



Australian Government

Australian Maritime Safety Authority

Fact finding report into the reported collision involving

the New Zealand registered craft

Ady Gil

and the Japan registered whaling ship

Shonan Maru No. 2

in the Southern Ocean on 6 January 2010

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1. Preamble

On 7 January 2010, Acting Prime Minister, the Hon Julia Gillard MP announced that the Australian Maritime Safety Authority (AMSA) had been directed to investigate the collision involving the New Zealand flagged tri hull wave piercer *Ady Gil* and the Japanese flagged whaling ship *Shonan Maru No. 2* in the Southern Ocean.

The object of the investigation was to establish in more detail the facts concerning the incident and to assist the Australian Government in determining if any further investigation was required. It is not the intention of this report to ascribe blame for the incident to any party. All available factual material of sufficient weight to support the analysis and findings has been included in the report.

The findings of this report may be published and may be used to determine and communicate the safety factors related to the incident under investigation.

2. AMSA's powers to investigate maritime incidents

Under the *Australian Maritime Safety Authority Act 1990* (AMSA Act), AMSA's functions include providing a search and rescue (SAR) service, combating pollution in the marine environment, implementing various international safety conventions related to shipping through the *Navigation Act 1912* and cooperating with the Australian Transport Safety Bureau (ATSB) in relation to investigations under the *Transport Safety Investigation Act 2003*. These services, as well as other functions that are incidental to those described in the AMSA Act, may be provided both within and outside Australia.

In general, AMSA's primary interest is to promote compliance with international safety obligations while ATSB investigates transport incidents occurring in Australia to identify safety deficiencies and corrective actions. Lessons arising from the investigations conducted by the ATSB are used to reduce the risk of future accidents and incidents. To assist both agencies, AMSA and ATSB have agreed to cooperate in conducting their respective investigations to facilitate the best outcomes.

The Australian Government, through AMSA, may decide to investigate breaches of maritime law, including a collision in Australia's territorial sea, under the *Navigation Act 1912*. Where such an investigation for regulatory compliance and/or prosecution purposes was instigated, AMSA surveyors would routinely undertake the following activities to prepare a preliminary report about the incident¹:

- . attend the vessels involved to gather:
 - . documentation
 - . navigation data

¹ The duties of an AMSA marine surveyor include performing surveys on Australian and foreign ships, investigating incidents on board ships and ashore that relate to safety, environmental and cargo issues, approving equipment and performing cargo inspections.

- . photographic evidence
- . statements
- . liaise with vessel traffic services and other sources to gather vessel position data, both for the vessels involved and other ships in the area.
- . arrange to interview possible witnesses to either the collision or following activity.

With the facts that resulted from these activities, AMSA could then report on the following matters:

- Vessel details
- Weather conditions and sea state
- Availability and utilisation of wheelhouse and navigational equipment
- Competency of crews, particularly those on watch at the time
- The lookout being kept on board both vessels
- Collision risk assessment
- Awareness of potential collision
- Actions taken to avoid the collision
- Actions taken following the collision
- Manoeuvrability and speed of the vessels prior to and following the incident
- Human factors issues associated with the incident
- Communication
- Compliance with relevant regulations

As the flag states of the vessels involved, Japan and New Zealand have exclusive jurisdiction over their vessels in relation to incidents of this kind. However, AMSA was directed to conduct a fact-finding inquiry into the collision as an interim measure given the incident reportedly occurred in Australia's search and rescue region and because AMSA has the relevant expertise to investigate such incidents.

The scope of the present incident analysis is limited as the collision involving the *Ady Gil* and the *Shonan Maru No 2* did not occur in Australia's territorial sea and did not involve an Australian flagged vessel. It is also limited by the remote location of the incident, access to potential witnesses, reliability of reports, quality of video footage and the difficulty in communicating with the parties of interest while they were in the Southern Ocean (the six crew members of the *Ady Gil* returned to Fremantle on 28 January 2010).

AMSA's fact-finding inquiry is not related to police inquiries into the incident. The Australian Federal Police has announced separately that it is conducting preliminary inquiries into the collision in response to a formal request from the Japanese Government and in accordance with Australia's obligations under the *Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention)*.

Australia's obligations under the SUA Convention are triggered by the presence in Australia's territory of alleged offenders.

3. Factual information

The *Ady Gil* is a tri hull wave piercer (Figure 1). At the time of the incident, it was owned by *Ady Gil/ Earthrace Limited* and registered in the Port of Wellington, New Zealand. It is unknown to what standard it was built or if there were any limitations to its area of operations. The vessel was being operated as part of the Sea Shepherd Conservations Society (SSCS) fleet.



Figure 1: *Ady Gil*

The *Shonan Maru No. 2* is a single hull whaling ship IMO7225166 (Figure 2). At the time of the incident it was owned by *Kyodo Senpaku Kaisha Ltd.* under charter to the Institute of Cetacean Research whose head office is based in Tokyo, Japan. The *Shonan Maru No. 2* is registered in Japan and classed with *Nippon Kaiji Kyokai (NKK)*.



