southern Java around 4 February 2012. **If asked:** I am unable to elaborate on this as it would involve discussing intelligence in a public forum.
- There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel departing.
- Australian authorities (DIAC) first became aware that a vessel may be in distress at approximately 0830hrs local time. **If asked:** I am unable to provide details on how Australian authorities became aware of this situation as it would involve discussing sensitive sources in a public forum.
- At 0849hrs local, DIAC advised ACBPS (Jakarta) of the information.
- At 0911hrs local ACBPS Jakarta contacted the AMSOC, who confirmed they had received the advice from DIAC at 0844hrs local.
- At 0934hrs local time, AMSOC requested ACBPS (Jakarta) advise BASARNAS of the advice.
- At 0935hrs local time, ACBPS (Jakarta) notified the BASARNAS Liaison Officer by phone. ACBPS (Jakarta) followed up this notification to BASARNAS with an text message outlining all available information at 0945hrs local.

- At 1019hrs local, BASARNAS acknowledged notification from ACBPS (Jakarta)
- At 1035hrs local, BASARNAS notified AMSA RCC that it had accepted coordination of the incident and alerted its provincial office.
- At 1156hrs local, BASARNAS first provided ACBPS (Jakarta) with an update of the situation This update implied that no persons were deceased.
- Throughout the day, Australian authorities were unable to obtain a clear picture from their Indonesian counterparts as to what had occurred or the number of persons involved.
- The incident is currently under investigation by the INP and it is inappropriate to comment further on this investigation. The AFP deployed two members to the incident location to assist the INP.
- According to Indonesian authorities, the vessel was believed to be carrying around 47 passengers and 2 crew.

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## Background

### Foundered Vessel – 17 December 2011

- The INP are continuing its investigation into persons suspected of being involved in organising the vessel that foundered on 17 December 2011.
- A number of people have been identified by survivors. Further enquiries are being made to ascertain the involvement of these individuals.

s47E(d)

- On 8 June 2010, Australia formally requested the extradition of Sayed Abbas from Indonesia. In March 2011, Abbas was released from custody but was re-arrested on 24 August 2011 in relation to domestic Indonesian offences. He is currently serving a 2½ year sentence.
- Australia's extradition request continues to be considered by Indonesian authorities. Australian authorities liaise regularly with the Indonesian Government in relation to the progress of the request.

### Document Control Table

No.	Date	Author	Comments	Cleared by and date
0.1	13/02/12	s47F	First draft	ND I&T 14/02/12

**Missing and Distressed People Smuggling Vessels:****October 2009, November 2010****Issues****Alleged Missing Vessel: October 2009**

- On 3 October 2009, Customs and Border Protection received information from a classified source regarding a possible people smuggling vessel that was claimed to be in distress, and taking on water.
- The information contained two differing sets of details about the claimed location of the vessel. The first was given as a reference from Christmas Island: the vessel was claimed to be 100 km from Christmas Island.
- The second set of details involved the vessel's claimed coordinates. These claimed coordinates placed the vessel in an area of sea spanning 3.43 square kilometres, and approximately 200 nautical miles from Christmas Island. These claimed coordinates also placed the vessel 17 nautical miles off the south coast of Java, inside the Indonesian Search and Rescue (SAR) region.
- The information did not provide any judgment that either of these two sets of details were more reliable or accurate than the other.
- The information was highly classified, ambiguous, and unverified.

*Immediate Operational Response*

- In Senate Estimates of October 2011, Customs and Border Protection was questioned on its views as to whether a vessel had put to sea on 3 October 2009, and the steps it took to initiate and support a SAR response.
- A chronology of events detailing decisions and actions taken by Customs and Border Protection was provided in response to QoNs 35 and 38, and to a Freedom of Information applicant.
- It may be inferred from the chronology that Customs and Border Protection was slow in passing the information to the Australian Maritime Safety Authority (AMSA).
- In October 2009, there was no protocol requiring the immediate transfer of information regarding distressed vessels to AMSA. This protocol has been introduced in response to operational experience, including the 3 October 2009 scenario.
- 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 time between receiving the classified information and disseminating an approved rendering of it to AMSA.

- These issues included:
  - the ambiguous nature of the information concerning the vessel's location, and the absence of additional information to provide clarity or verification.
  - the large area (3.43 sq km) to which the partial coordinates referred to.
  - the appropriate posturing of Defence and BPC assets to respond to a possible SAR or direct arrival scenario, based on ambiguous information.
  - the appropriate reporting and response protocol if the vessel was located in the Indonesian Territorial Sea / Indonesian SAR Region.
  - 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.
  - 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.
  - 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.
  - These circumstances were unfamiliar to officers from all agencies involved. Additionally, agencies were procedurally unprepared for these circumstances.
  - 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.
- In late 2009, Customs and Border Protection's procedures for managing highly classified information regarding SIEVs had not been tested in the range of scenarios that have since been experienced. This applies particularly to the use of such information to guide operational responses to SOLAS and SAR situations.
- 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.
- Most recently, on 1 November 2011, Customs and Border Protection commissioned a review to examine Australian agencies management of information in Safety Of Life At Sea situations beyond Australia's SAR Zone.

