

# **SIEVX & The DFAT Cable: The Conspiracy Of Silence**

**Marg Hutton**

*On 23 October 2001, the day Australians first became aware of the horrific sinking of the asylum seeker vessel we now know as ‘SIEVX’<sup>1</sup> with the loss of over 350 lives, an official government cable was read out in the Prime Minister’s People Smuggling Taskforce (PST) causing the high level group to conclude that the ‘vessel [was] likely to have been in international waters’ when it foundered, placing the tragedy firmly in the Australian ‘Operation Relex’ border protection surveillance and interception zone.*

*One would reasonably expect that there would have been an immediate call for an inquiry into an incident of this magnitude, the ‘largest Australian-related civilian catastrophe in the history of this country’.<sup>2</sup> This did not occur. In contrast, a ‘state of play brief’ was prepared for the Prime Minister by his Department on the next day, 24 October, confirming what he had already been erroneously claiming – that the boat had sunk in Indonesian waters, and therefore was not Australia’s responsibility.*

*So began a pattern of withholding and misrepresenting vital evidence that spanned the life of the Select Committee on A Certain Maritime Incident (CMI) and continues to the time of writing.*

*This paper traces the disturbing history of the Department of Foreign Affairs and Trade (DFAT) cable<sup>3</sup> of 23 October 2001, how it was suppressed for an inordinate period and how it eventually came to light.*

*The release in February this year of this long sought after<sup>4</sup> key item of evidence pertaining to SIEVX reveals that the Howard Government and its agencies knew much more about the doomed asylum-seeker vessel and its sinking in October 2001 than ever was revealed to the CMI Inquiry.*

*The cable therefore raises significant questions about what other evidence has been withheld and whether Australian agencies may have been directly or indirectly complicit in the tragic sinking.*

## **1. What is the DFAT cable?**

The cable was a high-priority, authoritative report on the sinking from the Australian Embassy in Jakarta, prepared under the direction of the Ambassador Ric Smith<sup>5</sup>, to a by-name distribution list of more than 40 high-level recipients including the Prime Minister, six other Government Ministers, five Government Departmental Secretaries (including the then Secretary of Prime Minister and Cabinet, Max Moore-Wilton), Chief of the Defence Force (CDF) and Commissioner of Australian Federal Police.<sup>6</sup> Although the cable does not list details of by-name internal distributions within government departments, except in DFAT, it may be assumed that staff officers of the CDF would have circulated the cable appropriately to senior officers within Defence, for example to Rear Admiral Geoff Smith, head of Operation Relex.

Dated 23 October 2001, the day that the sinking of the boat became world wide news and classified ‘restricted’ and ‘contains sensitive information’, the cable includes information that casts doubt on the veracity of the testimony of many of the witnesses who tendered evidence or appeared before the CMI Committee, and challenges key findings of the CMI Report.

The significance of this document cannot be overstated. This four page, richly-detailed cable represents most of Australia's knowledge about the SIEVX sinking sixteen hours after the survivors arrived back in Jakarta and contains a synthesis of the initial information obtained by the joint AFP-INP investigative team that the Embassy considered appropriate to report to Canberra at this time in cable format.<sup>7</sup>

Despite very careful wording, the cable reveals the politically sensitive and potentially extremely electorally damaging information that SIEVX did not sink in 'Indonesian waters' as John Howard had repeatedly and emphatically claimed on Perth radio that morning (and continued to claim throughout the 2001 Federal election campaign)<sup>8</sup>. Rather it shows that the boat went down in international waters, 'out of sight of land' perhaps as far south as 8 degrees latitude, that is, up to some ninety miles south of the Sunda Strait.<sup>9</sup> This is well inside the Operation Relex zone where the Prime Minister and Mr Ruddock had proudly boasted a few weeks earlier that Australia would be conducting 'saturation surveillance'.<sup>10</sup> This fact is of critical importance to questions about whether Australian authorities could have monitored the sinking emergency or rescued the survivors.

This paper will argue that the public release of this cable so late in the day – nearly four months after the CMI Committee had finished its work and tabled its report – was not an 'administrative oversight', as claimed by one PM & C officer at a recent Senate Estimates hearing.<sup>11</sup> Rather it appears to be part of a calculated strategy by several Australian Government agencies to conceal for as long as possible key evidence about the SIEVX tragedy in order to minimise the perception that Australia bore any responsibility for the deaths of the 146 children, 142 women and 65 men who drowned when SIEVX foundered and sunk on 19 October 2001.<sup>12</sup>

The cable contains other sensitive information pertaining to the seaworthiness of the boat and radio communications which contradicts or demonstrates serious omissions in previous testimony and evidence provided to the CMI Committee.<sup>13</sup> But this paper will concern itself primarily with information in the cable regarding the sinking position.

## 2. What does the cable reveal about where SIEVX sank?

The cable makes several references to the sinking position in statements that range from very broad to more precise estimates. However, even the most general statement directly contradicts the claim that SIEVX sank in the Sunda Strait as was still being claimed by Defence Minister Hill as late as June 2002.<sup>14</sup>

The broadest estimate is contained in the summary which includes the line: 'The SIEV is believed to have foundered in rough seas to the south of Sunda Strait within the Indonesian Maritime Search and Rescue Area of Responsibility.' The Indonesian Maritime Search and Rescue Area of Responsibility (IDSRR) includes waters further south than Christmas Island so the cable is stating the obvious – that the boat went down somewhere along the route to Christmas Island after exiting the Sunda Strait.<sup>15</sup> This is virtually meaningless in terms of suggesting a precise position where SIEVX may have sunk but importantly, it does rule out the Sunda Strait.

It is interesting to note that Howard uses the term 'Indonesian Search and Rescue Area' when he wants to deny or evade Australian responsibility for anything that occurs in the waters north of Christmas Island, for example during the *Tampa* crisis. When it suits his purposes – for example, discussing Australia's maritime surveillance - he refers to this same expanse of ocean as 'international waters'.<sup>16</sup> It is likely that the same factors are at work here in the DFAT cable;

describing the sinking position as ‘within the Indonesian Maritime Search and Rescue Area of Responsibility’ appears to be a weak attempt to blur any Australian liability.

If any evidence had been found that the boat had sunk within the Sunda Strait or the Indonesian territorial seas, ie within twelve nautical miles of the Indonesian coast, it is reasonable to assume that this would have been clearly stated in the summary section of the cable, given that it was in the Government’s interests for SIEVX to have sunk as far north as possible. So use of the term ‘within the Indonesian Maritime Search and Rescue Area of Responsibility’ indicates Australian knowledge of a sinking position in international waters.

Paragraph 5 of the DFAT cable includes the information that at the time the vessel began taking water it ‘was out of sight of land’. This is further corroboration that the boat did not sink close to Indonesia.

Paragraph 6 gives the most detailed and important information: ‘The exact position of vessel at the time of sinking is unknown, but it is judged as no further south than 8 degrees south latitude on a direct line from Sunda St[rait] to Christmas Is[land].’

So first the cable puts the sinking position anywhere between Sunda Strait and Christmas Island. Then it narrows the area in which the sinking could have occurred by putting it out of sight of land. Finally it allows that the sinking could have occurred more than one third of the way from Indonesia to Christmas Island, well inside Australia’s Operation Relex surveillance area.

If there was evidence that SIEVX sank before it reached the Australian Operation Relex surveillance area then this would have been clearly stated. The only logical inference from what the cable does and does not say about the sinking position is that it went down in international waters, within our border protection surveillance area. As will be shown later, this conclusion is also reached by other readers of the cable including the People Smuggling Taskforce and the Chair of the CMI Committee, Senator Cook. It is also corroborated by most of the other contemporaneous documentary evidence.

The cable is one of only five publicly available official primary source documents<sup>17</sup> produced between 23 and 24 October 2001<sup>18</sup> that provide authoritative information regarding the sinking of SIEVX. In chronological order of their production, these are:

- ADF Strategic Command Daily Situation Report – 8am 23 October (AEST)
- DFAT Cable – 1.49pm 23 October (AEST)
- DIMA Intelligence Note 83/2001 – 2pm 23 October (AEST)<sup>19</sup>
- People Smuggling Taskforce Minute for the afternoon of 23 October (after 3.15pm AEST)<sup>20</sup>
- Jakarta Harbour Master Report – 6.30pm 24 October (AEST)<sup>21</sup>

The sinking position suggested in the DFAT cable is consistent with all but the first document listed above, ie that the vessel sank in international waters south of Sunda Strait.

Only the first document (the ADF Sit. Rep.) places the sinking in Indonesian territorial waters. This report was produced early on the morning of 23 October, before more precise information was available from the AFP-INP joint team investigating the tragedy.<sup>22</sup> The other four documents, produced over the next thirty-six hours while intelligence information was still fresh but after it had been tested and corroborated, are consistent in the information that they provide about the sinking position of SIEVX. It is important to note that there were no later contemporaneously produced documents released to the CMI Committee during its hearings that contradicted this evidence.

Of particular interest is the DIMA Intelligence note that is dated just eleven minutes after the DFAT cable was despatched from the Australian embassy in Jakarta.<sup>23</sup> This document undoubtedly draws on the same sources as the cable yet it is more exact in its estimation of the sinking position, placing it clearly in Australia's border protection surveillance zone:

At about 1400 hours on Friday, *when approximately 60NM south of the Sunda Strait*, the boat began taking water and finally capsized and sank at about 1500 hours. [emphasis added]<sup>24</sup>

Despite receiving this relatively precise estimation, the CMI Inquiry was unable to conclude where SIEVX sank. Tabled in Parliament on 23 October 2002, the CMI Report was written without consideration of two key pieces of evidence concerning the sinking – the DFAT cable and the Jakarta Harbour Master's Report.

The most authoritative document regarding the sinking position is the Jakarta Harbour Master's Report of 24 October 2001 which contains the coordinates of the rescue of the SIEVX survivors by Indonesian fishing boats. Yet it was never tabled at the CMI Committee despite being provided to Defence. As will be discussed later, this document came to light as a result of the investigative journalism of Geoff Parish, who produced two programs for the SBS television current affairs program *Dateline* on the SIEVX Affair in May and July 2002.<sup>25</sup> The Harbour Master's Report<sup>26</sup> and the rescue coordinates it contains were broadcast (televised but not read out) in both these programs. A copy of the document was also faxed to Defence Public Relations at their request in June by Parish who understood that it would be included in the CMI Report.<sup>27</sup> It never was.

Given the absence of this vital evidence to the Committee it is perhaps understandable<sup>28</sup> that the Report could not make a definite statement about the sinking position of SIEVX, and appeared to support the sinking occurring in 'Indonesian waters' rather than international waters:

The exact location where the boat sank remains in doubt, with speculation that it might have gone down in the Sunda Strait within Indonesian waters. One report received by DIMIA [sic] indicated that the vessel capsized 'between Java and Sumatra'. A DIMA Intelligence Note issued on 23 October, however, suggested that the boat had capsized and sunk approximately 60 nautical miles (NM) south of the Sunda Strait. Advice provided to the Prime Minister, Mr Howard on 24 October referred to the vessel sinking in 'Indonesian waters' and stated that the 'boat capsized and sank quickly south of the western end of Java' ...<sup>29</sup>

One point to note is that the [report received by 'DIMIA' mentioned above] says that SIEV X 'capsized on 19 October between Java and Sumatra', which seems to contradict the previous day's [sic] DIMA Intelligence Note which suggested that the vessel sank 60nm south of Java.<sup>30</sup>

The perception that SIEVX sank close to the Sunda Strait has gained such currency since the publication of the CMI Report that even a strong and perceptive critic of the Government position on SIEVX, Phillip Adams, recently referred to the sinking as having occurred 'just outside Indonesia's Sunda Strait'.<sup>31</sup> So the emergence of the DFAT cable is indeed a significant development in the difficult process of uncovering the truth about the sinking of SIEVX.<sup>32</sup>

### 3. How was the DFAT cable revealed?

Given the importance of the information contained in the cable it is difficult to understand how this document failed to be provided to the Senate until more than three months after the CMI Report was tabled. How it was suppressed will be examined in the next section. First we will show the slow and painful process by which it came to light. We need to go back to June 2002 when the high level People Smuggling Taskforce (PST) minutes were first tendered as evidence to the CMI Committee.<sup>33</sup>

The PST met on the afternoon of 23 October 2001, the day that the world first heard the news that an asylum-seeker vessel had foundered and sunk with the loss of 353 lives. Several months later in mid 2002, during the CMI hearings we learned that the minutes of this crucial meeting included the information that the boat was likely to have gone down in international waters south of Java. The release of the PST minutes in June 2002 caused great excitement in the media.<sup>34</sup> For the first time the government was forced to publicly respond to the allegations and suspicions swirling around SIEVX. During June and July, three Ministers and the Defence Secretary (Howard, Hill, Ruddock and Hawke) went on the record to clarify their knowledge and understanding of the sinking position of SIEVX and to refute any Australian involvement in the tragedy. (And as will be shown later, they continued to dissemble and mislead regarding where the boat sank.)

It was the release of these damaging minutes more than anything else that led the CMI Committee to recall Jane Halton, the head of the PST at the time of the sinking, in order to question her about the source of the information contained in the minutes that SIEVX had most likely foundered in international waters.

Halton's examination at the CMI Committee was the most intense of any witness. She appeared twice and her total testimony ran to more than 260 pages. This is more than Commander Banks and Rear Admiral Smith, both of whom appeared on three separate occasions.<sup>35</sup>

Halton appeared before the CMI Committee for the second time on 30 July, the last day of hearings. Virtually the whole of the morning session was taken up with examination of the evidence regarding the SIEV4 'Overboard' incident. The Labor Senators raking over this ground again appeared to wrong-foot Halton who had prepared herself for intense scrutiny regarding the People Smuggling Taskforce and the SIEVX Affair.<sup>36</sup> The Committee broke for lunch with the questions about SIEVX still not raised.

Around mid-afternoon, Senator Faulkner finally asked Ms Halton about how she first became aware of the sinking of SIEVX. She replied:

I received a phone call from Shane Castles at 2 a.m. It woke me up. I missed the call, went out and looked to see who it was and returned his call. He told me the barest bones-that he understood there was a report but that a cable would be coming later in the day that a vessel had sunk. That was it.<sup>37</sup>

This was the first time that the DFAT cable had been mentioned by any witness in testimony.<sup>38</sup>

The Committee grilled Halton intensively about the cable and the Taskforce meeting that was held on the afternoon that the cable was received. Halton claimed never to have seen the cable,<sup>39</sup> but it is hard to believe that in her role as Chair of the Prime Minister's People Smuggling Taskforce, she would not have received a copy of this vitally important document. Indeed, in a recent Senate Estimates hearing on 10 February 2003, Andrew Metcalfe of PM & C was questioned about which members of his Department would have received it. He stated:

There was no address... to the task force as an entity, but the key people on the task force would have received the cable... Ms Halton was the relevant executive coordinator and chair of the Taskforce at the time. Similarly, her executive assistant would have received a copy, and I imagine that she would have seen it. The officers within the Social Policy Division who were supporting the Taskforce I imagine would have seen it.<sup>40</sup>

Despite her denial of sighting the cable, Halton informed the CMI Committee that it was the primary source of information about the sinking contained in the PST minute of 23 October 2001.<sup>41</sup> She claimed that the cable was read out at the Taskforce meeting and that she took detailed notes in her 'daybook' as it was read. She maintained that in places her daybook is 'word for word' and

‘completely consistent’ with what is recorded in the Taskforce minute of the day by the note taker.<sup>42</sup>

Interestingly, she informed the Committee that she believed the line recorded in the PST minute - ‘vessel likely to have been in international waters south of Java’ - was also in the cable.<sup>43</sup> As discussed above, this conclusion is not spelt out in the cable, although it is clearly implied. These words appearing in the PST minutes suggest that the meeting discussed the sinking position and reached agreement that SIEVX sank in international waters. Two of the participants at this meeting had access to expert nautical knowledge due to their positions – Commodore Warwick Gately (Navy Strategic Policy and Futures) and Ian Errington from Coastwatch – so the conclusion was based on informed opinion.<sup>44</sup> Halton’s memory of these words appearing in the cable suggests there was no dissent.