Figure 2: *Shonan Maru No. 2*

4. Description of the incident

At 1523² on 6 January 2010, AMSA's Rescue Coordination Centre (RCC) was contacted by Sea Shepherd USA to report a collision between *Ady Gil* and *Shonan Maru No. 2*. This report, lodged via telephone by a person identifying himself as the Executive Director, Sea Shepherd USA, reported that a collision had occurred in the Southern Ocean, 165 nautical miles³ (nm) north of Antarctica at position 64° 03'S; 143° 09'E at about 1500 on 6 January 2010 (refer Figure 3). These coordinates place the reported incident at approximately 1300 nm south of Tasmania and 170 nm north of the Antarctic coastline.

Another SSCS ship, the *Bob Barker*, later reported to the RCC and advised that all crew of the *Ady Gil* had been rescued and no search and rescue assistance was requested. At the time of the incident, none of the *Ady Gil*, *Shonan Maru No. 2* or the *Bob Barker* was participating in AUSREP, the Australian Ship Reporting System established under Division 14 of Part IV of the *Navigation Act 1912*.⁴

SSCS initially advised AMSA that all *Ady Gil* crew were safe on board the *Bob Barker* but later informed AMSA that a New Zealand crew member had sustained two broken ribs in the incident. The *Ady Gil* crew consisted of one Dutch national and five New Zealand nationals.

5. Jurisdiction

Location of the incident

The reported location of the collision is not in Australian waters. The location of the incident, as SSCS reported it to the RCC, is within Australia's search and rescue region but outside of Australia's territorial sea adjacent to Antarctica.

The relevant rules which govern a country's jurisdiction over a foreign vessel are the same under international law in a country's EEZ as they are on the high seas. As a general rule, Article 92 of the United Nations Convention on the Law of the Sea 1982 (UNCLOS) provides that a vessel is subject to the exclusive jurisdiction of its flag State on the high seas. Article 58 of UNCLOS provides that this general rule applies equally in a country's EEZ. Accordingly, New Zealand and Japan, as the flag States of the *Ady Gil* and the *Shonan Maru 2* respectively, have exclusive jurisdiction in relation to incidents of this kind.

Further, as a general rule, Article 97 of UNCLOS provides that, in the event of an incident of navigation concerning a ship on the high seas involving the penal or disciplinary responsibility of the master or any other person in the service of the ship,

² All times referred to in this report are Australian Eastern Daylight Saving Time, calculated as Coordinated Universal Time (UTC) + 11 hours.

³ One nautical mile is equivalent to 1852 metres.

⁴ AUSREP is an integral part of the Maritime Search and Rescue system in Australia and is operated by AMSA through the RCC. The objective of the AUSREP system is to contribute to the safety of life at sea by, amongst other things, limiting the time between the loss of a ship and the initiation of search and rescue and providing up-to-date information on shipping resources available in the area in the event of a search and rescue incident.

no penal or disciplinary proceedings may be instituted against such person except by the flag State or the State of which the person is a national.

International rules and regulations relating to safety of life at sea

The Safety of Life at Sea Convention 1974 and its Protocol of 1988, as amended (SOLAS) sets out the international regulations for safety of life at sea. The instrument obliges Contracting Governments, *inter alia*, to maintain or adopt adequate measures to promote the safety of ships and property at sea and the lives of persons on board. Chapter V of SOLAS contains the regulations relevant to navigation of vessels, which are applicable to all vessels on all voyages. Pursuant to these regulations, the master of a ship must provide assistance on receiving a signal from any source that persons are in distress at sea. This obligation applies regardless of the nationality or status of such persons or the circumstances in which they are found. This Convention is also given effect by the law of the flag State.

The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS) sets out internationally agreed measures for the navigation, management and working of a ship, and the lights and signals to be provided and used on a ship, for the prevention of collisions. The rules are given effect by the law of the flag State and apply to all vessels on the high seas. Nothing in COLREGS exonerates the owner, master or crew of any vessel from the consequences of neglect to comply with the rules or of the neglect of any precaution which may be required by the ordinary practice of seafarers. Under the COLREGS, every vessel is required to maintain a proper look-out, to keep a safe distance from other vessels and to proceed at a safe speed so that proper and effective action can be taken to avoid collision.

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended in 1995 and 1997 (STCW Convention) sets out international regulations for training and certification of seafarers. Specifically, Chapter VIII refers to watchkeeping practices and duties.

Australia's search and rescue response

Australia, as signatory to the Convention on International Civil Aviation, 1944; the International Convention for the Safety of Life at Sea, 1974; and the International Convention on Maritime Search and Rescue, 1979 (the SAR Convention), has developed a SAR organisation to direct, coordinate and control search and rescue operations within the Australian Search and Rescue region (SRR) and to provide the organisational basis for cooperation between different SAR authorities, including New Zealand. AMSA's Rescue Coordination Centre (RCC) coordinates search and rescue operations for persons, aircraft and vessels in distress within Australia's internationally agreed SRR, which includes part of the Southern Ocean.

