COMPULSORY PILOTAGE IN TORRES STRAIT

ST Forum, Dec 23, 2006

IMO didn’t approve Australia’s move

I REFER to the letter from the Acting High Commissioner of the Australian High Commission (ST, Dec 21) in response to my article, ‘A threat to transit passage?’ (ST, Dec 8).

The Acting High Commissioner states that the International Maritime Organisation (IMO) has approved Australia’s system of compulsory pilotage in the Torres Strait. I contend that it did not approve compulsory pilotage.

The IMO resolution in question states that it ‘recommends that governments recognise the need for effective protection of the Great Barrier Reef and Torres Strait region and inform ships flying their flag that they should act in accordance with Australia’s system of pilotage’.

This language makes compliance with the pilotage system voluntary, not compulsory. Further, the resolution provides that implementation of the pilotage system is for flag states, not coastal states.

In addition, at the meeting of the IMO Marine Environment Protection Committee in July 2005 when the resolution was adopted, the delegation of the United States stated that it must be recognised that the resolution was recommendatory and provided no international legal basis for mandatory pilotage for ships in transit in this or any other strait used for international navigation. Several delegations supported the statement by the U S. The delegation of Australia indicated that it did not object to the US statement. This is further evidence that the IMO did not intend the resolution to authorise a system of compulsory pilotage in the Torres Strait.

Whatever doubt there may have been with respect to the IMO resolution was resolved in October 2006 at the 55th Session of the IMO Marine Environment Protection Committee. The records of the discussion show unequivocally that the committee reconsidered the issue and reaffirmed that the resolution was only of a recommendatory nature.

In addition, 23 delegations, including major maritime nations like the US, Britain, China, Russia, Japan, Greece and Norway, expressed concern over Australia’s actions, and strongly urged Australia to review its marine notices on pilotage in the Torres Strait to bring them in line with the understanding of the committee. Only two delegations stated that they supported Australia’s action.

Given this evidence, I find it impossible to understand on what basis the Acting High Commissioner states that ‘the IMO has approved Australia’s system of compulsory pilotage’.

She is correct in stating that the United Nations Convention on the Law of the Sea (Unclos) is silent on pilotage. However, she ignores the fact that Unclos expressly provides that states bordering straits used for international navigation may only adopt laws and regulations on two specific matters relating to the exercise of transit passage. Pilotage is not one of the two specific matters.

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