Also of note is Halton’s comment that ‘my understanding is that you cannot actually see the land unless you are inside the territorial waters of Indonesia’.<sup>45</sup> This comment, although incorrect, is pertinent given the reference in the cable to the vessel being out of sight of land when it first got into difficulties. This further indicates that a discussion ensued during the meeting as to whether or not it was possible that SIEVX was within Indonesian territorial waters when it foundered and the opinion of the Taskforce members was that this was unlikely to have been the case.

It is very curious then, given the PST minute noting the vessel was likely to have sunk in international waters, that advice went to the Prime Minister late in the afternoon of 24 October that the boat had sunk in Indonesian waters. Halton told the CMI Committee of her decision on the day after the PST meeting discussed above, that a ‘state of play’ briefing be provided to the Prime Minister by PM & C. Halton informed the Committee that she had thought it ‘prudent’ to bring Howard up to date on a range of issues including the sinking of the asylum seeker boat.<sup>46</sup> This brief included a nine line section under a heading ‘Boat sunk in Indonesian waters’ which stated that the ‘boat capsized and sank quickly south of the western end of Java with loss of possibly 352 lives’.<sup>47</sup>

In endeavouring to explain how a brief could go to the PM with a heading such as this when the PST had noted the previous day that the vessel was likely to have sunk in international waters, Halton made the remarkable statement that throughout the life of the Taskforce there had been some ‘confusion’ and ‘lack of precision’ about the terms ‘[Indonesian] territorial waters’, ‘[Indonesian] contiguous zone’ and ‘Indonesian Search and Rescue zone’. She claimed unconvincingly that there was a ‘vast interchangeability’ between these three terms. It is hard to resist the conclusion that Halton was in damage control mode here and doing her best to protect the Prime Minister who had been claiming that the boat had sunk in ‘Indonesian waters’. It would seem she was willing to put at risk her own credibility and that of her colleagues on the PST in the process.<sup>48</sup>

The Committee was perplexed by Halton’s SIEVX testimony and asked her on notice to provide:

- a copy of the advice that went to the PM on the afternoon of 24 October<sup>49</sup>
- the details of the agencies that provided the information that was contained in the brief that SIEVX sank in Indonesian waters<sup>50</sup>
- a copy of the DFAT cable<sup>51</sup>

Three weeks later Halton replied in writing to the Committee. She conveniently overlooked the first question entirely. In reply to the second question she informed the Committee that details of the agencies could not be provided as the author of the Prime Ministerial brief was ‘overseas on long term leave’ and was unable to be contacted. She concluded by stating that PM & C in conjunction

with DFAT were 'considering' the Committee's request for the cable.<sup>52</sup>

When the CMI Report was tabled in Parliament two months later, these matters were still outstanding; neither document had been provided to the Committee and the question regarding the agencies had still not been satisfactorily answered.<sup>53</sup> It would appear that Halton and the Department of PM & C were hoping that these stalling tactics would suffice and that the CMI Report would be written without these questions being further pursued.

To a certain extent this strategy was successful; the CMI Report was written without the Committee seeing either the DFAT cable or the Prime Ministerial brief. However, prior to the November 2002 round of Senate Estimates hearings, the CMI Secretariat noted that the DFAT cable had not been provided to the Committee by PM & C and contacted the Department to request that it be tabled at the coming round of Senate Estimates.

The cable almost became public at this time, but not quite. A declassified copy of the cable was brought to the 20 November Senate Finance and Public Administration Legislation Committee but was not tabled. According to Barbara Belcher, one of the PM & C officers who appeared at the November Estimates hearing, the cable was not presented to the Senators that day because there was a difference of opinion between officers regarding the blacking out of some information.<sup>54</sup>

In what appears to be a further attempt to shield the Prime Minister, the version of the cable that was taken to Estimates in November had the entire recipient list blacked out. Belcher pointed out to Andrew Metcalfe and other officers in PM & C that she believed there was no justification for suppressing this information.

So rather than tabling this version of the DFAT cable, PM & C decided to negotiate with DFAT as the originating department, to supply a more complete version. These negotiations took an inordinately long time.

Finally, on 4 February 2003, more than six months after the initial request to Ms Halton, the DFAT cable was received by Senator Peter Cook in his capacity as the former chair of the defunct CMI Committee. The next day a shocked and angry Senator Cook told the Senate how, in his opinion, the cable raised very serious questions about the honesty of key CMI witnesses:

[W]e may now be in a situation in which this cable, which was before all of those officers who appeared before our inquiry before they fronted to give evidence—and they gave evidence to our inquiry after swearing an oath before the inquiry to tell the truth, the whole truth and nothing else but the truth—reveals information which is not entirely consistent with the evidence that was given by some public servants...

A key issue in our inquiry was to try and establish what Australia knew about where SIEVX went down. The consistent refrain to that question was, 'In Indonesian territorial [sic] waters'. *We now know that it went down in international waters.*

This is a significant piece [of] information because it goes to whether Australian search and rescue capability could have intruded into the area concerned to rescue people who were on that ill-fated ship. [emphasis added]<sup>55</sup>

On 10 February 2003, just a few days after Senator Cook finally received the cable in the post, PM & C appeared again before Senate Estimates. Not surprisingly, one of the main lines of questioning by Opposition Senators was why it had taken so long for the cable to be produced to the Senate.

PM & C tried unsuccessfully to explain away the long delay as an 'administrative oversight' which

was rectified by the Department as soon as they discovered it. The Labor Senators did not accept this implausible explanation and probed and questioned the officers until they eventually revealed that the CMI Secretariat had identified the 'oversight', not PM & C.

Senator Collins asked PM & C if they were aware of any other 'oversights' with regard to Halton's Answers to Questions on Notice. When they replied in the negative, Collins twisted the blade by pointing out that the briefing paper of 24 October 2001 that informed the Prime Minister that SIEVX had sunk in 'Indonesian waters' was still outstanding and again requested that it be provided to the Committee on notice along with an explanation as to why it had also been overlooked.<sup>56</sup>

At the time of writing, this brief has still not been received by the Senate.

During this same round of Senate Estimates hearings, Senator Collins tabled a print out of a news article that included long verbatim extracts from the DFAT cable that appeared on an Indonesian website, *ibonweb.com*, on 23 October 2001, the same day that the cable was sent. Collins asked DFAT officers how it could be that this crucial document could be leaked to *ibonweb.com* back in October 2001 and yet 'remain... an illusion to this parliament for 16 months'. DFAT could provide no explanation.<sup>57</sup>

As will be demonstrated in the next section, there were many opportunities during the CMI Committee hearings for witnesses to answer questions in such a way as to bring the existence of the DFAT cable to the attention of the Senators. The cable was the key item of official evidence from the day that the SIEVX tragedy first became known. It synthesized the investigations into the tragedy in the first sixteen hours and was cabled to six Government Ministers including the Prime Minister and the Secretaries of five different Government departments. Yet the first time it is mentioned at the CMI Committee is on the fifteenth and last day of hearing by the second last witness.

To put it another way, in the entire 2181 pages of transcript of evidence heard by the CMI Committee, the first mention of the DFAT cable occurs on page 2115.<sup>58</sup>

Given the evidentiary significance of the DFAT cable it is remarkable that despite a direct request on notice to Jane Halton, it took 6 months for it to be tabled. In the end it was only received by the Senate because the CMI Secretariat was prepared to pursue the matter beyond the life of the Committee. But what is even more disturbing is the apparent suppression of any mention of the cable in testimony to the Committee by the many CMI witnesses who had received or sighted it back in October 2001.

#### **4. How was the DFAT cable concealed?**

The Howard Government was trying hard over many months to sustain a false public position that the boat sank north of the Operation Relex surveillance zone and so Australian authorities could not have known of the sinking emergency or been in a position to rescue survivors.

In the days and weeks following the sinking, in the middle of the federal election campaign, John Howard made many references to the SIEVX tragedy, all seemingly aimed at putting as much distance between Australia and the 353 drowned asylum-seekers as possible. In late October and early November he is on the record more than half a dozen times saying that the boat sank in 'Indonesian waters', with the implication that the vessel sunk within twelve nautical miles of the

Indonesian coastline inside Indonesia's territorial waters and outside Australia's border protection surveillance zone and so was not Australia's responsibility.

And yet the Prime Minister was a named recipient of the DFAT cable of 23 October 2001, which strongly implied that SIEVX was outside Indonesian territorial waters when it went down.<sup>59</sup> So the first concealment occurred at the most senior level of government.

Howard may have succeeded with this deceit had it not been for an article by Vanessa Walker that appeared in the *Australian* in late December 2001 which claimed that survivors of the SIEVX tragedy had asserted that 'two boats, which their rescuers told them were Australian border patrol vessels, shone floodlights on them but did not help'. Walker also reported that she had contacted the Defence Department about these allegations and was informed that 'the closest ship was HMAS *Arunta*, which was 230 nautical miles south of the spot'.<sup>60</sup>

It was this article that was the catalyst for Tony Kevin to begin publicly raising questions about the circumstances surrounding the sinking of SIEVX.<sup>61</sup> Kevin, a retired diplomat and visiting fellow in the school of Pacific and Asian studies at the Australian National University, had harboured suspicions from the time of the sinking that this maritime disaster was 'too conveniently timed' and 'benefited the government's border protection agenda' too greatly to be simply an accident.<sup>62</sup>

On 18 February 2002 Kevin wrote to Simon Crean and the leaders of all Opposition Parties in the Senate requesting that the Senate, in the context of the CMI Committee which was about to begin its hearings, investigate the claims by a survivor that 'Australian naval patrol ships witnessed a sinking refugee vessel on 19 October 2001' but failed to rescue survivors.<sup>63</sup>

Due to a request by Liberal Senator Brett Mason to expand the terms of Reference of the CMI Committee beyond the 'children overboard' incident, the Committee was able to address Kevin's questions about the sinking of SIEVX.<sup>64</sup>

By March 2002 Kevin's concerns about this incident had significantly strengthened, due in part to Ross Coulthart's pathbreaking investigation into Kevin John Enniss' people-smuggling activities in Indonesia which had gone to air on the *Sunday* program in mid-February.<sup>65</sup> Kevin's first submission to the CMI Inquiry puts forward the disturbing hypothesis that the sinking of SIEVX was not an accident but may have been a planned operation to deter further asylum seeker voyages to Australia.<sup>66</sup>

This was the deadly grenade that Kevin lobbed into the CMI Committee and followed up with two equally incendiary newspaper articles published in the *Age* and the *Canberra Times* on 25 March 2002, the day that the CMI Committee began its hearings.<sup>67</sup> So, from the first day of hearings the spectre of the stricken vessel SIEVX haunted the Inquiry.

And from day one of the hearings Defence misrepresented its state of knowledge, particularly in regard to the sinking position of the vessel and intelligence about the voyage.

### **Defence & DFAT Keep Silent**

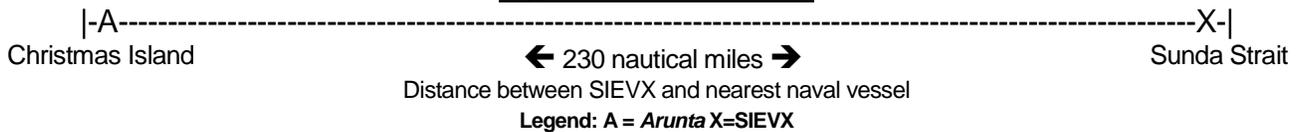
Vice Admiral David Shackleton, then Chief of the Navy, was the first witness to give evidence to the CMI Committee about the sinking position of SIEVX. During Shackleton's testimony, Senator Mason tabled a letter from Simon Crean to Senator Hill which included Tony Kevin's letter of 18 February where he first publicly stated his concerns about SIEVX.<sup>68</sup> This prompted Senator

Bartlett to ask Shackleton if he had prior knowledge of the claim made by a survivor, outlined in Kevin's letter, that a Navy ship had witnessed the sinking. Shackleton replied:

When this allegation was made we checked all of our available information. There is nothing that indicates that we were closer than about 230 miles away. [emphasis added]<sup>69</sup>

This was essentially the same information that Defence had provided to Vanessa Walker in December 2001. The response to Walker by Defence and reiterated at the CMI Committee by Shackleton seems calculated to maximise the distance between the sunken vessel and Australia's nearest naval assets. The distance between Christmas Island and the southern entrance to the Sunda Strait is approximately 240 nautical miles. In essence Defence was claiming that the boat sank in, or just outside, the Sunda Strait and that the nearest Australian ship (which we would later learn was HMAS *Arunta*) was down at Christmas Island (see fig.1 below).

**Figure 1 – Shackleton**



The following day Defence Minister Senator Robert Hill substantially modified this position in a letter to Opposition Leader Simon Crean (responding to Tony Kevin's letter of 18 February which Crean had forwarded on to him requesting comment). Hill claimed to Crean that Defence had reviewed its information on SIEVX. This assessment put the the nearest ship 80 nautical miles closer than claimed by Shackleton and the Defence spokesperson quoted by Vanessa Walker:

Reconstruction of HMAS *Arunta*'s track for the period between 1000 (AEST) on 18 October 2001 and 1600 (AEST) on 20 October 2001 confirms that *the ship was at no time closer than 150 nautical miles from the Sunda Strait where it is believed the refugee vessel sank.* [emphasis added]<sup>70</sup>

It is noteworthy that Shackleton claimed that Defence had 'reviewed all... available information' and that Hill stated that Defence had assessed the sinking position, yet neither gives any indication of the information that was contained in the DFAT cable and which senior Defence personnel had received on 23 October the previous year which stated quite categorically that the boat had sunk 'south of Sunda St[ra]it'.<sup>71</sup>

The next Defence official to answer questions about where SIEVX sank was the then head of Operation Relex, Maritime Commander Admiral Geoffrey Smith. Smith appeared before the CMI Committee on three separate days (4, 5 and 11 April). During his first appearance he fielded questions about SIEVX and virtually repeated verbatim the information that Hill had provided to Simon Crean – that the boat had foundered close to the Sunda Strait and that the nearest vessel was 'about 150 miles away':

[T]he first time that the Navy knew that this vessel had sailed was when we were advised through the search and rescue organisation in Canberra that this vessel may have foundered in the vicinity of Sunda Strait. At that time our nearest ship was about 150 miles away.<sup>72</sup>

On 11 April he again gave specific information about the sinking position, reiterating the modified line that Hill had first used in the letter to Simon Crean:

[O]ur nearest ship to where that boat sank was 150 miles away. We had no knowledge of the boat having sailed. The first that we were aware that this vessel had sailed from Indonesia was when we were contacted by the search and rescue organisation here in Canberra, on 22 October, when they advised us that this vessel was overdue and it was feared it had foundered in the Sunda Strait area.<sup>73</sup>

Less than a week later, Smith again repeated this position (in what was quickly becoming a mantra as he used almost exactly the same words as in his 4 April testimony) but this time in a letter to the *Canberra Times*:

[T]he first that Navy knew that this vessel had sailed was when advised through the search and rescue organisation in Canberra on October 22 that this vessel might have foundered in the vicinity of Sunda Strait. At that time our nearest ship was about 150 miles away.<sup>74</sup>

It is interesting to reflect on public statements by Hill and Smith regarding the sinking position of SIEVX. Neither Hill nor Smith were named recipients of the DFAT cable, however the former Defence Minister (Reith) was on the initial DFAT distribution, and Operation Relex Commander (Smith) would have certainly been included on Defence's internal by-name distribution for such an important cable that was clearly relevant to Operation Relex's responsibilities at the time. Reith's copy would have been on file in the Ministry and available for briefing the incoming Minister, Hill.