Both Australia and New Zealand have adequate and appropriate protocols to fulfil international search and rescue coordination obligations in their Southern Ocean sectors of the SRR, and these have been demonstrated over several years. However, the Australian Government expects all ships to cooperate with Australian authorities to resolve an emergency should one occur. It should be noted that the Southern Ocean is at the extreme range of search and rescue capability, or beyond, and is several days steaming for rescue ships. Hence, the Australian Government is not likely to be in a position to provide immediate assistance in the case of an emergency.

In view of the above, and since there were known to be Australian nationals on board SSCS vessels which planned to pursue Japanese whaling vessels in the Southern Ocean and given the potential for a SAR incident in these circumstances, AMSA sent the *Ady Gil* (on 4 December 2009 – Attachment 1) and *Steve Irwin* (on 8 December 2009 – Attachment 2) a written statement noting the safety risks of operating in the Southern Ocean. The statement noted that the vessels would be remote from rescue assets and facilities, that governments with search and rescue roles may have extremely limited capability to provide assistance, and emphasised the need for safe operations, including the strict observation of collision avoidance regulations. The statement also drew attention to the very limited capability for the Australian Government to provide consular assistance to Australians on board should they require it for any reason. A further written statement from AMSA to the *Ady Gil* on 10 December 2009 reiterated these points and highlighted particular concerns with the safety of the vessel for a voyage in ice, and concerns about the durability of the vessel in the event of any collisions.

Fortunately, as a result of the proximity of other SSCS vessels in the vicinity of the collision, no SAR action was required to be taken in response to the reported incident.

