



National OHS Bulletin

No 2. February 2009

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National Stevedoring Code of Practice (NSCOP) **Developments**

At MUA National Council in October 2008, it was agreed that conclusion of Stage 1 of the MUA campaign to have new nationally consistent arrangements for stevedoring OHS adopted i.e. a NSCOP, would be achieved when:

1. The Victorian Waterfront Safety Project (VWSP) outcomes are adopted by all States and the NT as National Stevedoring OHS Guidance material; and
2. When a new set of Memorandums of Understanding (MOUs) between the Australian Maritime Safety Authority (AMSA) and each State and NT OHS agency was in place.

National Council also agreed that the Union continue its campaign to ensure that all major stevedoring OHS hazards are addressed through establishment of national standards and applied through Regulations under State/NT OHS legislation (with the VWSP outcomes then forming guidance/compliance material to fall from the Standard). National Council also agreed that the MUA's national standard for stevedoring work (along with other work being initiated by the Australian Safety and Compensation Council (ASCC) or its replacement body, Safe Work Australia (SWA), guide progress towards that objective, and that we would then regard that outcome, when achieved, as constituting achievement of Stage 2 of the MUA NSCOP project.

The Union can report that the ASCC has advised that it expects the VWSP Guidance material to be agreed and adopted by all States and the NT by around March/April 2009, and that it is expected that there will be a Federal Ministerial launch of the Guidance material, signifying the commencement of a new era of waterfront safety in Australia, some time around May 2009.

In relation to the development of new MOU's between AMSA and the State/NT OHS agencies, we understand that the template is yet to be finalised. National Secretary Paddy Crumlin wrote to Minister Gillard in November 2008 raising concerns about weaknesses in the then draft template MOU and seeking a stronger role for all stakeholders in this development. Comrade Crumlin followed up that letter with a direct request to the ASCC on 2 February 2009 for consultations on the draft MOU. A Government response indicating that consultations have concluded, despite MUA concerns was received on 4 February 2009. We will now take the matter up with AMSA and the States/NT.

National Secretary Paddy Crumlin believes that progress is now being made at the Government and regulator level in giving a new focus on stevedoring safety, but the Union reserves its judgement until we see the final of the national stevedoring guidance material and it is formally launched.

However, Comrade Crumlin reports that we are yet to reach agreement with stevedoring employers on the implementation strategy at the workplace. National Council agreed in October 2009 that this should be formalised through negotiation of a formal instrument with each employer. A draft MOU is currently being prepared by the MUA Legal Team. Once finalised we will be seeking to use the MOU process to get strong employer commitment to implement the new Guidance material.

New Marine Order 32 close to finalisation

The review of Marine Orders Part 32 is in the final stages of completion. Many changes to the Marine Order are not controversial and have been agreed by the stakeholders.

One particular change for the positive is that the MO will now prescribe how much space there should be between containers and lashing points to allow access for lashers.

The union position of 750mm between containers and 550mm between lashing points has been agreed.

The union did not agree to changes to the options for emergency egress from ship's cranes and we stand by our belief that the fixed rung ladder on the outside of the crane should be mandatory and other escape options should be additional to this.

AMSA is coming back to the union with a set of word for amendments to the hatchman and cargo lookout clause. The employers believe that there should be more of a focus on a job by job assessment of whether or not a hatchman is required. The employers also believe that the terms hatchman and cargo hold lookout are outdated and the reference to them should be removed. The union has not agreed to any changes regarding Hatchman and Cargo Hold Lookout and would like to make very clear that if amendments are not agreed by all stakeholders then the status quo will remain.

Branches will shortly be consulted on the proposed new wording prepared by AMSA.

Hatchman issue – not yet resolved to Union satisfaction

The Union is continuing to monitor developments regarding the use of hatchmen and lookouts, and believes that the issue is far from settled. National Office is involved in several processes as part of that monitoring and to enable the Union to respond in a nationally integrated fashion to ensure that stevedoring operations are safe. Some of the key processes are:

- Legal advice is under development, going to jurisdictional issues that were a part of the Australian Industrial Relations Commission (AIRC) Orders in the

Fremantle POAGS dispute in November 2008. The legal advice is being prepared having regard to the position of each of the State OHS agencies who responded to correspondence from National Secretary Paddy Crumlin in late 2008.