So in December 2001, when Defence 'checked all available information'<sup>75</sup> about SIEVX in response to Vanessa Walker's enquiry, and again in March 2002 when a further review was conducted in order for Hill to respond accurately to Simon Crean's letter asking him to comment on Tony Kevin's allegations, the cable would have been sighted. Yet neither Hill nor Smith acknowledge the advice in the cable that SIEVX could have sunk well south of Sunda Strait in the Operation Relex zone.

What caused Defence to discount the information contained in the DFAT cable of 23 October? What new information had been unearthed that caused Defence to assess the likely sinking position as Sunda Strait?

Some insight into Defence's thinking was provided the following day, 17 April when Commander Chatterton, Director of Operations (Navy) appeared before the CMI Committee and was questioned briefly about SIEVX:

**Senator BARTLETT**—Are you aware of any reports that were done, after the event, into the particular incident of the vessel that sank?

**Cmdr Chatterton**—I remember that, after it, I was asked where the nearest Navy ship was and I knew that there was one ship in the vicinity of Christmas Island. I found out from Maritime Headquarters that—I cannot remember the exact figure—it was something along the lines of 164 miles at least from the position. Looking at the chart and the way the seabed is there, a grossly overloaded vessel would have gone out into the Sunda Strait and, as it reached the main water mass, as the water comes up from the Indian Ocean, it probably would have sunk around that area—being overloaded. That was well inside the Indonesian area, so I would not have expected one of our ships to be in that area anyway, and I knew that our ship was actually patrolling around the Christmas Island area. So it was just a matter of working out how far away it was.

**Senator BARTLETT**—And you are not aware of any specific report or investigation that was done by any Australian authorities into the circumstances surrounding that incident?

**Cmdr Chatterton**—No, there is no specific item that I know of.<sup>76</sup>

Essentially Chatterton's evidence repeated that of Hill and Smith. He is more specific about the position of *Arunta*, stating that the nearest ship was down near Christmas Island '164 miles at least from the position.' The figure '164 miles' suggests that Chatterton, Hill and Smith are all referring to the same data but Hill and Smith have rounded down to the neater - and as will be shown later, politically expedient - figure of '150 miles'.

Chatterton’s speculation on how the boat would have come to sink close to the Sunda Strait is new. However, he does not reveal any hard evidence to counter the information in the cable which put the sinking south of the Sunda Strait and by implication outside ‘the Indonesian area’. It is clear that Bartlett’s questioning of Chatterton left opportunity for Chatterton to mention the DFAT cable, which he did not take up.

Written evidence from Colonel Day (Acting Chief of Staff for Chief of the Defence Force, Admiral Chris Barrie) added significantly to this misrepresentation and concealment and indicates again that Defence was deliberately withholding the cable from the Committee.

On the same day that Chatterton gave evidence, Senator Bartlett asked Colonel Day on notice ‘What type of reports were provided to CDF or CDF’s Office after [SIEVX] sank and where did they come from?’<sup>77</sup>

It took nearly two months for Day’s written reply to be received by the Committee. In it he stated:

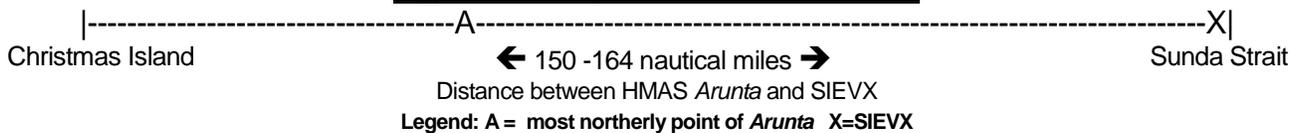
There was a reference to the vessel having departed Indonesia and that it was overcrowded, in the daily Defence Intelligence Summary (produced by the Defence Intelligence Organisation) on 22 October 2001. The following day, the summary reported that the vessel had sunk on 19 October.<sup>78</sup>

Given that Admiral Barrie, then Chief of the Defence Force, was a named recipient of the DFAT cable and Day was his Acting Chief of Staff, this response is less than comprehensive as a reply to Bartlett’s question. If Day was being fully open and frank with the Committee his answer should have included reference to the cable. Having taken the question on notice, it was beholden on him to investigate Defence holdings on this matter and to report back to the Senate with thorough and complete information.

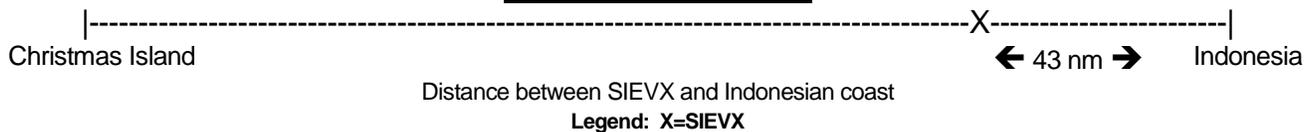
It appears that evidence tendered by Defence on the sinking position of SIEVX was given in the expectation that it would not be challenged by contradictory evidence such as that contained in the DFAT cable.

So at the end of April, seven months after senior Defence personnel had been notified by cable that SIEVX could have sunk up to 90 nautical miles south of Sunda Strait inside the Australian border protection surveillance zone and after nine days of CMI testimony, Defence still claimed that SIEVX had foundered within or very close to the Sunda Strait and that the nearest naval vessel, HMAS *Arunta*, was about 150 nautical miles away (see figure 2 below).

**Figure 2 – Hill, Smith and Chatterton**



Tony Kevin appeared before the CMI Committee on 1 May and was the first witness to directly challenge evidence tendered to the Committee concerning intelligence and the sinking position of the boat.<sup>79</sup> Kevin pointed out among other things that an article by Don Greenlees in the *Australian* on 24 October 2001 included a map that showed the boat had sunk about 80km (or 43nm) from land.<sup>80</sup> This was the first intimation that false or incomplete evidence was being presented to the CMI Committee concerning the sinking position.

**Figure 3 – Greenlees**

Dr Geoff Raby, then First Assistant Secretary, International Organisations and Legal Division of the Department of Foreign Affairs and Trade (DFAT), appeared soon after Tony Kevin and fielded questions about the sinking.<sup>81</sup> His deftly evasive answers indicate that Defence was not the only agency concealing the existence of the cable.

It should be pointed out that Raby is a unique witness - he was the only person to give evidence to the CMI Inquiry who was both a named recipient of the DFAT cable and an attendee of the crucial People Smuggling Taskforce meeting of 23 October where the cable was read out. So we can examine his CMI testimony in the sure knowledge that he had read the cable and had been party to the discussions in the PST meeting that concluded that SIEVX was likely to have been in international waters when it foundered.

Dr Raby appeared before the Committee on the same day that Tony Kevin gave evidence directly challenging the Sunda Strait as the likely sinking position. Kevin's evidence spurred Senator Cook to question Dr Raby regarding his knowledge of where the stricken vessel may have foundered. Cook asked Raby on notice if his 'understanding of the circumstances' matched the information provided in the letter from Senator Hill to Simon Crean as there was 'some concern about where th[e] vessel may have actually gone down'.<sup>82</sup>

When this question was formally answered by DFAT on 19 June 2002, the sense of the original query by Senator Cook regarding the sinking position was obscured and the answer failed to address even the remnants of the original question:

[Q] Do the contents of Senator Hill's letter to Mr Crean (tabled in the Committee on 1 May) match DFAT's understanding of events?

[A] DFAT does not have access to sources of information on Defence and Coastwatch operational issues other than the Department of Defence and Coastwatch.<sup>83</sup>

In February this year, soon after the release of the DFAT cable to the Senate, Dr Raby appeared before Senate Estimates and was called on by Senator Collins to explain why he had failed to provide details of the cable in this answer:

This question relates back to the evidence that you provided to the CMI committee in May of last year when the committee was asking about the letter that Minister Hill had written to Mr Crean in relation to SIEVX and, amongst other things, *the vicinity in which it may have sunk*. At the time you indicated that you did not know of that letter, and a copy of the letter had been tabled and was then provided to the department. A question on notice was then provided...The question was framed, 'Do the contents of Senator Hill's letter to Mr Crean tabled in the committee on 1 May match DFAT's understanding of events?' The answer that was received was, 'DFAT does not have access to sources of information on Defence and Coastwatch operational issues other than the Department of Defence and Coastwatch.'

We now know the content of this DFAT cable, which provides a fairly significant level of detail leading to the vicinity of the sinking of the SIEVX-although it may still not be fully clear as to where this vessel sank.

Why was the detail of this cable not provided on that issue to the committee in response to that question?[emphasis added]<sup>84</sup>

Raby's reply is another lesson in artful evasion:

Senator Hill's letter refuted unsubstantiated claims that Royal Australian Navy ships witnessed a sinking vessel on 19 October 2001 and did not provide assistance. Information in the cable from the Jakarta Embassy of 23 October 2001 did not address this issue and therefore was not relevant in responding to the question on notice.<sup>85</sup>

Once again Raby ignored the context of the original question asked by Cook and reiterated by Collins, concerning queries about the sinking position of SIEVX. Raby's answer neatly slides away from the real question and does not comment on Senator Hill's claims in the letter that SIEVX sank in the Sunda Strait.

Towards the end of May 2002, the tide began to turn dramatically in favour of the critics of the Government position on SIEVX. Within a two week period, four things occurred that indicated that witnesses to the CMI Committee had been less than forthright in their testimony:

- Rear Admiral Bonser's testimony contradicted that of Smith with regard to SIEVX
- Smith wrote to the Committee clarifying his evidence.
- The first SBS *Dateline* program went to air broadcasting the Jakarta Harbour Master's Report which contained the coordinates of the rescue position of SIEVX survivors
- The People Smuggling Taskforce Minutes noting that SIEVX had likely been in 'international waters' when it foundered were received by the CMI Committee.

### **Bonser & Smith**

On 22 May, the head of Coastwatch, Rear Admiral Marcus Bonser appeared before the CMI Committee and gave evidence dramatically at odds with that of the Maritime Commander. This was the first corroboration from an official witnesses of some of Tony Kevin's suspicions concerning the SIEVX tragedy.

In April, soon after reading Smith's letter concerning SIEVX in the *Canberra Times*,<sup>86</sup> Bonser contacted the Maritime Commander to inform him that he would be appearing as a witness at the CMI Committee and that there 'were some inconsistencies' between his understanding and Smith's evidence, particularly in regard to the 'flow of information' concerning SIEVX. Bonser took this step in order to provide Smith with an opportunity to 'clarify' his evidence to the Committee prior to Bonser's appearance. Notably Bonser also informed Rear Admiral Raydon Gates, the man tasked to review SIEVX intelligence, and Vice Admiral David Shackleton, Chief of the Navy that his testimony concerning SIEVX would vary from that of the Maritime Commander.<sup>87</sup> A number of commentators writing about the SIEVX Affair have made much of Bonser's main challenge to Smith's testimony, regarding intelligence about the vessel.<sup>88</sup> However, few have noted that Bonser's evidence also sharply contradicted Smith's concerning the likely sinking position of the boat.

Bonser was a recipient of the DFAT cable which stated that SIEVX may have travelled as far south as 8 degrees before it foundered, that is up to ninety nautical miles from the Sunda Strait, well inside the Operation Relex surveillance zone. When questioned about the sinking position of the stricken vessel, Bonser did not corroborate Hill and Smith; rather Bonser's evidence matched the information in the cable (see figure 4 below):

[I]t was somewhere between the Sunda Strait and perhaps 80 miles south of Sunda Strait, or 80 miles south of Java... We have plotted estimated times of departure, possible speeds, different diversions and where the vessel may have gone but it is very difficult to reconstruct. The best we have been able to work out is that it was

somewhere between the Sunda Strait and perhaps about 80 miles south of it that this vessel unfortunately sank, but we have not been able to determine exactly where.<sup>89</sup>

**Figure 4 – Bonser and DFAT cable**



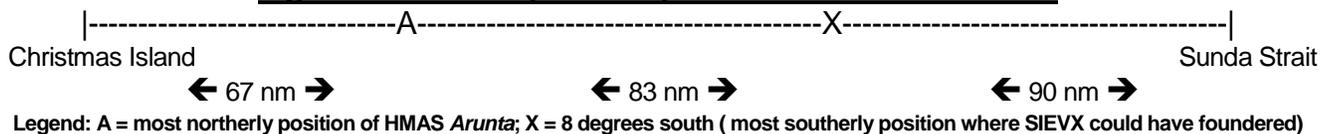
A few weeks after Bonser contacted him, Smith wrote to the CMI Committee to clarify his evidence. Smith’s letter corrected his evidence regarding Defence’s knowledge of SIEVX prior to the voyage. However, it did not modify his testimony concerning the sinking position of the vessel. On the contrary, in a flurry of repetition reminiscent of the PM’s multiple references to SIEVX having ‘sunk in Indonesian waters’ Smith’s letter refers four times to the boat having foundered in the Sunda Strait.<sup>90</sup>

Curiously, although tabled at the CMI Committee, Smith’s letter was subsequently withdrawn from evidence by Defence on the same day that Bonser testified.

Smith’s letter of clarification does provide one new and very useful piece of information in regard to Defence’s claims about the sinking position of SIEVX – it gives precise positional data about HMAS *Arunta* on the day that SIEVX sank. According to Smith’s letter, *Arunta* intercepted SIEV6 at a point 67 nautical miles north of Christmas Island on the morning of 19 October. This is the farthest north that *Arunta* travelled during the SIEVX voyage.

If we combine the position of *Arunta* with the information about the sinking position contained in the DFAT cable and corroborated by Bonser’s testimony, it is apparent that Australian Defence assets may have been significantly closer to the waters where SIEVX sank than Defence Minister Hill and Rear Admiral Smith had indicated (see figure 5 below).

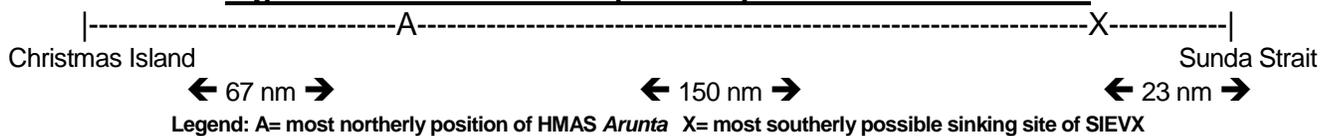
**Figure 5 – Closest possible position of SIEVX to Arunta**



The positional data concerning HMAS *Arunta* also provides us with a means of clarifying the testimony of Hill and Smith regarding the sinking position of SIEVX as the following calculation shows.

We know that the distance between Sunda Strait and Christmas Island is 240 nautical miles. Subtracting the 67nm that *Arunta* travelled from Christmas Island leaves the distance between *Arunta* and the Sunda Strait. If we then subtract the 150nm that Hill and Smith repeatedly claim was the shortest distance between *Arunta* and SIEVX we are left with a figure of 23 nautical miles as the most southerly point at which SIEVX could have foundered. It appears that Hill and Smith have drawn the line where the sinking could have occurred at a point just shy of international waters (ie 24nm from land) and the beginning of the Australian border protection surveillance zone (see figure 6 below).