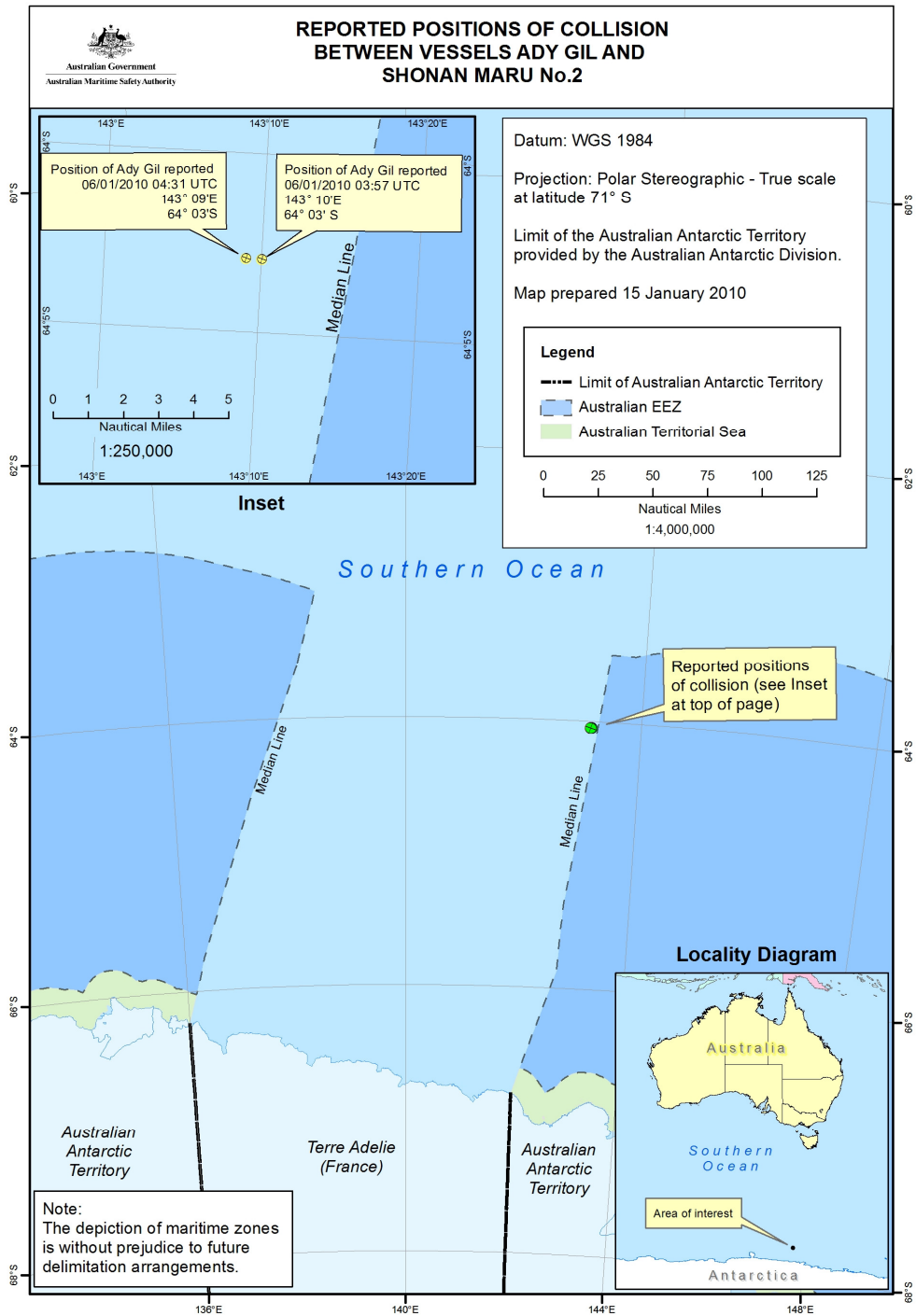


Figure 3. Reported positions of collision – 1: 4 000 000 scale.

6. Initial enquiries

Operating within the identified limitations, AMSA initiated preliminary enquiries with the operators of both vessels. This included a request for voluntary assistance through the completion of a detailed questionnaire regarding vessel particulars, voyage details, incident details, post incident actions and a further request for any other relevant data (Attachment 3).

This request was initially forwarded by the RCC to both the *Shonan Maru No. 2* and the ship *Bob Barker*, to be passed on to the master of the *Ady Gil* on Friday 8 January 2010, with a request for response by close of business on 13 January 2010.

AMSA obtained a reply to this request from the crew of the *Ady Gil*. In their response, they also referred to a publicly available website which contained a collection of video images. This video footage appears to have been taken from reference points on board the *Ady Gil* and the *Bob Barker*. The footage was analysed by an independent expert for authenticity, including whether any editing might have occurred. However no conclusions could be drawn in this regard.

The sources of information in preparing this report are provided at Attachment 4.

7. Response from the *Ady Gil*

The response from the master of the *Ady Gil* was received by the RCC on 9 January 2010. Following is a summary of that response.

Vessel Particulars

| | |
|------------------|------------------------------------|
| Vessel Name: | <i>Ady Gil</i> |
| IMO Number: | None |
| Official Number: | NZ1271 |
| Vessel Flag: | New Zealand |
| Home Port: | Wellington, New Zealand |
| Vessel Type: | Tri Hull Wave Piercer |
| Vessel Owner: | <i>Ady Gil</i> / Earthrace Limited |

Incident details

| | |
|-----------------------------|-----------------------------------|
| Time of incident: | 14:36 AEDT, 03:36 UTC |
| Position of Incident: | 64 deg 03' S, 143 deg 10' E |
| Weather Conditions: | Fine, good visibility |
| Sea State: | E/SE 15kn winds, 2m Swell from SE |
| Course at time of incident: | 340 degT |

Narrative of the incident:

The *Ady Gil* with six crew on board had pulled alongside the SSCS vessel the *Bob Barker*, which was on a heading of 030degT. At the time, the *Ady Gil* was doing about 14 knots, judged by the skipper of *Ady Gil* to be the same speed as the *Bob Barker*.

The *Ady Gil* then put its engines into neutral to drift while the *Bob Barker* sailed on. The course of the *Ady Gil* then moved to around 340 degT at a speed of about 2kts due to the wind, swell and current.

The *Shonan Maru No. 2* then approached the *Ady Gil* from the stern. The crew of the *Ady Gil* estimated that the *Shonan Maru No. 2* was initially on a heading of 030degT, and doing around 14 knots⁵.

The crew of the *Ady Gil* estimated that had the *Shonan Maru No. 2* maintained its initial heading, it could well have cleared the bow of the *Ady Gil* by about 20 metres. The crew of the *Ady Gil* claimed that, at the last moment, the *Shonan Maru No. 2* turned to starboard, changing its heading to 30 degT⁶ and colliding with the port sponson and then smashing off a 3 metre section of the bow of the *Ady Gil*.

There was no communication with the *Shonan Maru No. 2* before the incident. A mayday call was placed on Channels 16 and 77. The *Bob Barker* responded to the call and assisted in the evacuation of the crew and some equipment of the *Ady Gil*. The crew of the *Ady Gil* claim *Shonan Maru No. 2* failed to respond to the mayday call. They did however remain in the area.

Further details of the crew of the *Ady Gil* were later provided to the RCC.

8. Response from the *Shonan Maru No. 2*

The particulars of the *Shonan Maru No 2* are drawn from records completed during a port State control inspection by AMSA while it docked at Fremantle on 21 December 2007.⁷ It should be noted that no deficiencies were recorded during that inspection.

Vessel Particulars

| | |
|-------------------|---------------------------|
| IMO: | 7225166 |
| Flag: | Japan |
| Reg. Owner: | Kyodo Senpaku Kaisha Ltd. |
| Type: | Whaler |
| Year of build: | 1972 |
| DWT: | 628 |
| GT: | 1 015 |
| Hull type: | Single |
| Callsign: | JFCF |
| MMSI: | 431934000 |
| Port of Registry: | Tokyo |
| Breadth | |

⁵ Knot – one knot is equivalent to one nautical mile per hour.