- Development of a status report on the use of hatchmen at each Australian port, so we understood current practice, is being prepared with assistance of each Branch.
- National Office is liaising with AMSA and the Branches on a revised set of words on the hatchman/lookout requirements for possible inclusion in a new MO32. We have just received the AMSA proposal and Branches should receive communication from National Office shortly.
- National Secretary Paddy Crumlin is meeting with the CEO and senior AMSA Executives on 27 February to further discuss the issue.

MUA response to serious safety incidents in the offshore oil and gas industry during Cyclone Billy in December 2008

National Secretary Paddy Crumlin has already reported to the membership his great sadness and anguish on the death of a seafarer, Comrade Trevor Moore, onboard the FPSO *Karratha Spirit* on Christmas Eve 2008 during a disconnect operation during Cyclone Billy.

Comrade Crumlin says that this fatality and the risk that some 300 workers on board the *Castoro Otto* were put under when it was late in raising anchors and had to fend for itself in dangerous seas during Cyclone Billy, once again highlights serious deficiencies in the application of safety in the offshore oil and gas industry and failings in the regulatory system.

As a consequence the Union has made detailed and urgent representations to Minister Ferguson (who is responsible for NOPSA) and Minister Albanese (who is responsible for AMSA) calling for an independent inquiry into the role of the regulators in both incidents. While the Union respects the fact that formal regulator investigations are being carried out, the Union believes the role of the regulators themselves requires review, and this is what the Union pressed for.

The Union put the view to Ministers that there is confusion between the regulators, industry participants and seafarers as to which regulator is responsible for the safety of facilities and vessels and their personnel during emergency situations. In these recent incidents, it was unclear when the vessels ceased being "facilities" and reverted to being vessels (this is defined under the *Offshore Petroleum Act 2006* and theoretically determines who the regulator is). The current agreements between the regulators in addressing this issue is in the Unions view also completely inadequate.

Separately, and of great concern to the Union, was the apparent lack of response by AMSA to urgent calls by the MUA during the *Castoro Otto* crisis.

The MUA has asked the two Ministers to have the following independently investigated:

1. At precisely what point did AMSA consider it assumed jurisdictional responsibility and therefore regulatory responsibility in each incident, and how did it form that view?
2. At whatever point AMSA considered it assumed legal regulatory responsibility, did it in fact perform its regulatory responsibility from that point onwards? If not, why not?
3. Why in the case of the *Castoro Otto* incident, did AMSA not participate in the NOPSA led investigation that commenced on 23 December 2008?
4. Why in the case of the *Karratha Spirit* incident did AMSA not undertake an investigation?
5. Why did AMSA not respond to MUA calls to AMSA during the *Castoro Otto* incident?
6. Did AMSA act strictly in accordance with the provisions of the Memorandum of Understanding concerning cooperation of safety arrangements for the offshore petroleum sector during both incidents?
7. Does AMSA consider the emergency medical evacuation procedure worked effectively in the case of the *Karratha Spirit* incident?

Both Ministers Ferguson and Albanese have responded to the Union representations, advising that on 9 January 2009 Minister Ferguson announced a further enquiry into the gas explosion at the Varanus Island facilities that now includes expanded terms of reference to address the *Karratha Spirit* and *Castoro Otto* incidents.

In response to the union representations, the terms of reference for the Varanus Island Inquiry were extended to cover the events during Cyclone Billy, which will focus on the role of the regulators. The Minister for Resources and Energy stated in part:

*"While the primary focus of the independent inquiry will be the effectiveness of the regulatory regime for safety and integrity that applied to Varanus Island and the role of the regulators, **the inquiry will also consider the effectiveness of the safety regime that applied to the Karratha Spirit and the Castoro Otto and the complementary roles of NOPSA and the Australian Maritime Safety Authority (AMSA) in ship safety regulation for these vessels.***

Submissions to the Inquiry close on 18th February 2009. The MUA appreciates the support and action by the Ministers and will take an active role in this Inquiry.

A Bill to increase the lump sum death benefits and weekly payments for dependent children under the Seafarers Act

The Rudd Government plans to introduce an amendment this year that will increase lump sum death benefits and weekly payment death benefits for dependent children under the *Seafarers Rehabilitation and Compensation Act 1992 (the Seafarers Act)*.

The reason for the legislation is to align the death benefits payable under the Seacare Scheme with those payable under the Comcare Scheme reflecting the original policy intention underlying the establishment of the Seacare Scheme to maintain parity with Comcare.