### Figure 6 – Hill and Smith’s politically convenient calculation



One must ask how this assessment was made. Was it backed by hard evidence or was it simply political expediency? An extract of a short interview with Hill broadcast on SBS *Dateline* in July 2002 gives a clue. When questioned regarding the sinking position of SIEVX Hill said:

I'm saying to you that we were observing those waters on... the 18th, 19th and 20th - and we saw no sign of the boat. We therefore believe it most likely sunk off the Indonesian coast in the vicinity of the Sunda Strait.<sup>91</sup>

This is a convenient argument which eliminates any questions as to why the boat was not observed by the 'saturation surveillance'<sup>92</sup> that Australia was conducting in the waters close to Indonesia under Operation Relex at the time SIEVX sank.

### Dateline challenges the Government line

The same day that Bonser appeared before the CMI Committee, 22 May 2002, SBS *Dateline* went to air with its first program on the SIEVX Affair. *Dateline* reporter Geoff Parish had unearthed important new evidence about the SIEVX sinking – an official Indonesian document from the Harbour Master at Sunda Kelapa Port, North Jakarta. Dated 3.30pm local time on 24 October 2001, it contained the coordinates of the position where SIEVX survivors had been plucked from the water by Indonesian fishermen the previous Saturday, 19 October. This document showed that 44 survivors were rescued by the fishing vessel, Indah Jaya Makmur at 07 40 00S / 105 09 00E, approximately 70 miles from the Sunda Strait and 51.5 miles from the Indonesian coast.<sup>93</sup> An image of this document and the coordinates it contained were broadcast during this program. This was the first hard evidence to become public regarding the sinking and it provided a means to significantly narrow down the area in which the vessel had foundered, as shown by Oceanography Professor Matthias Tomczak at Flinders University.

In December 2002, at the request of Tony Kevin, Tomczak applied his knowledge of ocean currents to the rescue coordinates to calculate how far the survivors may have drifted from the sinking site. Tomczak was able to conclude 'quite categorically' that SIEVX was well beyond the twelve mile limit of Indonesian territorial waters when it foundered.<sup>94</sup> This clearly eliminates the Sunda Strait as a possible sinking position. Charting Professor Tomczak's most conservative estimates, allowing for maximum drift, still puts the sinking in the Operation Relex zone.

Defence did not respond immediately to the new evidence unearthed by Parish; that would come later in the Gates Review. Instead, officials continued to maintain that the boat had gone down outside the Australian border protection surveillance zone.

Two weeks after the *Dateline* program, on 4 June, Rear Admiral Chris Ritchie (Commander Australian Theatre) appeared at a Senate Estimates hearing and fielded questions about SIEVX. At one point he stated: 'to my knowledge, [the boat] never ever came within our search area.'<sup>95</sup>

Two days later the PST minutes were received by the CMI Committee. The taskforce minute of 23 October 2001 noted that SIEVX was likely to have been in international waters, and by implication the Operation Relex zone, when it foundered.<sup>96</sup> Here finally was official corroboration of the critics' case and a dilemma for the Government who had strongly maintained that the boat had sunk very

close to Indonesia, either in the Sunda Strait or territorial waters off the coast of Java. How to explain these dramatic contradictions?

There was a period of several weeks in June and July 2002 between the release of the PST minutes and the tabling of the Gates' Review of Intelligence related to SIEVX where government and Defence officials were working very hard to contain the SIEVX story. The testimony of Bonser, the clarification of evidence by Smith and the publication of the rescue coordinates by SBS *Dateline* in May sparked a fire which threatened to blaze out of control following the publication of the PST minutes in mid June.

It is interesting to review the public statements of Howard, Ruddock, Hawke, Barrie and Hill during this time. Each of these men had received a copy of the DFAT cable of 23 October 2001 showing that SIEVX had sunk up to ninety nautical miles south of Sunda Strait.<sup>97</sup>

Howard tried to fudge it. He implied that when he said 'Indonesian waters' he really meant the Indonesian Search and Rescue Area of Responsibility – so there was no conflict with the PST minute which noted the boat had likely sunk in international waters, because 'the Indonesian Search and Rescue Zone... does include international waters'.<sup>98</sup> This was the same unconvincing line that Jane Halton would take in her testimony to the Committee on 30 July – that these terms were interchangeable. Howard is the master of spin. But blurring the boundaries between Indonesian waters and the IDSRR did not explain why Hill and Smith had both claimed that the boat had gone down close to the Sunda Strait.

Ruddock initially conceded that the boat may have got as far from the Sunda Strait as '60 miles'<sup>99</sup> or '100km'.<sup>100</sup> Towards the end of June, however, he changed tack and began to adopt the new line that was gradually emerging – that is - 'We don't know precisely where it sank. We never did.'<sup>101</sup> This was in stark contrast with the Prime Minister's strong and repeated assertions during the 2001 Federal election campaign that the boat had sunk 'in Indonesian waters' and it was also in conflict with official testimony and evidence that Hill and Smith had provided to the CMI Committee that the boat had sunk in the Sunda Strait.

Secretary of Defence, Allan Hawke and Chief of the Defence Force, Chris Barrie both also took this position.

At the National Press Club on 19 June, Hawke was questioned about the sinking. He responded to journalists with the new line, claiming that there was 'no concrete evidence about where it sunk', conveniently ignoring the Jakarta Harbour Master's Report. He also claimed that it would be possible to provide 'quite a big area on a map' where the boat may have foundered, but did not mention that most, if not all of this area would be in the Australian Operation Relex surveillance zone.<sup>102</sup>

Admiral Chris Barrie continued the equivocation over the sinking position at his farewell speech in Canberra on 3 July, just days before the Gates Review was received by the Senate. Barrie claimed that 'the position where the vessel foundered is unknown and all attempts to estimate the location are *speculative* at best'.<sup>103</sup> 'Speculative' was fast becoming the new Defence buzz word in regard to the sinking position of SIEVX.

Hill was the only one who tried to have it both ways – that is, 'we don't know where it sank, we can only speculate, but our best evidence is that it sank in the Sunda Strait'. On 19 June he said in the Senate:

[W]e made a best estimate, on the basis of what information is able to be put together, as to where it did sink. I have referred to it as in the Sunda Strait; [the Prime Minister] referred to it as in Indonesian waters. The best evidence is that both of those answers are still correct.<sup>104</sup>

In a letter to the *Age* on 27 June responding to an opinion piece by Robert Manne<sup>105</sup> he wrote:

Manne assumes that there is no doubt that SIEV X had exited Indonesian waters and entered the surveillance zone of Operation Relex. There is simply no evidence to support this assumption. There have been varying estimates as to how far the boat may have travelled and its possible course, but by their nature they are at best speculative. The best advice that Defence can provide is that all indications point to the boat sinking in the vicinity of Sunda Strait.<sup>106</sup>

In the end the Gates review took the pressure off.

## **The Gates Review**

Rear Admiral Raydon Gates had been tasked to conduct a Defence review of intelligence pertaining to SIEVX. The purpose of this review was to ensure that the letter that Defence Minister Hill had written to Opposition Leader Simon Crean in March 2002, responding to Tony Kevin's concerns, was 'accurate and complete' in the detail it provided about Defence's knowledge of the boat including Hill's claim that the sinking had occurred 'in the vicinity of the Sunda Strait' and by implication not in the Australian border protection surveillance area.<sup>107</sup>

When the Gates review commenced in March/April 2002 there was scant evidence in the public arena concerning the sinking location of SIEVX. On the one hand, public statements by the Prime Minister, Defence Minister and Maritime Commander indicated that the boat had sunk very close to Indonesia, either in the Sunda Strait or the territorial sea off Java. On the other, media articles by Greenlees and Walker published in the *Australian* in October and December 2001 and by ibonweb.com on the internet seemed not to gel with these pronouncements.

However, we now know that hidden away from public gaze on file in the government departments of Defence, DIMA, DFAT, PM & C and Justice, were a number of official documents related to the sinking. As shown earlier in this paper, the overwhelming weight of this evidence is that SIEVX went down inside the Operation Relex surveillance zone.

It was not difficult to discredit the evidence in the public arena – survivor testimony and newspaper articles are easily dismissed. A much more difficult proposition was to overlook the hard evidence of official government documents.

While Gates was conducting the SIEVX review, the CMI Inquiry and associated media investigations caused some of the counter evidence about the sinking position to become public:

- On 1 May, Tony Kevin drew the CMI Committee's attention to the Greenlees article from October 2001 which stated that the boat had sunk about 80km (43nm) from land
- Three weeks later on 22 May, Rear Admiral Bonser testified that Coastwatch had assessed that the sinking could have occurred up to 80nm south of the Sunda Strait
- On the evening that Bonser testified, SBS *Dateline* broadcast the Jakarta Harbour Master's report and the rescue coordinates it contained, showing that the SIEVX survivors had been found in the Indian Ocean inside the Operation Relex zone
- On 6 June the PST minutes were received by the CMI Committee, including the first official confirmation that the government had knowledge that SIEVX had sunk in 'international waters'

If any evidence had existed supporting Howard, Hill and Smith's contention that SIEVX had sunk in Indonesian territorial waters or in the Sunda Strait there is no doubt that the Gates review would have produced it. The problem was that virtually all the evidence showed quite the opposite, that SIEVX had most likely foundered in international waters inside the Australian surveillance area.

This made it impossible for the Defence Review to fulfill its mission and find that Hill had provided 'accurate and complete' information to Simon Crean when he informed him that SIEVX had sunk in the Sunda Strait. So how did the Defence Review deal with this dilemma? Rather than pointing out to the CMI Committee that it appeared that Hill's information was inaccurate and incomplete, the Review falsely concluded it was unable to say where SIEVX sank:

Some public comment has inaccurately suggested that it is possible to say with some precision where SIEV X foundered (eg media 'expert' analysis of figures reportedly provided by the Harbour Master at Sunda Kelapa port in north Jakarta). This is to ignore what is known, namely that both the timing and location of its last landfall is unknown (the vessel is reported to have had a number of stops and delays); that its planned and actual course is unknown; that the impact of tides, currents and weather is unknown, and the impact of its seaworthiness on its speed is unknown. In the absence of positional data from either SIEV 'X' itself or the fishing boats that rescued the survivors, Defence can only speculate as to where the vessel foundered. Defence has no reason to change this assessment. The fact that there are a number of such assessments only goes to underline the uncertainty surrounding the information available on this matter.<sup>108</sup>

In order to reach this false conclusion, the Defence Review had to denigrate, misrepresent and conceal key evidence.

The Jakarta Harbour Master's Report – to date the most authoritative piece of evidence regarding the sinking – is grossly misrepresented here. Firstly, the Gates Review inaccurately downgrades this official Indonesian document to 'media "expert" analysis of figures reportedly provided by the Harbour Master'. Secondly, in double-speak worthy of Orwell, the information that it contains – ie 'positional data from... the fishing boats that rescued the survivors' - is said to be absent. The denigration and obliteration of this vital piece of evidence was not an accident or an oversight. As mentioned earlier in this paper, Defence had been provided with a copy of this report and so was aware of the rescue coordinates it contained.<sup>109</sup>

It is a relatively straightforward matter to take positional data such as that contained in the Harbour Master's report and compute a likely sinking position provided that the time of sinking is known. Organisations such as AusSAR regularly do such computations as part of their search and rescue work. Tomczak's assessment is based on a similar computation. So in order for Defence to sustain its claim that the sinking position of SIEVX was unknowable it was crucial that the Jakarta Harbour Master's Report be obscured.

The PST minute of 23 October stating that the boat had probably foundered in 'international waters' and Bonsers' testimony concerning the Coastwatch assessment of the sinking position were similarly swept aside, becoming merely two of 'a number of assessments', all of which are given equal value by the Gates Review.

As well as denigrating and traducing this public evidence, the Review also continued to conceal other evidence such as the key DFAT cable that pointed to a sinking location in international waters.

It is clear that the DFAT cable was part of the Defence holdings reviewed by Gates. Firstly, its distribution list included three senior Defence personnel; the Minister, Secretary of Defence and Chief of the Defence Force. Secondly, the cable is referred to in a list of documents that Defence declined to release under FOI in 2002 indicating it was well aware of this key document.<sup>110</sup> Finally,

it is apparent that the cable was included in Gates' review as the report quotes directly from it.

For example, these lines are from the cable:

Thursday 18 October - The vessel departed Bandar Lampung at approximately 0130. At this time *due to the size of the vessel, 10 Plls refused to embark...*[emphasis added]<sup>111</sup>

The SIEV X Chronology (part of the Defence Review) uses the same words :

18 Oct - Quassey vessel departs a port in south Sumatra (Bandar Lampung) in the early hours (approximately 0130G). *10 Pll refused to embark due to the size of the vessel...*[emphasis added]<sup>112</sup>

These quotes from the DFAT cable are very selective; none of the information contained in the cable about where SIEVX sank appears. Instead this has become just another 'assessment' like the Coastwatch assessment mentioned by Bonser and the PST minute of 23 October. Presumably all evidence that Defence 'reviewed' that indicated that SIEVX had foundered in international waters was similarly downgraded.

Through such sleight of hand, the Gates Review was able to conclude that SIEVX could have sunk anywhere.

The deliberate misinformation and obfuscation in the Gates review finally removes any doubt as to whether the withholding of the 23 October 2001 DFAT cable from the CMI Inquiry was deliberate.

The Gates' review was intended to be the final word by Defence on its knowledge of SIEVX. Gates had the role of providing reassurance to the Committee that Defence evidence had been open and honest. Instead the Gates review manifests a contempt for the prerogatives of the Senate Committee.

In October 2001, Defence assessed that SIEVX had sunk perhaps as far south as 8 degrees latitude in international waters within the Australian border protection surveillance zone (the cable).<sup>113</sup> When the CMI Inquiry commenced its hearings in March 2002 the assessed sinking position had changed to the Sunda Strait (Hill and Smith). When the PST minutes were released sourced from the DFAT cable and showing that the boat had likely sunk in international waters then Defence shifted ground again, now claiming in the Gates' review that the sinking position was unknowable.<sup>114</sup>

So it appears that when the PST minutes of 23 October 2001 were released to the CMI Committee on 6 June 2002 blowing the lid on the Indonesian waters/Sunda Strait cover story, a new strategy was then brought into play by Defence. Rather than informing the Committee that incorrect evidence had been given about the sinking position of SIEVX, it better suited their purposes to claim that the place where SIEVX sank could not be narrowed down either to 'Indonesian waters' or 'international waters' – both were possible. This was the ploy of the Gates review – finally blown away by the release on 4 February 2003 of the key embassy cable, but already manifestly implausible in May 2002, in view of the Harbour Master's reported rescue coordinates then put on the Australian public record by SBS *Dateline*.

A disturbing footnote to the story of the Gates Review is the refusal by Minister Hill to allow Gates to appear at the Inquiry for his 'review' to be tested. Instead the Minister sent Colonel Patrick Gallagher (Commander Australian Theatre Joint Intelligence Centre) on only two and a half days notice and having only been appointed to his current position a few months earlier.<sup>115</sup> Senator Faulkner rightly expressed anger at this action:

I am accusing the minister of deliberately shoehorning a witness in here who cannot assist the committee in relation to a whole range of matters...The minister ought to allow the appropriate witness-Rear Admiral Gates-to come before us, given that Rear Admiral Gates has been tasked to prepare information and background for the committee in relation to SIEVX-I know it, you know it and every reasonable person knows it. To shoehorn this colonel in in relation to these matters is just an outrage as far as the minister is concerned.<sup>116</sup>

## **5. Conclusion**

By examining the testimony of key witnesses to the CMI Inquiry through the lens of the DFAT cable it is apparent that the Committee was deliberately misled regarding the likely sinking position of SIEVX. The release of the cable confirmed what had been gradually emerging since mid 2002 - that SIEVX sank in the Operation Relex zone where Australian authorities were carrying out intensive surveillance. The DFAT cable, the Jakarta Harbour Master's report, the DIMA intelligence note and the People Smuggling Taskforce note - all of this evidence, when coupled with expert oceanographic current analysis, shows unequivocally that SIEVX sank well inside the Australian surveillance area.