⁶ Investigators note: This is the same heading stated earlier as the ship's initial heading, 030T i.e. no alteration of heading is indicated.

⁷ At the time of docking at Freemantle, the *Shonan Maru No 2* was not part of Japan's whaling fleet. Instead, it was conducting research as part of the International Whaling Commission's Southern Ocean Whale and Ecosystem Research (SOWER) program, in which Australia also participates. As part of the SOWER program, Australia granted the *Shonan Maru No 2* public vessel status to undertake surveys in Australia's EEZ in January and February 2008.

| | |
|---------------|-------|
| Extreme: | 10.2m |
| Moulded: | 10.2m |
| Depth/Draught | |
| Depth: | 5.2m |
| Draught: | 4.8m |
| Length | |
| Registered: | 64.8m |
| Overall: | 70m |

Incident details

AMSA's request for information to the *Shonan Maru No. 2* was forwarded through formal diplomatic channels to the Japanese Government.

The Japanese Government subsequently advised the Australian Government that it would not be in a position to provide information in response to AMSA's questions owing to the possibility that this material might be required in any investigation by Japanese authorities. Navigation data such as GPS track/plotter and course/speed voyage recorder had been seized by the Japan Coast Guard for this purpose.

No other information about the timing, position, weather conditions, sea state or course at the time of the incident was provided by the Japanese authorities to assist the investigation (at the time of finalising this report). Japan indicated that this was also to avoid any prejudice to possible Japanese investigations.

We note that at the time of the incident the Japanese Government indicated its view that the collision with the *Shonan Maru No. 2* happened as a consequence of continuous sabotage by the *Ady Gil*, which included the towing of a rope with the intent to entangle the *Shonan Maru No. 2*'s rudder and propeller, launching projectiles containing acid and firing of a laser device.

It is beyond the scope of this inquiry to investigate the Japanese Government's allegations against Sea Shepherd. However, in response to a formal request from the Japanese Government and in accordance with Australia's obligations under the SUA Convention, the Australian Federal Police (AFP) is conducting preliminary inquiries into these matters.

9. Relevant rules for preventing collisions at sea

As previously stated, the Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS) imposes a duty of care on the masters of both vessels to observe the measures relating to the navigation, management and working of a ship for the prevention of collisions. In particular section I – Conduct of vessels in any condition of visibility and Section II – Conduct of vessels in sight of one another of Part B – Steering and Sailing Rules are relevant in that they prescribe action to assess and avoid collisions in overtaking and crossing situations and the responsibilities between vessels in such circumstances.

Article 98 (Duty to render assistance) of the United Nations Convention on the Law of the Sea 1982 (UNCLOS) may be relevant in that the master of a ship is required, after a

collision, to render assistance to the other ship, its crew and passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

10. Video Observations

Video observations - collision avoidance measures

Observation of the video footage did not give any indication as to whether the course of either vessel was a parallel one or a converging one. In the case of the *Shonan Maru No 2*, the bearing of the *Ady Gil* appeared to be on a parallel or near parallel course as it approached fine on the bow. It may be that both the masters of the *Shonan Maru No 2* and the *Ady Gil* expected that this course would only alter very slowly so long as both vessels maintained their course and speed and provided due caution was exercised. Under these circumstances, provided the bearing opened out, an appreciably safe situation could be considered to have existed. However, no firm conclusions can be drawn.

Video observations - actions taken after the collision

From the video footage, it appears that the master of the *Shonan Maru No 2* attempted to fulfilled the UNCLOS requirement to render assistance (Article 98) and turned about, reduced speed and approached the *Ady Gil* to ascertain that none of the *Ady Gil* crew had been injured and that no danger to the crew existed. However, it is not clear as to the amount of time elapsed before the Master of the *Shonan Maru No 2* rendered this assistance.

11. Analysis

Due to the limited scope for AMSA to investigate the incident, the lack of access to the crew and the absence of a detailed response from the *Shonan Maru No.2*, AMSA was unable to collect sufficient evidence to fully examine the circumstances pertaining to compliance with regulations or to conclude the facts of the matter. The following remarks may be relevant for any follow up investigations.

12. Concluding remarks

On the basis of the available evidence, AMSA has been unable to determine whether either vessel took any action intended to cause a collision. In the absence of face-to-face interviews with all the parties involved, the value of the publicly posted video footage was limited. The lack of confirmation of the validity of the source of this footage and therefore its limited evidentiary value prevented definitive conclusions being drawn.