#### **Alleged Missing Vessel: November 2010**

- In Senate Estimates of October 2011, Customs and Border Protection was questioned on its views as to whether a vessel had put to sea on or around 13 November 2010, and whether it had received any enquiries (e.g., from the public or persons in detention) about this alleged missing vessel.

- In their response to similar line of questioning, AFP stated that while it is possible a vessel may have departed Indonesia for Christmas Island on or around 13 November 2010, this is unable to be confirmed.
- AFP have advised Customs and Border Protection that this response remains accurate – it cannot be confirmed that a people smuggling vessel put to sea on or around 13 November 2010
- Since Estimates of October 2011, Customs and Border Protection has received one further enquiry about this alleged missing vessel
  - 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.

## Talking points

### Alleged Missing Vessel: October 2009

#### Immediate operational response

- **At 1200hrs AEST** on Saturday 3 October 2009, ACBPS 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 SAR 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:
  - 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.
  - contacted Australian Customs Vessel *Oceanic Viking* and determined its location was approximately 360 nautical miles south east of the partial coordinate.
  - briefed ACV *Oceanic Viking* crew on the information received.
  - 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 the possible alternate location according to the information received.
  - 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, ACBPS intelligence staff assessed the information's credibility and reliability, and whether it bore any relationship to expected SIEV arrivals at that time.
- **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 ACBPS 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** ACBPS received information from the Australian Embassy, Jakarta that the vessel earlier reported as possibly being in distress was no longer in distress.
- **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.

#### **Aspects of the scenario requiring detailed consideration**

- Between receiving the classified information and disseminating an approved rendering of it to AMSA, ACBPS officers faced a range of complex issues requiring consideration, including:
  - the ambiguous nature of the information concerning the vessel's location, and the absence of additional information to provide clarity or verification.
  - the large area to which the partial coordinates referred.
  - the appropriate posturing of Defence and BPC assets to respond to a possible SAR or direct arrival scenario, based on partial coordinates and two alternate locations.
  - the appropriate reporting and response protocol if the vessel was located in the Indonesian Territorial Sea / Indonesian SAR Region.
  - the procedure to be adopted to obtain approval to release highly classified information in an unclassified form to AMSA.

## **The broader operating environment**

- The ACBPS response to the information received on 3 October 2009 should be considered with reference to the contemporaneous operating environment.
- In 2008 there were 7 SIEV arrivals, and between January and September 2009 inclusive there were 29 SIEV arrivals. Of these 36 SIEV arrivals prior to October 2009, only 8 required a SOLAS or SAR response.
- None of these 8 responses occurred in circumstances where information had been received in highly classified and unverified form with the reported vessel so close to the territorial waters of another nation.
- As a result, in 2009 there was no procedure to facilitate the immediate transfer of classified information regarding SOLAS/SAR situations to AMSA, which is presently the practice.
  - In 2009, there was an absence of appropriately cleared AMSA officers available to receive and view highly classified information.
- During this period, aerial surveillance had been the primary form of identifying those SIEV arrivals requiring a SOLAS or SAR response.
- The significant increase in SIEV arrivals in the latter half of 2009 has informed a maturing of how classified information is handled in these situations, and of the operational response protocols now practiced by relevant agencies.
- In that sense, the ACBPS response to the information received on 3 October 2009 was formative in terms of shaping the protocols in place today.

## **Implementation of revised procedures since October 2009**

- ACBPS has since implemented processes to ensure highly classified information that may relate to potential SOLAS or SAR situations is passed in a timely manner to appropriate agencies.
- Under current protocols, an appropriately cleared AMSA Liaison Officer deploys to BPC in the event of a SOLAS or SAR incident related to unauthorised maritime arrivals, or where BPC has classified information relevant to the performance of AMSA's role.
- Additionally, since May 2010, AMSA and BPC have implemented arrangements for appropriately cleared AMSA Liaison Officers to attend BPC operations briefing each week.

- AMSA has approximately 6 Liaison Officers who are cleared to attend classified briefings at BPC. These officers have 24 hours access to BPC in case their attendance is required for a SOLAS or SAR incident.
- AMSA has a dedicated workstation in the AMSOC with access to AMSA's information technology systems to enable communication between the deployed officer and AMSA's Rescue Coordination Centre.
- Following the sinking of a people smuggling vessel at sea near Pangandaran, Indonesia on 1 November 2011, the CEO of Customs and Border Protection commissioned a review to examine Australian agencies management of information in Safety Of Life At Sea (SOLAS) situations beyond Australia's Search and Rescue (SAR) Zone.
- The Review concluded there was no action that any Australian agency could have been taken to change the outcome of the incident, either in terms of preventing the vessel from departing, preventing from the vessel capsizing, or pre-emptively alerting Indonesian SAR authorities.
- However, the Review did identify lessons for agencies in the future management of SOLAS situations, and made recommendations. These recommendations are concerned with:
  - improving procedures governing the handling of information related to SOLAS situations;
  - measures designed to facilitate the timely passage of appropriately sanitised information between highly sensitive intelligence agencies and unclassified SAR agencies.
  - enhancing interagency awareness of each agency's roles, responsibilities and constraints when responding to potential maritime distress situations.
- An interagency implementation committee, to be chaired by Commander Border Protection Command, was also recommended. This committee will convene for the first time on 15 February.
- Interim arrangements were developed and introduced in December 2011 pending implementation of the Review's recommendations; these will be implemented by April 2012.