These key items of evidence were extracted painfully, bit by bit over a ten month period. But although these documents took a long time to become public, they all existed back in October 2001 and were known to Australian authorities when the CMI Committee began its hearings.<sup>117</sup>

During the course of the Inquiry, the head of Operation Relex and the Minister for Defence went on the public record repeatedly saying that SIEVX sank in or close to the Sunda Strait, implying that the sinking occurred in Indonesian territorial waters, outside the Australian border protection surveillance area. A number of other witnesses knew of evidence that contradicted this and yet, when given the opportunity to correct the record, chose instead to play for time or keep mum. The Gates Review that was initiated to investigate and verify the information that the Defence Minister had provided to the Leader of the Opposition regarding SIEVX, continued the cover up. When the Committee requested Raydon Gates' appearance so that his SIEVX review could be tested, Minister Hill refused.

It is a terrible irony that the CMI Inquiry which was convened to investigate the cover up and misrepresentation of evidence in regard to the 'Children Overboard' allegations, itself fell victim to another cover up when it turned its attention to SIEVX.

This has all been known since February 2003 and yet at the time of writing, there has been no response to what appears to be blatant contempt of the Senate. Can witnesses knowingly mislead the Senate without fear of consequence?

This is not a minor matter – officials at the highest level were prepared to dissemble and mislead about the circumstances of the deaths of 353 people, including 150 children. That this could occur casts doubt on other testimony given to the Inquiry. Did witnesses mislead the Committee on other matters pertaining to SIEVX? Was other vital evidence deliberately concealed? Is there evidence to support the suspicion that Australia did more than just fail to notice a tragedy occurring on our watch – were our agencies directly or indirectly complicit?

That such a large number of government officials from a range of government departments were willing to co-operate in withholding the detailed, highly relevant information in the DFAT cable leaves little doubt that we are still far from the full truth concerning the sinking of SIEVX.

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## NOTES

(Online sources are cited where available. Documents located at <http://sievx.com> are also archived by the National Library of Australia at <http://pandora.nla.gov.au/tep/32192> )

<sup>1</sup> SIEVX: 'Suspected Illegal Entry Vessel Unknown'

<sup>2</sup> Robert Manne, 'The Tragedy of Indifference', *Age*, 24 June 2002; online at: <http://sievx.com/articles/challenging/20020624RobertManne.html>

<sup>3</sup> Hereinafter referred to as the 'DFAT cable' – see Appendix for a copy of the cable

<sup>4</sup> Senator Collins asked Jane Halton on notice to produce the cable on 30 July 2002 at the last hearing of the CMI Committee; *Transcript of Evidence*, CMI 2131

<sup>5</sup> Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, Answers to Questions on Notice, DFAT, Question 28 (2), received 27 March 2003; online at:

<http://sievx.com/documents/200303DFATAnswersToQoN.html>

<sup>6</sup> Cable recipients included - Government ministers: Prime Minister, John Howard; Minister for Defence, Peter Reith; Minister for Immigration & Multicultural Affairs, Philip Ruddock; Minister for Foreign Affairs, Alexander Downer; Minister for Justice & Customs, Chris Ellison; Attorney-General, Daryl Williams and Minister for Trade, Mark Vaile; Departmental Secretaries: Mr Max Moore-Wilton, PM & C; Dr Ashton Calvert, DFAT; Dr Allan Hawke, Defence; Mr William (Bill) Farmer, DIMA; Mr Robert Cornall, Attorney-Generals; Chief of the Defence Force, Rear Admiral Chris Barrie; Mr Mick Keelty, Australian Federal Police Commissioner; Rear Admiral Marcus Bonser, Director-General of Coastwatch; Mr Dennis Richardson, Director-General ASIO; Mr Frank Lewincamp, Director Defence Intelligence Organisation; Mr Kim Jones, Director-General Office of National Assessments.

<sup>7</sup> 'AFP members in Indonesia made initial contact with the Indonesian National Police (INP) in relation to the arrival of survivors. Those members liaised with the INP in relation to the organising an investigative team to enquire into the SIEV X incident...' AFP Commissioner Mick Keelty, Answers to Questions On Notice (no. 56), from Senate Legal & Constitutional Committee, 9 January 2003; online at:

<http://sievx.com/testimony/2003/20030109AFPQuestionsOnNotice.html>

<sup>8</sup> Indonesian territorial waters extend twelve nautical miles from the Indonesian coast.

Howard's references to 'Indonesian waters' during the 2001 Federal election campaign are listed below:

(Howard interview with Paul Murray on 23 October):

'This vessel sunk in Indonesian waters. Now I am saddened by the loss of life, it is a huge human tragedy and it is a desperately despicable thing for the Leader of the Opposition to try and score a political point against me in relation to the sinking of a vessel in Indonesian waters. We had nothing to do with it, it sank, I repeat, sunk in Indonesian waters, not in Australian waters. It sunk in Indonesian waters and apparently that is our fault.' Online at:

<http://sievx.com/articles/disaster/20011023HowardInterview-Murray.html>

(Howard announcing Border Protection Policy in Perth on 23 October):

'[T]his morning may I say we've had the absolutely contemptible contribution of the Leader of the Opposition in the wake of that appalling human tragedy where something like 350 lives appear to have been lost when a vessel sank in Indonesian waters, probably containing people wanting to come to Australia. It sank in Indonesian waters, yet Mr Beazley has tried to exploit that human tragedy to score a cheap political point.' Online at:

<http://sievx.com/articles/disaster/20011023BorderProtectionPolicyAnnouncement.html>

(Howard interview with Liam Bartlett on 24 October):

'That boat sank in Indonesian waters, it sank in Indonesian waters. It had nothing to do with the actions of the Australian Government.' Online at:

<http://sievx.com/articles/disaster/20011024HowardInterview-Bartlett.html>

(Howard interview with Andrew Fowler on 28 October):

'I'm like every other human being. I was saddened by that terrible, terrible event. I mean, the ship sank in Indonesian waters -- it wasn't our fault...' Online at:

<http://www.abc.net.au/4corners/stories/s409081.htm>

(Howard interview with Steve Liebmann on 29 October):

'I feel enormous compassion for those poor people whose relatives died in that vessel but that ship sank in Indonesian waters and it's just nonsense that people should run around and in some way try and blame the Australian Government or Australian policy for that.' Online at:

<http://www.liberal.org.au/MEDIA/campaign/HOWARD/pmprtodayshow29oct.htm>

(Howard at the National Press Club on 8 November 2001):

'[L]ike any human being, I was very touched by that tragedy in Indonesian waters.' Online at:

<http://www.liberal.org.au/media/campaign/howard/pmtrnpcq%26a8nov.htm>

<sup>9</sup> See Appendix for cable; references to sinking position contained in 'Summary' and paras 5 & 6.

Sunda Strait coordinates: 6 degrees 30 minutes south latitude, 105 degrees east longitude; *Ocean Passages For the World*, Admiralty Hydrographic Office, 1974, p. 255; Given that one degree of latitude equates roughly to 60 nautical miles of distance then it is apparent that the distance between the Sunda Strait and a point of latitude at 8 degrees south, directly in line with Christmas Island is approximately 90 nautical miles.

<sup>10</sup> 'International waters' and the Australian Operation Relex surveillance zone, commence 24 nautical miles from the Indonesian baseline. See map in Appendix. See also, transcript of Howard-Ruddock Joint Press Conference, Sydney, 1 September 2001; online at:

<http://www.pm.gov.au/news/interviews/2001/interview1206.htm>

<sup>11</sup> Belcher, *Transcript of Evidence*, Estimates, Senate Finance and Public Administration Legislation Committee, 10 February 2003, p. 37; extract online at:

<http://sievx.com/testimony/2003/20030210SenateHansardFaulknerCollinsRayExtract.html>

<sup>12</sup> See 'Person 14', 'SIEVX Survivor Accounts'; online at: <http://sievx.com/articles/disaster/KeysarTradTranscript.html>  
These numbers are unlikely to be exact, but are generally corroborated by contemporaneous media coverage of the tragedy. For example see Raymond Hall interview on *Lateline*, 24 October 2001; online at:

<http://www.abc.net.au/lateline/s398802.htm>

<sup>13</sup> One of the most dramatic contradictions between the cable and CMI testimony concerns whether or not there was a radio onboard SIEVX. See for example, Senator Collins' questioning of AFP Commissioner Mick Keelty in February Senate Estimates; *Transcript of Evidence*, Estimates, Senate Legal and Constitutional Legislation Committee, 10 February 2003, pp. 98-111; extract online at:

<http://sievx.com/testimony/2003/20030210SenateHansardCollinsExtract.html>

<sup>14</sup> For example, on 16 June 2002, Hill replied to a question from Democrats Leader, Andrew Bartlett concerning the Prime Minister's knowledge of the sinking position of SIEVX:

'The location of the sinking of the vessel was based on what little information we knew about it, working from hindsight. We of course did not know at the time of the sinking of the vessel and, as it turned out, Australian naval vessels were not in the vicinity. We were not, in any event, able to assist. We subsequently learnt that the vessel had sunk, and we made a best estimate, on the basis of what information is able to be put together, as to where it did sink. I have referred to it as in the Sunda Strait; he referred to it as in Indonesian waters. The best evidence is that both of those answers are still correct.'

Senate *Hansard*, 16 June 2002; extract online at: <http://sievx.com/testimony/20020619SenateHansardExtractHill.html>

<sup>15</sup> See Appendix for map showing Australian and Indonesian Search Areas.

<sup>16</sup> For example, compare the following two quotes by John Howard regarding the waters between Christmas Island and Indonesia: 'The other thing that should be remembered is that these people were picked up in the Indonesian search and rescue area of responsibility. The Norwegian vessel was directed to the sinking Indonesian vessel by an Australian aircraft and somehow or other some of the Norwegians are saying well that means its our responsibility. I mean that is a bit ridiculous.' John Howard, Transcript of Interview with Alan Jones, 30 August 2001; online at:

<http://www.pm.gov.au/news/interviews/2001/interview1199.htm>

'The Australian Defence Force will immediately commence an enhanced surveillance patrol and response operation in international waters between the Indonesian archipelago and Australia.' Media Release, John Howard, 1 September 2001, online at: <http://www.pm.gov.au/news/media%5Freleases/2001/media%5Frelease1205.htm>

<sup>17</sup> See Table 1 for all evidence pertaining to sinking position of SIEVX.

<sup>18</sup> The RAAF aerial surveillance maps have not been included in this list, as although the data they represent was captured in the period that SIEVX was on the water, the maps themselves were constructed many months after the sinking as part of the Defence Internal Review of Intelligence material related to SIEVX that was tabled at the CMI Committee in July 2002. (Also not included is the PM & C email dated 23 October 2001 as this is not an authoritative document; rather it is an internal communique.)

<sup>19</sup> See Appendix for a copy of this document.

<sup>20</sup> *Ibid.*

<sup>21</sup> A copy of the Jakarta Harbour Master's Report was provided to the writer by Geoff Parish and is online at:

<http://sievx.com/documents/dateline.html>; The document is dated 10241530 G – ie, 3.30pm 24 October; the 'G' stands for 'Golf' time which is seven hours ahead of Greenwich mean time and 3 hours behind Australian Eastern standard time.

<sup>22</sup> The information contained in the Sit Rep appears to be a repeat of the phone call cited by Titheridge in *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 5 June 2002, p. 357; online at <http://sievx.com/testimony/individuals/TitheridgeReSIEVX.pdf>

<sup>23</sup> The DIMA Intelligence note is dated 1400 hours, 23 October 2001 AEST, while the DFAT cable was sent at 10.49am on the same day from Jakarta (add three hours for AEST).

<sup>24</sup> See Appendix for DIMA Intelligence note.

<sup>25</sup> See 'Boat People: Cover-up or Stuff up?', SBS *Dateline*, 22 May 2002; transcript online at:

<http://sievx.com/articles/challenging/20020522Dateline.html>; 'SIEV-X', SBS *Dateline*, 17 July 2002; transcript online at:

<http://sievx.com/articles/challenging/20020717Dateline.html>. (A third SBS *Dateline* program on the people smuggler Abu Quassey who organised the SIEVX voyage was also broadcast in August 2002 but this was produced by David O'Shea – see 'God's Decision: The Abu Quassey Story', SBS *Dateline*, 21 August 2002; transcript online at: <http://sievx.com/articles/challenging/20020821Dateline.html>); The above transcripts can of course also be found online at the SBS *Dateline* website: <http://www.sbs.com.au/dateline/>

<sup>26</sup> A translation of this document provided to the writer by Geoff Parish, reads: '[10241530G] Ref: from Sunda Kelapa harbourmaster no... [:] AAA: This is to inform that on the 23rd October [sic], The Arta Kencana 38 - GT83 Licence

1207/BC skippered by Mr Madjid carried 44 immigrants from Iraq and Afghanistan. The immigrants were found at 07 40 00S / 105 09 00E and had previously been on the Indah Jaya Makmur on its way to fishing ground.

BBB: Immigrant data: Men 33 [;] Women 9 [;] Boy 1 [;] Girl 1 [;] All the immigrants are now in the care of immigration and the UNHCR and have been put up at Wisma Palar Gunung Putri - West Java [;] DISTR: (different departments)

<sup>27</sup> Geoff Parish to Marg Hutton, 23 August 2002; 25 April 2003 (email)

<sup>28</sup> The purpose of this paper is not to debate the findings of the CMI Report. However, critics of the Report would argue that despite the withholding and misrepresentation of key evidence (ie DFAT cable & Jakarta Harbour Master's Report) the CMI Committee already had enough evidence in October 2002 to have come down on the side of the sinking having occurred in international waters (ie PST minute & DIMA Intelligence note). The reason the CMI Report was able to equivocate regarding the sinking position was due to an error - the PM & C email that is cited in footnotes nos. 6, 155 & 156 (paras 8.5 & 8.145) in Chapter 8 was claimed by the Committee to have been written on 24 October when in fact it had been written the previous day. The email was a collection of forwarded messages written over two days – but the section that gave information on the sinking of the boat that is cited in the footnotes was actually written on 23 October. See Andrew Metcalfe (DIMA) to Susan Ball et al, 24 October 2001, 'Re: Boat lost at sea' in CMI 'PM & C Email traffic', item no. 81; online at <http://sievx.com/documents/20011024Email-AndrewMetcalfeToSusanBallEtAl.html>

<sup>29</sup> CMI Report, para. 8.5; As will be discussed later in this paper, at the time of writing (May 2003), the 'advice' reportedly provided to the PM has yet to be sighted by the Senate, despite being requested on notice twice – once at the CMI Committee in July 2002, and once at Senate Estimates in February this year.

<sup>30</sup> Ibid., para 8.145; As noted earlier, the DIMA Intel note was actually written after the email report that stated that SIEVX capsized 'between Java and Sumatra'.

<sup>31</sup> Phillip Adams, 'No Names, Just Numbers', *The Australian*, 22 February 2003

<sup>32</sup> More recently a book by David Marr & Marian Wilkinson rejected the official line, noting that 'essentially, it was impossible for SIEV X to have sunk in Indonesian waters'. See Marr & Wilkinson, *Dark Victory*, Allen & Unwin, Crows Nest, 2003, pp. 240, 316.