Logistical and jurisdictional limitations prevented AMSA from satisfactorily communicating with the relevant parties to establish facts that would allow the drawing of justifiable and definitive conclusions at this time. AMSA investigators were unable

to independently verify the answers provided by the Master and crew of the *Ady Gil* (on board the *Bob Barker*) with any other available witness statements or information. AMSA also noted that the evidence may be held to be inadmissible in a court of law and this was taken into account in assessing the evidence, in accordance with relevant Commonwealth standards⁸.

AMSA understands a fuller investigation is being conducted by New Zealand and Japan. The New Zealand Foreign Minister, the Hon. Murray McCully, said on Radio New Zealand (7 January 2010) that ‘responsibility for investigation will rest with Maritime New Zealand... they [will] do a preliminary assessment [this morning] to determine what further work is going to be appropriate.’ He also stated that ‘the event did occur in the Australian search and rescue area so there is an Australian involvement as well, and the Australian and New Zealand authorities are co-operating closely in this regard.’ AMSA also understands that the Japan Coast Guard is now considering investigating the ‘sabotage’ acts including the collision as a criminal case. As at 20 April 2010, when this report was being completed, the investigations of both the New Zealand and Japanese Governments had not been concluded.

Safety is the primary responsibility of the master of a vessel, whether it is a protest vessel, a whaling vessel, a fishing vessel or a tourism vessel. Every vessel operating in the Southern Ocean has a primary responsibility to ensure that it conducts itself properly and makes sure that it acts in accordance with international law to protect the safety of life at sea. Prior to the departure of the *Ady Gil* for the Southern Ocean, the Australian Government warned both the Sea Shepherd crew and the Japanese whaling fleet of the dangers of a possible collision. On 7 December 2009 the Ministers for Foreign Affairs of Australia, the Netherlands and New Zealand issued a joint Ministerial statement which urged safety and restraint at all times. AMSA also communicated its concerns, including concerns about the durability of the *Ady Gil* in the event of a collision, directly to the master and crew of the *Ady Gil* on 4 December 2009 and 10 December 2009.

⁸ Prosecution Policy of the Commonwealth,
<<http://www.cdpp.gov.au/Publications/ProsecutionPolicy/ProsecutionPolicy.pdf>>

Attachment 1: Safety Message to *Ady Gil*

R 040643Z DEC 2009
FM RCC AUSTRALIA
TO ADY GIL (EMAIL: PETE@EARTHTRACE.NET)
BT
SUBJ: SEARCH AND RESCUE OPERATIONS SOUTHERN OCEAN
AUSSAR: 09/8362%
SUBJ: SOUTHERN OCEAN OPERATIONS: CONTINGENCY PLANNING

1. UNDER GLOBAL SEARCH AND RESCUE (SAR) ARRANGEMENTS, THE AUSTRALIAN RESCUE COORDINATION CENTRE (RCC AUSTRALIA) IN CANBERRA IS RESPONSIBLE FOR THE COORDINATION OF SAR AND PROVISION OF MEDICAL ADVICE, ASSISTANCE, AND (IF NECESSARY) EVACUATION IN THE AUSTRALIAN SAR REGION.

2. THE PURPOSE OF THIS MESSAGE IS TO ESTABLISH COMMUNICATIONS WITH YOUR VESSEL AND COLLECT CONTACT AND OPERATIONAL INFORMATION THAT MAY BE USED IN THE EVENT OF AN EMERGENCY ONBOARD YOUR VESSEL, OR FOR RESPONSE TO AN EMERGENCY IN THE SOUTHERN OCEAN AND WILL BE SUBJECT TO COMMERCIAL IN CONFIDENCE.

THE INFORMATION REQUESTED IS AS FOLLOWS:

A. COMMUNICATIONS AND SAFETY EQUIPMENT ONBOARD (IF 406MHZ EPIRB HELD INCLUDE HEXID) B. 24 HOUR EMERGENCY CONTACTS ASHORE WHO CAN PROVIDE INFORMATION IN THE EVENT OF AN EMERGENCY C. SHIPS EMERGENCY PLAN IN THE EVENT OF A SERIOUS INCIDENT D. MEDICAL FACILITIES AND PERSONNEL ONBOARD

3. BASED ON INFORMATION THAT RCC AUSTRALIA HAS IN REGARDS TO THE COMMUNICATIONS ON YOUR VESSEL, IE SAT-PHONE AND VHF RADIO ONLY, IT IS CONSIDERED THAT THE COMMUNICATIONS EQUIPMENT FITTED FOR YOUR ACTIVITIES IN THE SOUTHERN OCEAN IS ILL SUITED.