**Prior knowledge / capacity to disrupt**

- ACBPS was aware of information from 27 September 2009 onwards that might have related to the alleged missing vessel of October 2009.
- I am unable to disclose the details of this information as to do so would involve discussing intelligence in a public forum.
- At the time, ACBPS had a general level of awareness that a people smuggling vessel might have been preparing to put to sea on 2 October 2009.
- There was no information available to Australian authorities that could have assisted Indonesian authorities to stop the vessel departing.
- Neither was there any other information available to Australian authorities in the days prior to 2 October 2009 that suggested a vessel intending to depart for Australia on or around that day was likely to experience any form of mechanical problems or founder.

**Alleged Missing Vessel: November 2010**

- 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.
- No maritime people smuggling venture identified and monitored by Australian agencies in November 2010 went unaccounted for.
- ACBPS 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.
- 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 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.
- ACBPS, 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.

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## **Background**

### ***Alleged Missing Vessel: October 2009 - Related QoN and FOI***

In Senate Estimates on 18 October 2011, Senator Brandis asked for the sections of the log from the time the call was made that there was possibly a vessel in distress to the time AMSA was contacted. This issue was taken as a Question on Notice (QoN) 38.

This issue was also taken as a QoN 35 to enquiries made by Senator Brandis around Customs and Border Protection's review of the actions taken during the incident.

The salience of issues relating to the October 2009 missing vessel has increased as a result of a Freedom of Information request made by Natalie O'Brien of *The Sun Herald* on 17 September 2011. Documents with redactions omitting classified information were released to Ms O'Brien on 13 January 2012.

### ***Alleged Missing Vessel: November 2010***

Between 17-20 December 2010, the Department of Immigration and Citizenship (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.

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.

### *General points on missing vessels*

Australian Government agencies receive a range of reports about maritime people smuggling vessels travelling from and within waters beyond the Australian search and rescue region (SRR). Some of this information proves accurate, and some of it does not. Australian authorities work together with partner agencies including counterparts in Indonesia to ensure the most accurate information possible is being used.

Australian authorities have developed awareness and response mechanisms to gain a greater degree of confidence in maritime domain awareness and the ability to respond to vessels in distress in Australian waters.

However, in those instances where a safety of life at sea (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, the possible location of a vessel in distress is assessed from intelligence that is indicative rather than precise.

In the event that Customs and Border Protection receives information concerning a possible SOLAS incident, the information is referred to Australian Maritime Safety Authority (AMSA) as the lead agency for search and rescue in the Australian SRR who coordinates the response.

Should the likely location of a vessel in distress be determined as being in the SRR of another country, AMSA notifies the search and rescue authorities of that country. AMSA will request that that country's relevant authority assume responsibility for coordinating an appropriate response; however, AMSA would continue to coordinate a response until transfer of responsibility has occurred.

Border Protection Command (BPC) is not a search and rescue organisation. 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 under the SOLAS Convention.

BPC-assigned assets may be tasked by the AMSA's Rescue Coordination Centre, through Commander BPC, to undertake search and rescue-related activities.

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.

Reports may be received concerning ventures in various stages of preparation which sometimes do not eventuate or depart for Australia. This means it is often impossible to reconcile reported departures from Indonesia with arrivals in Australia. In accordance with long standing practice, it is inappropriate to comment on intelligence matters and the origin of related information.

Customs and Border Protection does not ordinarily receive official notification about vessels that sink or people who drown in other countries' waters or on the high seas.

Customs and Border Protection is not able to keep full and accurate statistics on the number of people who drown at sea while trying to reach Australia. We do not know—and will likely never know—the number of vessels that go missing or the number of people and their demographic that may have died while trying to reach Australia by sea.

## Document Control Table

No.	Date	Author	Comments	Cleared by and date
0.1	31/01/11	s47F	First draft	
0.2	1/02/11	s47F	Amendments requested by ND	ND 1/02/11
0.3	3/02/11	s47F	Minor edits	ND 3/02/11
0.4	21/02/11	s47F	Amendments requested by Minister's Office	ND 21/02/11
0.5	13/05/11	s47F	Amendments to reflect new media report	
0.6	12/09/11	s47F	Amendments to reflect new media reporting	ND 12/09/11
0.7	30/01/12	s47F	Amendments to reflect FOI and revised BPC arrangements	ND