<sup>33</sup> Since the tabling of the PST minutes in June 2002 there has been much controversy and debate over the status of these documents. The covering letter to the CMI Committee referred to them as 'minutes' noting at the time that they 'were internal PM&C documents which were not circulated to other agencies on the PST and therefore contain minor inaccuracies that would otherwise have been corrected'. See Jeff Whalan to CMI Committee, 6 June 2002; contained in Minutes/Notes of People Smuggling Taskforce in CMI Additional Information, (not specified in index but sandwiched between Item nos 23 and 24) available online at: [http://sievx.com/testimony/20020606\\_PSTCoveringLetter.html](http://sievx.com/testimony/20020606_PSTCoveringLetter.html)

In a subsequent letter to the Committee, Defence Minister Hill, requested that these documents be referred to as 'notes': 'It is clear that these documents are not "minutes" in the formal sense of the word. The incorrect use of the term "minutes" has allowed some in the media to give these documents a status they do not deserve. I believe it would be appropriate for the Committee at its next sitting to publicly note the significant distinction between "notes" and "minutes" and in future only refer to these documents as being PM&C notes of the meetings of the PST.'

See Hill to CMI Committee, 25 June 2002, contained in CMI Additional Information, Item no. 27;

available online at: [http://sievx.com/testimony/20020625\\_PSTHill.html](http://sievx.com/testimony/20020625_PSTHill.html)

The downgrading of the status of these documents from 'minutes' to 'notes' by Hill appears to be a political strategy to minimise the damage caused by the information they contain. (See <http://sievx.com/testimony/PSTMinutes.html> for further correspondence about this matter.)

Whilst noting that these documents do contain minor errors, this paper will refer to them by their original descriptor when provided to the CMI Committee ie 'minutes of the People Smuggling Taskforce (PST) meetings'.

<sup>34</sup> Margo Kingston was the first to report on the PST minute of 23 October 2001. See Margo Kingston, 'Moments of truth at death boat inquiry', *Sydney Morning Herald*, 14 June 2002; online at:

<http://www.smh.com.au/articles/2002/06/14/1023864329822.html> See also: Margo Kingston, 'Asylum seekers boat sank "in search area"', *Sydney Morning Herald*, 15 June 2002; online at:

<http://www.smh.com.au/articles/2002/06/15/1023864355387.html> Long extracts from the PST minutes were published online by Kingston in her *Web Diary*; see Margo Kingston, 'More threads in SIEV-X caper', *Web Diary*, 16 June 2002;

online at: <http://www.smh.com.au/articles/2002/06/16/1023864379714.html> See also Mark Forbes, 'PM's people "knew of danger ship"', *Age*, 15 June 2002; online at: <http://www.theage.com.au/articles/2002/06/14/1023864348170.html>

<sup>35</sup> These three witnesses are responsible for about one third of the entire 2181 pages of testimony given to the CMI Committee.

<sup>36</sup> Halton, 30 July 2002, *Transcript of Evidence*, CMI 2040-1

<sup>37</sup> Halton, 30 July 2002, *Transcript of Evidence*, CMI 2125

<sup>38</sup> Halton was the first to refer to the cable in verbal testimony to the CMI Committee. Bonser referred twice to the cable in his supplementary written evidence of 17 June 2002. Halton made an earlier passing reference to it in her testimony on 30 July, but this was not picked up by the Committee, See *Transcript of Evidence*, CMI 2115. Rear Admiral Ritchie also mentioned the cable when answering questions about Bonser's evidence in Senate Estimates in June 2002. See Ritchie, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p. 229

<sup>39</sup> Halton, 30 July 2002, *Transcript of Evidence*, CMI 2140

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<sup>40</sup> Andrew Metcalfe, *Transcript of Evidence*, Estimates, Senate Finance and Public Administration Legislation Committee, 10 February 2003, pp. 35-36; online at: <http://sievx.com/testimony/2003/20030210SenateHansardFaulknerCollinsRayExtract.html> and <http://www.aph.gov.au/hansard/senate/commtee/s6141.pdf>

It should be noted that at the time of writing in regard to this matter, answers to Questions on Notice put to PM & C at this round of Senate Estimates are still outstanding.

Metcalfe was also present at PST meeting of 23 October 2001 where the DFAT cable was read out, as a representative of DIMA.

<sup>41</sup> Another officer from PM & C, Katrina Edwards who attended the PST meeting of 23 October, stated in her evidence that 'the task force was briefed on the sinking by, I think, the AFP representative who was able to provide accounts of the voyage from survivor testimony... I think they had people on the scene. I believe they may have been liaising with the local police.' Edwards, 22 May 2002, *Transcript of Evidence*, CMI 1706, 1729; online at:

<http://sievx.com/testimony/individuals/EdwardsReSIEVX.pdf>

<sup>42</sup> Halton, 30 July 2002, *Transcript of Evidence*, CMI 2126

<sup>43</sup> There is a possibility that the phrase 'vessel likely to have been in international waters' was included in the cable under the black out ink. However in Senate Estimates in February, Peter Doyle (DFAT) claimed that the only blacked out sections of the cable contained information on the sources, so this possibility seems very remote. Peter Doyle, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 13 February 2003, p.275 ; extract online at: <http://sievx.com/testimony/2003/20030213SenateHansardCollinsExtract.html>

<sup>44</sup> See Appendix for PST minute of 23 October 2001 – those who attended the meeting are listed.

<sup>45</sup> Halton, 30 July 2002, *Transcript of Evidence*, CMI 2132

<sup>46</sup> On the same day that the brief went to the PM, the *Australian* newspaper ran a front page story by Don Greenlees on the sinking tragedy that included a map of the likely sinking position, referred to in the article as having occurred 'about 80km from land'. See Don Greenlees, 'Overload kills on voyage of doom', *Australian*, 24 October 2001; online at: [http://sievx.com/articles/disaster/20011024\\_Greenlees.html](http://sievx.com/articles/disaster/20011024_Greenlees.html)

<sup>47</sup> *Transcript of Evidence*, CMI 2127

<sup>48</sup> *Transcript of Evidence*, CMI 2132-5

<sup>49</sup> *Transcript of Evidence*, CMI 2128

<sup>50</sup> *Transcript of Evidence*, CMI 2129-31

<sup>51</sup> *Transcript of Evidence*, CMI 2131

<sup>52</sup> Halton to Cook, 15 August 2002; Item 19 in CMI 'Answers to Questions on Notice'

<sup>53</sup> At the time of writing the brief has still not been provided to the Senate, nor has the question been answered about which agencies supplied the information that SIEVX sank in Indonesian waters. Senator Collins questioned PM & C officers about this in Estimates, Senate Finance and Public Administration Committee on 10 February 2003. So it is possible that further information may appear on these matters.

<sup>54</sup> *Transcript of Evidence*, Estimates, Senate Finance and Public Administration Legislation Committee, 10 February 2003, p.37. Cf with Senator Collins questions to Metcalfe, Belcher and Fox pp. 38-41; online at: <http://sievx.com/testimony/2003/20030210SenateHansardFaulknerCollinsRayExtract.html> and <http://www.aph.gov.au/hansard/senate/commtee/s6141.pdf>

<sup>55</sup> Cook, Senate *Hansard*, 5 February 2003, pp. 293-4; online at:

<http://sievx.com/testimony/2003/20030205SenateHansardCookExtract.html>

<sup>56</sup> Collins, *Transcript of Evidence*, Estimates, Senate Finance & Public Administration Legislation Committee, 10 February 2003, pp. 40-1; extract online at

<http://sievx.com/testimony/2003/20030210SenateHansardFaulknerCollinsRayExtract.html>

<sup>57</sup> See Appendix for copy of Ibonweb article. Collins, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence And Trade Legislation Committee, 13 February 2003, p. 284; extract online at:

<http://sievx.com/testimony/2003/20030213SenateHansardCollinsExtract.html> .

<sup>58</sup> As previously noted, Halton was the first witness to refer specifically to the DFAT cable in her verbal testimony. Rear Admiral Marcus Bonser mentioned the cable twice in his written Answers to Questions on Notice, 17 June 2002. (Item 9 in CMI 'Answers To Questions On Notice'); online at <http://sievx.com/documents/> Ritchie also referred to what we now know is the cable in a Senate Estimates hearing in June 2002. See Ritchie, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p. 229

<sup>59</sup> It appears likely that Howard's initial advice regarding the sinking came from Defence. Air Vice-Marshal Titheridge reported a phone conversation from Brigadier Millen in Jakarta that occurred just after midnight (AEST) on 23 October 2001, stating that it was believed that a SIEV had 'sunk in Indonesian territorial seas'. See *Transcript of Evidence*, Senate Foreign Affairs, Defence and Trade Legislation Committee, 5 June 2002, p.357; extract online at:

<http://sievx.com/testimony/individuals/TitheridgeReSIEVX.pdf> This information was repeated in the ADF Strategic Command Daily Situation Report later that morning. See HSC 001/1163, Answers to Questions On Notice, Defence, received 25 June 2002. The Prime Minister was in Perth when news of the sinking broke and would undoubtedly have been contacted on the evening of 22 October with this information. (Millen's phone call would have taken place at 9.15pm Perth time.) However, Howard would have been provided with more up to date information by the afternoon of 23 October and yet he continued to state that the boat had sunk in 'Indonesian waters'.

<sup>60</sup> Vanessa Walker, 'Boat tragedy survivor granted asylum', *Australian*, 21 December 2001; online at <http://sievx.com/articles/disaster/20011221VanessaWalker.html>

The transcript of survivor testimony, translated by Keysar Trad, from which Walker was quoting is online at: <http://sievx.com/articles/disaster/KeysarTradTranscript.html> Ghassan Nakhoul also interviewed other survivors who claimed that ships did not rescue them. See Ghassan Nakhoul, *Five Mysteries of SIEVX*, Transcript of SBS Arabic Radio program, broadcast on 28 August 2002; online at: <http://sievx.com/articles/challenging/5mysteries.pdf>

<sup>61</sup> See Anthony Kevin, 'Submission to Select Committee Into A Certain Maritime Incident', 4 March 2002, p. 9; online at: [http://www.aph.gov.au/senate/committee/maritime\\_incident\\_ctte/submissions/sub02.pdf](http://www.aph.gov.au/senate/committee/maritime_incident_ctte/submissions/sub02.pdf); Tony Kevin, 'SIEVX: Joining the Dots', paper delivered at Perth International Writers' Festival, 8 February 2003; online at: <http://sievx.com/articles/challenging/2003/20030208TonyKevinPerth.html>.

<sup>62</sup> Tony Kevin, '353 dead: this could be our Watergate', *Age*, 10 May 2002; online at:

<http://www.theage.com.au/cgi-bin/common/printArticle.pl?path=/articles/2002/05/09/1020914030024.html>

<sup>63</sup> Tony Kevin to Simon Crean et al, 18 February 2002, CMI Tabled Documents, no. 26; online at:

<http://sievx.com/articles/challenging/20020218TKLetter.pdf>

<sup>64</sup> Senate Hansard, 13 March 2002, pp. 685-66; online at: <http://www.aph.gov.au/hansard/senate/dailys/ds130302.pdf>

Senator Faulkner, in his speech to the Senate when the CMI report was tabled referred to Mason's request to expand the terms of reference which provided an opening for the Committee to also investigate SIEVX as 'one of the greatest own goals in Australian politics'. See Senate Hansard, 23 October 2002, p. 5759; online at:

<http://www.aph.gov.au/hansard/senate/dailys/ds231002.pdf>

<sup>65</sup> Ross Coulthart, 'The Australian People-Smuggler', *Sunday*, 17 February 2002; transcript online at:

<http://sievx.com/articles/psdp/20020217Sunday.html> and

[http://sunday.ninemsn.com.au/sunday/cover\\_stories/transcript\\_987.asp](http://sunday.ninemsn.com.au/sunday/cover_stories/transcript_987.asp)

Coulthart produced a sequel to this program that went to air in September 2002; see Ross Coulthart, 'The Federal Police and people smugglers', *Sunday*, 1 September 2002; transcript online at

[http://sievx.com/articles/challenging/20020901\\_SundayEnniss.html](http://sievx.com/articles/challenging/20020901_SundayEnniss.html) and

[http://sunday.ninemsn.com.au/sunday/cover\\_stories/transcript\\_1138.asp](http://sunday.ninemsn.com.au/sunday/cover_stories/transcript_1138.asp)

<sup>66</sup> Anthony Kevin, 'Submission to Select Committee Into A Certain Maritime Incident', 4 March 2002, p.1; online at:

[http://www.aph.gov.au/senate/committee/maritime\\_incident\\_ctte/submissions/sub02.pdf](http://www.aph.gov.au/senate/committee/maritime_incident_ctte/submissions/sub02.pdf)

<sup>67</sup> Tony Kevin, 'Twisting Tale of dog that didn't bark', *Canberra Times*, 25 March 2002; online at:

[http://canberra.yourguide.com.au/detail.asp?class=Your%20say&story\\_id=136743&subclass=general&m=3&y=2002](http://canberra.yourguide.com.au/detail.asp?class=Your%20say&story_id=136743&subclass=general&m=3&y=2002)

(It was in this article that Kevin gave the boat the name that it has since become known by – SIEVX); Tony Kevin, 'Who'll rescue the truth of 353 lives lost at sea?', *Age*, 25 March 2002; online at:

[http://sievx.com/articles/challenging/20020325\\_Kevin\\_Age.html](http://sievx.com/articles/challenging/20020325_Kevin_Age.html)

<sup>68</sup> Senator Mason et al, 25 March 2002, *Transcript of Evidence*, CMI 78-82

<sup>69</sup> Shackleton, 25 March 2002, *Transcript of Evidence*, CMI 108-9; extract online at:

<http://sievx.com/testimony/individuals/ShackletonReSIEVX.pdf>

<sup>70</sup> Hill to Crean, 26 March 2002, (CMI Tabled Documents, no. 6 & 27). The RCC message that was faxed to BASARNAS on 22 October 2001 makes no reference to fears that the boat had foundered; see RCC to BASARNAS, 22 October 2001, in CMI Answers To Questions On Notice, AMSA, Item 14, received 5 July 2002

<sup>71</sup> In March 2003 the AFP claimed that the sinking position in the cable was based on a Defence estimate. See AFP Answers to Questions On Notice, no. 120, Senate Legal & Constitutional Legislation Committee; online at:

<http://sievx.com/documents/200303AFPAnswersToQoN.html> It is interesting to compare this with the AFP answers to

questions on notice from Jan '03 that refer to a Defence estimate of the sinking position which appears to take account of more sources than referred to in March '03. See AFP Answers to Questions on Notice, no. 58, Senate Legal & Constitutional Legislation Committee; online at: <http://sievx.com/testimony/2003/20030109AFPQuestionsOnNotice.html> It is unclear if these answers are referring to the same calculation.

<sup>72</sup> Smith, 4 April 2002, *Transcript of Evidence*, CMI 461

<sup>73</sup> Smith, 11 April 2002, *Transcript of Evidence*, CMI 676

<sup>74</sup> Smith to *Canberra Times* 16 April 2002

<sup>75</sup> Shackleton, 25 March 2002, *Transcript of Evidence*, CMI 108-9; extract online at:

<http://sievx.com/testimony/individuals/ShackletonReSIEVX.pdf>

<sup>76</sup> 17 April 2002, *Transcript of Evidence*, CMI 1165

<sup>77</sup> 17 April 2002, *Transcript of Evidence*, CMI 1098

<sup>78</sup> Question no. 23b, CMI Answers To Question on Notice, Department of Defence, received 25 June 2002

<sup>79</sup> Kevin, 1 May 2002, *Transcript of Evidence*, CMI 1325-58; see also Kevin's second submission, written after Rear Admiral Smith had given evidence, CMI Submissions Received, Submission no. 2A Supplementary; online at:

[http://www.aph.gov.au/senate/committee/maritime\\_incident\\_ctte/submissions/sub02A.pdf](http://www.aph.gov.au/senate/committee/maritime_incident_ctte/submissions/sub02A.pdf)

<sup>80</sup> See Greenlees, 'Overload kills on voyage of doom', *Australian*, 24 October 2001; online at:

[http://sievx.com/articles/disaster/20011024\\_Greenlees.html](http://sievx.com/articles/disaster/20011024_Greenlees.html); (a photocopy of this map is included in CMI Tabled Documents, no. 28)

Kevin also presented a calculation which he claimed corroborated the Greenlees sinking position while accepting the statements by Rear Admiral Smith and Senator Hill that *Arunta* was at least 150 nautical miles from where SIEVX sank.

