



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



President's Message

Getting Things Done — Part 2

On August 21st 2009 a blow-out occurred on the Montara well, situated in the Australian EEZ some 135 miles northwest of the nearest coastline of the Australian mainland and a similar distance from the nearest coast of Indonesia. Oil from the blow-out continued to flow into the Timor Sea over 10 weeks and claims for damage have been made by Indonesia. Everybody knows of the Deep Water Horizon catastrophe in 2010 in the Gulf of Mexico.

While the IMO does not support an international convention by way of solution to the issues arising, MLAANZ was asked by the CMI to answer a questionnaire detailing the framework for liability and compensation arising from transboundary oil pollution damage resulting from offshore oil exploration and exploitation.

That work has been completed, and a copy of our letter to Stuart Hetherington, President of the CMI can be found on our website [here](#).

While it was provided to the CMI as part of our participation in that organisation, the document is a useful resource for members as to the current position in both Australia and New Zealand, and I thank members Clive Madder in Melbourne, and Kerryn Webster in Auckland, for their work in coordinating the response.

The legislation is technical, and so does not ordinarily justify priority in the Parliamentary process. That sometimes has adverse consequences when an incident occurs, and the relevant Convention has not been adopted. That was the case in New Zealand in relation to limits of liability for compensation arising from the Rena. The problem has since been 'fixed' with New Zealand a party to the 1996 Protocol to the LLMC, and the law providing a simpler mechanism to adopt new limits, which does not require primary legislation.

As you will see from our letter to Stuart, in New Zealand, we are a party to the 1992 Fund Convention that provides a second tier of compensation for oil pollution damage from oil tankers. This regime was updated by a Supplementary Fund Protocol of 2003, providing an additional third tier of compensation. New Zealand is not yet a party to this Protocol. As the Ministry of Transport says on its website, this would increase the potential compensation available in New Zealand from up to \$377 million, to up to \$1.392 billion. The MOT also says that accession to the Supplementary Fund Protocol would provide New Zealand with access to a relatively inexpensive global insurance scheme.

On the face of it, delay in adoption of the 2003 Protocol is something New Zealand can ill afford. The Cabinet approved accession to the 2003 Protocol back in December 2014. Hopefully Parliamentary time will be found soon to bring this into force, and to enable a less formal mechanism for adopting any higher limits that may be negotiated by way of Protocol in the future. Let's hope there is no incident such that NZ lives to regret the time taken to adopt the new Protocol.

With the threat of spread of the zika virus having been in the news lately, not only in Brazil, but the United States, and more closer to home, the Pacific, another response MLAANZ has recently provided to the CMI is also a useful resource in a maritime context. Our response to questions on Pandemic Response — The Effect on Seafarers and Passengers at Sea, surveys the applicable law in Australia

and New Zealand. Our letter can be found on our website [here](#). Thanks to members Nathan Cecil in Sydney and Kerryn Webster in Auckland for coordinating this work.

On speaking to our conference organiser I understand we have almost 90 delegates registered to attend our 43rd National Conference from 28-30 September, and there is room for more. Encourage your colleagues. Bring a client! I look forward to seeing you all in beautiful Noosa later this month.

Neil Beadle
President, MLAANZ

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