4. GIVEN THE REMOTE OPERATING AREA AND ITS PARTICULAR HAZARDS, YOUR VESSEL MAY ALSO WISH TO PARTICIPATE IN THE AUSTRALIAN SHIP REPORTING SYSTEM (AUSREP). THE AUSREP SYSTEM IS DESIGNED TO PROVIDE A POSITIVE SAR WATCH TO VESSELS OPERATING WITHIN THE AUSTRALIAN SAR REGION (SEE <http://www.amsa.gov.au/Publications/AUSREP.pdf>)

5. RCC AUSTRALIA MUST ALSO EXPLAIN THAT THE SOUTHERN OCEAN IS REMOTE FROM RESCUE FACILITIES AND ASSETS; AND THE NEED FOR SAFE OPERATIONS INCLUDING THE STRICT OBSERVATION OF COLLISION AVOIDANCE REGULATIONS IS OF UTMOST IMPORTANCE. ADDITIONALLY, IN THE EVENT OF A DISTRESS SITUATION YOUR VESSEL MAY BE

REQUESTED TO RESPOND BY RCC AUSTRALIA IN ACCORDANCE WITH THE SAFETY OF LIFE AT SEA CONVENTION, CHAPTER 5, REGULATION 33).

6. RCC AUSTRALIA'S EXPERIENCE IS THAT AN EXCHANGE OF CONTACT INFORMATION BETWEEN THE RCC, SHIP AND OPERATOR CAN DO A GREAT DEAL TO RESOLVE UNCERTAINTY AND ENHANCE IMMEDIATE RESPONSE IN THE EVENT OF AN EMERGENCY AT SEA. YOUR EARLY ADVICE WOULD BE GREATLY APPRECIATED.

7. CONTACT DETAILS FOR RCC AUSTRALIA ARE AS FOLLOWS:

PHONE: +61 2 6230 6811

FAX: +61 2 6230 6868

HF DSC: 005030001

EMAIL: RCCAUS@AMSA.GOV.AU (LOWER CASE)

INMARSAT: THROUGH LES BURUM (POR 212, IOR 312), SPECIAL ACCESS CODE (SAC) 39

8. IN ADDITION, THE DEPARTMENT OF FOREIGN AFFAIRS AND TRADE IN CANBERRA HAS ASKED US TO ADVISE YOU THAT GIVEN THE REMOTE LOCATION OF YOUR INTENDED OPERATIONS, THE AUSTRALIAN GOVERNMENT'S CAPABILITY TO PROVIDE CONSULAR ASSISTANCE TO AUSTRALIANS ON BOARD YOUR VESSEL, SHOULD THEY REQUIRE IT FOR ANY REASON, WILL BE EXTREMELY LIMITED.

9. PLEASE ACKNOWLEDGE THIS MESSAGE TO CONFIRM RECEIPT AS SOON AS POSSIBLE.

REGARDS
RCC AUSTRALIA
BT

Attachment 2: Safety message to Steve Irwin

R 080009Z DEC 2009
FM RCC AUSTRALIA
TO STEVE IRWIN/PC9093 (INMARSAT C: 424494310)

BT
UNCLAS

SUBJ: SEARCH AND RESCUE OPERATIONS SOUTHERN OCEAN
AUSSAR: 2009/8362

1. UNDER GLOBAL SEARCH AND RESCUE (SAR) ARRANGEMENTS, THE AUSTRALIAN RESCUE COORDINATION CENTRE (RCC AUSTRALIA) IN CANBERRA IS RESPONSIBLE FOR THE COORDINATION OF SAR AND PROVISION OF MEDICAL ADVICE, ASSISTANCE, AND (IF NECESSARY) EVACUATION IN THE AUSTRALIAN SAR REGION.

2. THE PURPOSE OF THIS MESSAGE IS TO ESTABLISH COMMUNICATIONS WITH YOUR VESSEL AND COLLECT CONTACT AND OPERATIONAL INFORMATION THAT MAY BE USED IN THE EVENT OF AN EMERGENCY ONBOARD YOUR VESSEL, OR FOR RESPONSE TO AN EMERGENCY IN THE SOUTHERN OCEAN AND WILL BE SUBJECT TO COMMERCIAL IN CONFIDENCE.

THE INFORMATION REQUESTED IS AS FOLLOWS:

A. COMMUNICATIONS AND SAFETY EQUIPMENT ONBOARD (IF 406MHZ EPIRB HELD INCLUDE HEXID) B. 24 HOUR EMERGENCY CONTACTS ASHORE WHO CAN PROVIDE INFORMATION IN THE EVENT OF AN EMERGENCY C. SHIPS EMERGENCY PLAN IN THE EVENT OF A SERIOUS INCIDENT D. MEDICAL FACILITIES AND PERSONNEL ONBOARD

3. GIVEN THE REMOTE OPERATING AREA AND ITS PARTICULAR HAZARDS, YOUR VESSEL MAY ALSO WISH TO PARTICIPATE IN THE AUSTRALIAN SHIP REPORTING SYSTEM (AUSREP). THE AUSREP SYSTEM IS DESIGNED TO PROVIDE A POSITIVE SAR WATCH TO VESSELS OPERATING WITHIN THE AUSTRALIAN SAR REGION (SEE <http://www.amsa.gov.au/Publications/AUSREP.pdf>)

4. RCC AUSTRALIA MUST ALSO EXPLAIN THAT THE SOUTHERN OCEAN IS REMOTE FROM RESCUE FACILITIES AND ASSETS; AND THE NEED FOR SAFE OPERATIONS INCLUDING THE STRICT OBSERVATION OF COLLISION AVOIDANCE REGULATIONS IS OF UTMOST IMPORTANCE. ADDITIONALLY, IN THE EVENT OF A DISTRESS SITUATION YOUR VESSEL MAY BE REQUESTED TO RESPOND BY RCC AUSTRALIA IN ACCORDANCE WITH THE SAFETY OF LIFE AT SEA CONVENTION, CHAPTER 5, REGULATION 33).