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Although Smith did not explicitly refer to 'nautical miles', Hill's letter to Crean (which Smith corroborates in his testimony) did.

However, a similar calculation to the one that Kevin presented to the CMI Committee included later in this paper shows that Smith & Hill's claim that *Arunta* was 150nm from SIEVX put the sinking within 23nm and not 43nm as Kevin had calculated - see Figure 6. (It appears that Kevin has assumed that Smith's figure of '150 miles' refers to statute miles rather than nautical miles and has converted this figure to 130nm resulting in an error of 20nm in his calculation.)

It is interesting to note that the map in the *Australian* that illustrated Greenlees' article shows the sinking site as being directly south of Cape Cangkuang at the western tip of Java. Lindsay Murdoch also filed a report for the Fairfax press on 24 October 2001 that stated that the survivors were 'rescued by Indonesian fishermen south of the western tip of Java'. See Lindsay Murdoch, 'Survivors tell of horror' *Age*, 24 October 2001; online at: [http://sievx.com/articles/disaster/20011024\\_Age\\_SurvivorsTellOfHorror.html](http://sievx.com/articles/disaster/20011024_Age_SurvivorsTellOfHorror.html) The longitude of Cape Cangkuang, (aka the western tip of Java) is very close to that of the rescue position as stated in the Jakarta Harbour Master's report, ie 105 degrees 9 minutes.

<sup>81</sup> Clive Davidson, the CEO of Australian Maritime Safety Authority (AMSA), appeared before Raby and in his opening statement referred to SIEVX having foundered in Indonesian waters, but he was not questioned on this. Later he was asked if AMSA had attempted to pinpoint the sinking position and whether he had any concerns that there may have been 'direct or indirect' Australian involvement in the sinking. He replied in the negative to both questions. See Davidson, 1 May 2002, *Transcript of Evidence*, CMI 1359, 1387; extract online at:

<http://sievx.com/testimony/individuals/CliveDavidson.pdf>

<sup>82</sup> Chair (Senator Cook), 1 May 2002, *Transcript of Evidence*, CMI 1450; extract online at:

<http://sievx.com/testimony/individuals/RabyReSIEVX.pdf>

<sup>83</sup> CMI Answers To Questions on Notice, Item 10, DFAT to CMI, 19 June 2002, Question 11

<sup>84</sup> Senator Collins, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 14 February 2003, pp. 246-7; extract online at:

<http://sievx.com/testimony/2003/20030214SenateHansardCollinsExtract.html>

<sup>85</sup> Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, Answers to Questions on Notice, DFAT, Question 31, received 27 March 2003; online at: <http://sievx.com/documents/200303DFATAnswersToQoN.html>

<sup>86</sup> Smith to *Canberra Times*, 16 April 2002; online at:

<http://sievx.com/articles/defending/20020416SmithLetterToCT.html>

<sup>87</sup> Bonser, 22 May 2002, *Transcript of Evidence*, CMI 1645-47; online at:

<http://sievx.com/testimony/individuals/MarcusBonser.pdf>

<sup>88</sup> For example, see Margo Kingston, 'Cover-up, or stuff-up?' Web Diary, SMH Online, 28 May 2002; online at:

<http://www.smh.com.au/articles/2002/05/28/1022569769437.html>; Sarah Stephen, 'The SIEV-X Refugee Drownings: What is the government hiding?', *Green Left Weekly*, 17 July 2002; online at:

<http://www.greenleft.org.au/back/2002/500/500p14.htm>

<sup>89</sup> Bonser, 22 May 2002, *Transcript of Evidence*, CMI, 1644 1672; online at:

<http://sievx.com/testimony/individuals/MarcusBonser.pdf>

There are several places in Bonser's testimony where he could have brought the cable to the attention of the Senate Committee, but did not. However, in his supplementary written evidence provided to the Committee on 17 June 2002 he does make reference to the cable twice. See correction to CMI 1678 and correction to CMI 1643 and 1664 in Australian Customs Service, Answers To Questions On Notice, CMI Item no. 9; online at:

[http://sievx.com/images/CMI\\_Docs/20020617Bonser4.gif](http://sievx.com/images/CMI_Docs/20020617Bonser4.gif) and [http://sievx.com/images/CMI\\_Docs/20020617Bonser6.gif](http://sievx.com/images/CMI_Docs/20020617Bonser6.gif)

<sup>90</sup> See 'Clarification of Evidence', Smith to CMI Committee, received 21 May 2002; transcription online at:

<http://sievx.com/articles/defending/20020517SmithToCommittee.html>

This letter enjoys an ambivalent status and is not included in the CMI bound documents. It was initially published by the Committee, only to be withdrawn from publication shortly afterwards when Defence advised the Committee that the letter had not been vetted through the appropriate channels. However, because it was promptly handed out to the media on publication, the letter is in wide circulation and is considered by default to be published. It is available on request from the Senate Committee Office. Alistair Sands to Marg Hutton, 10 March 2003 (email). See also *Transcript of Evidence*, CMI 1631

<sup>91</sup> Transcript of 'SIEV-X', SBS *Dateline*, broadcast 17 July 2002; online at:

<http://sievx.com/articles/challenging/20020717Dateline.html> and <http://www.sbs.com.au/dateline/>

<sup>92</sup> John Howard, 'Transcript Of The Prime Minister, The Hon John Howard MP, Joint Press Conference With The Minister For Immigration, The Hon Philip Ruddock MP- Sydney', 1 September 2001; online at:

<http://www.pm.gov.au/news/interviews/2001/interview1206.htm>

<sup>93</sup> A copy of this document and a translation are available online at: <http://sievx.com/documents/dateline.html>

<sup>94</sup> 'Physical Oceanography of the waters of South Java', Professor Matthias Tomczak, 18 December 2002; online at:

<http://sievx.com/articles/challenging/20021218MatthiasTomczak.html>

According to Tomczak: 'Over a period of 22 hours the resulting displacement would be approximately 13 - 26 nautical miles (24 - 48 kilometers) along the coast, and the distance from the coast would increase by approximately 9 - 21 nautical miles (16 - 40 kilometers).'

It should be noted that reports on how long the SIEVX survivors spent in the water vary from 15 to 21 hours so it is possible that the maximum displacement calculated by Tomczak is excessive.

<sup>95</sup> Rear Admiral Ritchie, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p. 162

<sup>96</sup> See Appendix for PST minute of 23 October 2001

<sup>97</sup> As mentioned earlier, Hill took over the Defence Portfolio following the federal election on 10 November 2001. So his predecessor, Peter Reith would have received the Defence Minister's copy.

<sup>98</sup> 'JOURNALIST: given that we did have in place the most extensive surveillance cordon we've ever had in position in that area are you surprised that we didn't see this boat coming, didn't know it had sunk, didn't know where it was...? PRIME MINISTER: No I'm not surprised of that particularly given that *all the information was that it sank in an area near the Sunda Strait and the Sunda Strait* as I understand it passes between Java and Sumatra. And *the information I had was that it was in the Indonesian search and rescue zone.*

JOURNALIST: But the information that the People Smuggling Taskforce had that it was in international waters.

PRIME MINISTER: But the Indonesian search and rescue zone as I understand these things to operate does include international waters[emphasis added].'

John Howard, Press Conference, 20 June 2002 – online at:

<http://www.pm.gov.au/news/interviews/2002/interview1709.htm>

See also John Howard's press conference at Sydney Airport on 30 June 2002 where Margo Kingston questions the PM repeatedly about SIEVX. Online at: <http://www.pm.gov.au/news/interviews/2002/interview1715.htm>

<sup>99</sup> SIEVX 'may have got 60 miles off Indonesia through the Sunda Strait' before sinking. Ruddock, quoted by Margo Kingston in 'Media influenced PM's boat stance', *Sydney Morning Herald*, 21 June 2002; online at:

<http://www.smh.com.au/articles/2002/06/20/1023864479767.html>

Significantly, this figure is a close match with the DIMA Intelligence that went to Ruddock and a blacked out list of external recipients (possibly including the PM?) on 23 October 2001 that stated that the boat had foundered 'approximately 60nm south of the Sunda Strait'. See Appendix for a copy of the DIMA note. This evidence was not received by the Senate until mid September 2002.

<sup>100</sup> '[T]he boat could have got 100km off the Indonesian coast before sinking' Ruddock, quoted by Kirsten Lawson in 'Retreat on sinking of asylum-seekers' boat', *Canberra Times*, 21 June 2002; online at:

[http://canberra.yourguide.com.au/detail.asp?class=News&story\\_id=158095&subclass=local&m=6&y=2002](http://canberra.yourguide.com.au/detail.asp?class=News&story_id=158095&subclass=local&m=6&y=2002)

<sup>101</sup> 'The fact is that wherever it sank it was in at least the Indonesian air, sea and rescue zone responsibilities. *It was quite possibly within its contiguous zone and also quite possibly within the 12 mile limits. We don't know precisely where it sank. We never did.* But the assertion that it was in those areas for which Indonesia is responsible is incontrovertible [emphasis added].' Philip Ruddock, Meet the Press, 23 June 2002 – transcript online at:

<http://sievx.com/articles/defending/20020623Ruddock.html>

<sup>102</sup> '[Hawke]: As far as I am aware we still have no concrete evidence about where it sunk. I specifically checked this point this morning with the ADF and they've told me that no-one knows where it sank. They would be able to give you... quite a big area on a map where it might have but as far as I am aware nobody knows where it did actually sink...

Journalist: So the position is as far as the ADF is concerned it could have sunk in the Sunda Strait, it could have sunk in Indonesian waters or it could have sunk in international waters?

Hawke: That's correct...'

Dr Allan Hawke, National Press Club, 19 June 2002; quoted online at:

<http://zarook.com/dbs/rose/index.php?category=10&id=53>

Hawke also spoke at length on SIEVX in September 2002; see Dr Allan Hawke, 'Communicating with the media, the community and industry - a Defence perspective' Based on an Address to the ACT White Pages Business Series, 5 September 2002; extract online at [http://sievx.com/archives/2002\\_08-09/20020908.shtml](http://sievx.com/archives/2002_08-09/20020908.shtml); full speech online at:

<http://www.defence.gov.au/media/DeptTpl.cfm?CurrentId=1856>

<sup>103</sup> Rear Admiral Chris Barrie, Farewell Address, Australian Defence Force Change of Command Ceremony, Canberra, Wednesday, 3 July 2002; online at:

<http://www.sievx.com/articles/defending/20020703BarrieFarewellSpeech.html>

<sup>104</sup> Hill, Senate Hansard, 19 June 2002, 2160-1; online at:

<http://sievx.com/testimony/20020619SenateHansardExtractHill.html>

<sup>105</sup> Robert Manne, 'The Tragedy of Indifference', *Age*, 24 June 2002; online at:

<http://sievx.com/articles/challenging/20020624RobertManne.html>

<sup>106</sup> Hill, Letter, *Age*, 27 June 2002; online at: <http://www.theage.com.au/articles/2002/06/26/1023864605319.html>

<sup>107</sup> 'Senator Faulkner asked who tasked Admiral Gates to conduct a review of intelligence advice relating to SIEVX et cetera. The answer is that my office, on my behalf, tasked CDF/Secretary task force to seek the formal advice. They did this to ensure that an answer that I had previously given to Mr Crean was accurate and complete. That brief is being finalised and I expect to get it in the next few days.' Senator Hill, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 5 June 2002, p. 337; online at:

<http://www.aph.gov.au/hansard/senate/commttee/s5555.pdf>

Hill to Crean, 26 March 2002; online at [http://sievx.com/images/CMI\\_Docs/HillToCrean.gif](http://sievx.com/images/CMI_Docs/HillToCrean.gif) &

[http://sievx.com/images/CMI\\_Docs/HillToCrean2.gif](http://sievx.com/images/CMI_Docs/HillToCrean2.gif)

<sup>108</sup> Attachment 'A', Defence Internal Review of Intelligence, 4 July 2002, CMI Additional Information, Item 28; online at: <http://sievx.com/documents/20020704AttachmentA.html>

<sup>109</sup> It is probable that this information was already known at an earlier stage from other sources. For example, the AFP had interviewed the fishermen who rescued the SIEVX survivors, and they would have passed on the same information they gave to the Jakarta Harbour Master about the rescue position. See Kirsten Lawson, 'Sabotage concerns about SIEV X', Canberra Times, 15 December 2002; online at: <http://sievx.com/articles/challenging/20021215KirstenLawson.html>

<sup>110</sup> In an article in the *Sydney Morning Herald* in October 2002, Marian Wilkinson gave details of a document referring to the SIEVX tragedy that Defence had refused to release under FOI. The reference to a message from 23 October 2001 pertaining to the 'sinking of an illegal immigrant vessel' is clearly referring to the DFAT cable, as this is its heading (see Appendix). 'While nearly all these deletions are withheld on the grounds of "national security or operational security", many of the documents appear to be ones that could also cause political problems for the Howard Government. Among the documents refused is one described as a "message" on the sinking of an illegal immigrant vessel, believed to be the SIEV X, dated October 23, the day news broke of the tragedy. The message was withheld on grounds that it would "cause damage" to the security and defence of the country and have a "substantial adverse effect" on the navy's operations.'. See Marian Wilkinson, *Sydney Morning Herald*, 28 October 2002; online at: <http://www.smh.com.au/articles/2002/10/27/1035683303426.html>

<sup>111</sup> See Appendix for DFAT cable, para. 4

<sup>112</sup> See 'SIEV X Chronology', Defence Internal Review of Intelligence Related To SIEV X, 4 July 2002, CMI Additional Information, Item 28; online at: <http://sievx.com/documents/>

<sup>113</sup> In March 2003, the AFP informed Senator Collins that the source of the information about the sinking position of SIEVX in the DFAT cable of 23 October 2001 was provided by Defence: 'Paragraph 6 consists of information provided by the same survivor, with additional information relating to the possible approximate location of the sinking being calculated by Defence personnel at Post, based on that survivor's information.', AFP, Question 120, Answers to Questions on Notice, Estimates, Senate Legal & Constitutional Legislation Committee, received 27 March 2003; extract online at: <http://sievx.com/documents/200303AFPAnswersToQoN.html>

<sup>114</sup> It is interesting to note that the Gates Review failed to resolve key contradictions. On the one hand it claims that Defence 'can only speculate as to where the vessel foundered'. But in Attachment 'B' of the same Review there is reference to Smith's testimony that the nearest Australian ship from the sinking 'was at least 150 miles away'. If Defence could only 'speculate' on the sinking site, one wonders how then they could still maintain this line. See Attachment 'B', Defence Internal Review of Intelligence, 4 July 2002, CMI Additional Information, Item 28; online at: <http://sievx.com/documents/20020704AttachmentB.html>

<sup>115</sup> Gallagher, 11 July 2002, *Transcript of Evidence*, CMI 1914-15; extract online at: <http://sievx.com/testimony/individuals/PatrickGallagher.pdf>

<sup>116</sup> Faulkner, 11 July 2002, *Transcript of Evidence*, CMI 1918; extract online at: <http://sievx.com/testimony/individuals/PatrickGallagher.pdf>