5. RCC AUSTRALIA'S EXPERIENCE IS THAT AN EXCHANGE OF CONTACT INFORMATION BETWEEN THE RCC, SHIP AND OPERATOR CAN DO A GREAT DEAL TO RESOLVE UNCERTAINTY AND ENHANCE IMMEDIATE

RESPONSE IN THE EVENT OF AN EMERGENCY AT SEA. YOUR EARLY
ADVICE WOULD BE GREATLY APPRECIATED.

6. CONTACT DETAILS FOR RCC AUSTRALIA ARE AS FOLLOWS:

PHONE: +61 2 6230 6811

FAX: +61 2 6230 6868

HF DSC: 005030001

EMAIL: RCCAUS@AMSA.GOV.AU (LOWER CASE)

INMARSAT: THROUGH LES BURUM (POR 212, IOR 312), SPECIAL ACCESS
CODE (SAC) 39

7. IN ADDITION, THE DEPARTMENT OF FOREIGN AFFAIRS AND TRADE IN
CANBERRA HAS ASKED US TO ADVISE YOU THAT GIVEN THE REMOTE
LOCATION OF YOUR INTENDED OPERATIONS, THE AUSTRALIAN
GOVERNMENT'S CAPABILITY TO PROVIDE CONSULAR ASSISTANCE TO
AUSTRALIANS ON BOARD YOUR VESSEL, SHOULD THEY REQUIRE IT FOR
ANY REASON, WILL BE EXTREMELY LIMITED.

8. PLEASE ACKNOWLEDGE THIS MESSAGE TO CONFIRM RECEIPT AS SOON
AS POSSIBLE.

REGARDS
RCC AUSTRALIA
BT

Attachment 3: Request for information

PREAMBLE

The Australian Maritime Safety Authority is undertaking preliminary enquiries with the operators of the vessels and persons involved in the collision between *Ady Gil* and *Shonan Maru No 2* in the Southern Ocean.

This exercise is intended to establish in more detail the facts concerning the incident. It is not the intention to apportion blame for the incident to any party.

The findings of this enquiry will be provided to the Australian Government. The report may be published and will assist us in determining if any further investigation is required.

We would greatly appreciate your voluntary assistance in providing answers to the following questions as soon as possible and no later than 13 January 2010:

RECORD OF FACTUAL INFORMATION

INCIDENT INVOLVING THE ADY GIL AND SHONAN MARU 2

ON 6 JANUARY 2010

Vessel Particulars

1. Vessel name
2. IMO Number
3. Official Number
4. Vessel flag/home port
5. Vessel type
6. Vessel owner
7. Vessel operator
8. Length overall (LOA)
9. Draught
10. Communication equipment (list)

11. Bridge and navigation equipment (list)
12. Propulsion machinery (list)
13. Name and nationality of the vessel master
14. Name, rank, nationality and certificate of competency of bridge team

Details of the voyage

15. Last 4 ports of call:
Arrival and departure dates:
16. Last ports of call within Australia:
Arrival and departure dates:

Incident details

17. Time incident occurred (UTC)
18. Position of incident in longitude and latitude
19. Weather conditions at time of incident
20. Sea state at time of incident
21. Course at time of incident
22. Do you have a GPS (global position system) plotter or AIS (Automatic Identification System)?
23. Do you have a track history of the vessel? If so, please supply.
24. Description of navigation and safety actions taken immediately prior to the incident
25. Details of communications with other vessels involved in incident.

Actions taken post incident

26. Description of navigation and safety actions taken after the incident occurred
27. Details of communications with other vessels after the incident
28. Provide the names of witnesses including bridge crew
29. Were distress calls made or heard?
30. Did you offer to render assistance (if applicable)?
31. List any damage to your vessel as a result of the incident.
32. Were there any marine pollutants discharged or spilt as a result of the incident?
33. Did you communicate the details of the incident with your flag administration?

Other relevant information

34. Do you have any evidence (notebooks, records, photographs, digital imagery or video) of the incident?
35. Do you have any other information or observations that could be relevant to this enquiry?

Attachment 4: Sources of information

- Sea Shepherd Conservation Society
- *Ady Gil* skipper
- Department of Foreign Affairs and Trade
- Australian Maritime Safety Authority Rescue Coordination Centre
- Embassy of Japan