<sup>117</sup> The Jakarta Harbour Master's Report may not have been known to Australian authorities when the CMI began its hearings. However, it is reasonable to assume that the key information in the Report, ie the coordinates of the rescue position, was known and obtained when AFP interviewed the fishermen who rescued the survivors. See Kirsten Lawson, 'Sabotage concerns about SIEV X', Canberra Times, 15 December 2002; online at: <http://sievx.com/articles/challenging/20021215KirstenLawson.html>

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## **APPENDIX**

• Table – Evidence for sinking position of SIEVX	1
• DFAT Cable of 23 October 2001	3
• DIMA Intel Note of 23 October 2001	7
• PST Minute of 23 October 2001	10
• Ibonweb article of 23 October 2001	12
• Map showing zones & rescue position of SIEVX survivors	13

## T A B L E 1 - SUPPORTING EVIDENCE FOR SINKING POSITION OF SIEVX

Date (AEST)	INDONESIAN WATERS/SUNDA ST/UNKNOWN	INTERNATIONAL WATERS
18-20/10/01	<b>RAAF Surveillance maps of Operation Relax Charlie zone:</b> SIEVX not spotted <a href="http://sievx.com/documents/20020704AttachmentB.html">http://sievx.com/documents/20020704AttachmentB.html</a>	
12.15am 23/10/01	<b>Titheridge report of phone conversation from Brigadier Millen:</b> 'It is believed the SIEV... sunk in Indonesian territorial seas'. <i>Transcript of Evidence, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 5 June 2002, p. 357</i> <a href="http://sievx.com/testimony/individuals/TitheridgeReSIEVX.pdf">http://sievx.com/testimony/individuals/TitheridgeReSIEVX.pdf</a>	
8am 23/10/01	<b>ADF Strategic Command Daily Situation Report:</b> 'An unknown vessel... is suspected to have sunk inside ID TS'. HSC 001/1163, Answers To Questions on Notice, Defence, Tabled 25 June 2002	
11.47am 23/10/01	<b>PM &amp; C email traffic:</b> 'According to preliminary details... [a] boat... capsized on 19 October between Java and Sumatra'. <a href="http://sievx.com/documents/20011024EmailAndrewMetcalfeToSusanBallEtAl.html">http://sievx.com/documents/20011024EmailAndrewMetcalfeToSusanBallEtAl.html</a> (NB: In the CMI Report, this email was wrongly stated to have been sent on 24/10)	<b>AFP agent Ben McDevitt informed reporter Kirsten Lawson that the AFP had interviewed the Indonesian fishermen who rescued the SIEVX survivors – Canberra Times, 15 December 2002</b> <a href="http://sievx.com/articles/challenging/20021215KirstenLawson.html">http://sievx.com/articles/challenging/20021215KirstenLawson.html</a>
Date unknown – presumed to be on 22 or 23/10/01		<b>DFAT cable:</b> 'SIEV is believed to have foundered in rough seas to the south of Sunda St within the Indonesian Maritime Search and Recue Area of Responsibility... [Vessel began taking water] out of sight of land... The exact position of vessel at the time of sinking is unknown but it is judged as no further south than 8 degrees south latitude on a direct line from Sunda St to Christmas Is'. <a href="http://sievx.com/documents/">http://sievx.com/documents/</a> (listed under Answers to Questions on Notice, February 2003)
1.49pm 23/10/01		<b>DIMA Intelligence Note 83/2001:</b> 'At about 1400 hours on Friday, when approximately 60nm from the Sunda Strait the boat began taking water and finally capsized and sank at about 1500 hours.' <a href="http://sievx.com/documents/DIMIAIntelNotes.html">http://sievx.com/documents/DIMIAIntelNotes.html</a>
3.15pm 23/10/10		<b>People Smuggling Taskforce Minute/Note:</b> 'Vessel likely to have been in international waters south of Java'. <a href="http://sievx.com/testimony/PSTMinutes.html">http://sievx.com/testimony/PSTMinutes.html</a>
AM 24/10/01		<b>Don Greenlees article in the Australian:</b> 'About 80km from land at 2pm on Friday, the fishing vessel began to take heavy water, listed violently to the side, capsized and sank within an hour'. <a href="http://sievx.com/articles/disaster/20011024_Greenlees.html">http://sievx.com/articles/disaster/20011024_Greenlees.html</a>

Late afternoon 24/10/01	<p><b>Jane Halton reported that an information brief went to PM that included a heading - 'Boat sank in Indonesian waters' and nine lines of detail which also stated 'boat capsized and sank quickly south of the western end of Java'. Halton stated that the brief did not specify whether 'Indonesian waters' referred to the territorial seas or the Search &amp; Rescue Area and that there was a 'vast interchangeability' between these terms amongst members of the PST. (<i>Transcript of evidence</i>, CMI 2127, 2132-3)</b></p> <p><a href="http://sievx.com/testimony/individuals/Halton2ReSIEVX.pdf">http://sievx.com/testimony/individuals/Halton2ReSIEVX.pdf</a></p>	<p><b>Jakarta Harbour Master Official Report:</b> Translation: 'The immigrants were found at 07 40 00S / 105 09 00E'</p> <p><a href="http://sievx.com/documents/dateline.html">http://sievx.com/documents/dateline.html</a></p>
6.30pm 24/10/01		
26/03/02	<p><b>Senator Hill reported to Simon Crean in a letter dated 26 March 2002, in response to Tony Kevin's initial inquiries, that Defence had reviewed its documentation regarding the sinking:</b></p> <p>'It has been assessed that the vessel was in the vicinity of the Sunda Strait when it sank'</p> <p><a href="http://sievx.com/images/CMI_Docs/HillToCrean.gif">http://sievx.com/images/CMI_Docs/HillToCrean.gif</a></p>	
Prior 22/5/02	to	<p><b>Coastwatch assessment of sinking position:</b> 'The best we have been able to work out is that it was somewhere between the Sunda Strait and perhaps about 80 miles south of it... but we have not been able to determine exactly where.'</p> <p>(Bonser, <i>Transcript of Evidence</i>, CMI, 1672)</p> <p><a href="http://sievx.com/testimony/individuals/MarcusBonser.pdf">http://sievx.com/testimony/individuals/MarcusBonser.pdf</a></p>
4/7/02	<p><b>Defence Internal Review of Intelligence re SIEV X:</b> 'Some public comment has inaccurately suggested that it is possible to say with some precision where SIEV X foundered (<i>eg media 'expert' analysis of figures reportedly provided by the Harbour Master at Sunda Kelapa port in north Jakarta</i>). This is to ignore what is known, namely that both the timing and location of its last landfall is unknown (the vessel is reported to have had a number of stops and delays); that its planned and actual course is unknown; that the impact of tides, currents and weather is unknown, and the impact of its seaworthiness on its speed is unknown. <i>In the absence of positional data from either SIEV 'X' itself or the fishing boats that rescued the survivors,</i>[sic] Defence can only speculate as to where the vessel foundered. Defence has no reason to change this assessment. The fact that there are a number of such assessments only goes to underline the uncertainty surrounding the information available on this matter.'</p> <p>[emphasis added]</p> <p><a href="http://sievx.com/documents/20020704AttachmentA.html">http://sievx.com/documents/20020704AttachmentA.html</a></p>	
18/12/02		<p><b>Oceanography professor, Matthias Tomczak assesses likely sinking position of SIEV X</b> 'If the SIEV X survivors were in the water for 22 hours before they were rescued at a location 50 [sic] nautical miles from the Indonesian coast, it can be stated quite categorically that under normal climatological conditions they could not have started their drift from within Indonesian waters (the 12 nautical mile limit).'</p> <p><a href="http://sievx.com/articles/challenging/20021218MatthiasTomczak.html">http://sievx.com/articles/challenging/20021218MatthiasTomczak.html</a></p>

INDONESIA: SINKING OF ILLEGAL IMMIGRANT VESSEL

1/4

O.JA25691 1049 23.10.2001 ~~SEA FIRST SENSITIVE~~ MTO.  
PP CANBERRA/RF.  
PP GENEVA UN/

FM. JAKARTA/ FA

~~RESTRICTED~~ M

DECLASSIFIED

INDONESIA: SINKING OF ILLEGAL IMMIGRANT VESSEL

~~THE FOLLOWING CONTAINS SENSITIVE INFORMATION~~ M

START OF SUMMARY

A SUSPECTED ILLEGAL ENTRY VESSEL (SIEV) CARRYING 397 POTENTIAL ILLEGAL IMMIGRANTS (PII) SANK ENROUTE TO CHRISTMAS ISLAND DURING THE AFTERNOON OF FRIDAY 19 OCTOBER. THE SIEV IS BELIEVED TO HAVE FOUNDERED IN ROUGH SEAS TO THE SOUTH OF SUNDA ST WITHIN THE INDONESIAN MARITIME SEARCH AND RESCUE AREA OF RESPONSIBILITY. 45 SURVIVORS WERE RESCUED BY TWO INDONESIAN FISHING VESSELS AND RETURNED TO JAKARTA LATE ON THE AFTERNOON OF 22 OCTOBER. THERE HAS BEEN CLOSE INTEREST BY THE INTERNATIONAL MEDIA IN THE STORY.

END OF SUMMARY



CHRONOLOGY (U/L) M

2. TUESDAY 16 OCTOBER- APPROXIMATELY 430 POTENTIAL ILLEGAL IMMIGRANTS (PII) DEPARTED CIPINAS (SOUTH OF JAKARTA) AND TRAVELLED TO SUMATRA VIA JAKARTA AND MERAK. THE SURVIVOR SAID THAT ON ARRIVAL IN SUMATRA, THEY THEN TRAVELLED ONE AND A HALF HOURS BY BUS TO A HOTEL. THEY REMAINED OVER NIGHT IN THAT LOCATION (POSSIBLY BANDAR LAMPUNG)

3. WEDNESDAY 17 OCTOBER - ABU QUASSAY INFORMED THE PIIS THAT THEY WERE TO PACK THEIR BELONGINGS AS THEY WERE DEPARTING THAT EVENING. LATER THAT DAY THEY MOVED FROM THE HOTEL TO THE POINT OF DEPARTURE, ONLY A FEW KILOMETRES AWAY. THE VESSEL WAS WAITING FOR THEM. THE DIMENSIONS OF THE VESSEL WERE REPORTED AS 19.5 METRES LONG WITH A BEAM OF 4 METRES. A MAKESHIFT UPPERDECK HAD BEEN ADDED, WITH THE AFTER DECKS ENCLOSED BY CHIPBOARD (PRESUMABLY TO ENHANCE

## INDONESIA: SINKING OF ILLEGAL IMMIGRANT VESSEL

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SEAWORTHINESS).

4. THURSDAY 18 OCTOBER - THE VESSEL DEPARTED BANDAR LAMPUNG AT APPROXIMATELY 0130. AT THIS TIME, DUE TO THE SIZE OF THE VESSEL, 10 PIIS REFUSED TO EMBARK, LEAVING 421 PIIS ON BOARD. APPROXIMATELY ONE HOUR AFTER DEPARTURE, PIIS APPARENTLY BECAME APPREHENSIVE ABOUT THE ABILITY OF THE VESSEL TO REMAIN Afloat WITH THE NUMBERS ONBOARD. THE VESSEL STOPPED APPROXIMATELY 5 KILOMETRES FROM THE POINT OF DEPARTURE, DURING WHICH TIME THE CREW WAS IN RADIO CONTACT WITH ABU QUASSEY. THE VESSEL THEN RESUMED ITS PASSAGE AND ABOUT 0900 AGAIN STOPPED NEAR AN ISLAND "DUE TO HIGH SEAS". A NEARBY FISHING BOAT CAME ALONGSIDE THE VESSEL TO REMOVE 24 PIIS (397 PAX REMAINING).

5. FRIDAY 19 OCTOBER - AT ABOUT 1400 THE VESSEL BEGAN TAKING WATER. THE CREW SOUGHT TO REASSURE THE PASSENGERS BY TELLING THEM THAT THIS WAS A SMALL PROBLEM. THE PIIS ASSISTED THE CREW TO BAIL THE VESSEL, USING IMPROVISED SCOOPS FASHIONED FROM THE HULL TIMBER. AT THIS TIME, THE VESSEL WAS OUT OF SIGHT OF LAND.

6. AT 1500, THE VESSEL BEGAN TO LIST HEAVILY TO PORT. WITHIN FIVE MINUTES, THE VESSEL CAPSIZED. IT SUNK COMPLETELY AFTER MOMENTARILY REMAINING NEUTRALLY BUOYANT. DEBRIS SOON SURFACED AFTER THE SINKING. THE MAJORITY OF THE PIIS DROWNED IMMEDIATELY, WITH SOME 120 INITIAL SURVIVORS. THERE WAS A HEAVY SEA RUNNING, AND IT COMMENCED RAINING AFTER THE SINKING. THE EXACT POSITION OF VESSEL AT THE TIME OF SINKING IS UNKNOWN, BUT IT IS JUDGED AS NO FURTHER SOUTH THAN 8 DEGREES SOUTH LATITUDE ON A DIRECT LINE FROM SUNDA ST TO CHRISTMAS IS.

7. SATURDAY 20 OCTOBER - THE SURVIVORS REMAINED IN THE WATER FOR APPROXIMATELY 19 HOURS, WITH MANY OF THE SURVIVORS PERISHING DURING THAT PERIOD. AT APPROXIMATELY 1000, THE REMAINING SURVIVORS WERE APPROACHED BY TWO INDONESIAN FISHING BOATS. ONE VESSEL TOOK ON BOARD 44 PIIS (41 ADULTS AND 3 CHILDREN), WITH THE SECOND BOAT PICKING UP 5 PIIS. OF THESE, 4 WERE ALREADY DEAD AND THE REMAINING SURVIVOR WAS A FEMALE.

8. THE CREW OF THE FIRST BOAT (44 PIIS) CONTACTED THEIR CHINESE OWNER FOR INSTRUCTIONS. THEY WERE SUBSEQUENTLY DIRECTED TO PROCEED TO JAKARTA WITH THE PIIS. THE TIME OF ARRIVAL IN JAKARTA WAS APPROXIMATELY 1800 ON MONDAY 22 OCTOBER.

9. A VESSEL OVERDUE ALERT MESSAGE WAS ISSUED BY RESCUE COORDINATION CENTRE AUSTRALIA ON MONDAY 22 OCTOBER AND FORWARDED TO INDONESIAN SEARCH AND RESCUE COORDINATION CENTRE (BARSARNAS) IN JAKARTA.

GENERAL (U/L)

10. LOSS OF LIFE - 353 PERSONS (INCLUDING 70 CHILDREN). THE SAFETY EQUIPMENT CARRIED ON BOARD WAS ENTIRELY INADEQUATE CONSISTING OF 70 NON SERVICEABLE LIFE JACKETS.

## INDONESIA: SINKING OF ILLEGAL IMMIGRANT VESSEL

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11. IT IS ASSUMED THAT THE 10 PASSENGERS WHO REFUSED TO BOARD THE BOAT AT BANDAR LAMPUNG REMAIN IN SOUTHERN SUMATRA. THE WHEREABOUTS OF 24 PIIS REMOVED FROM THE VESSEL PRIOR TO SINKING ARE UNKNOWN. THE WHEREABOUTS OF THE 1 FEMALE PII ON THE SECOND RESCUE BOAT IS ALSO UNKNOWN.

12. THE SURVIVORS HAVE BEEN TAKEN BY IOM TO ACCOMMODATION IN BOGOR AREA AND ARE THE SUBJECT OF CONSIDERABLE ATTENTION BY THE INTERNATIONAL MEDIA.

[REDACTED]

XC. O.JA25691

[REDACTED]

XC.

[REDACTED]

ACTION: DR. A. CALVERT (DFAT)  
 DR. A. HAWKE (SEC DEF)  
 ADM. C. BARRIE (CDF)  
 MR. W. FARMER (DEMCA)  
 MR. M. M. WILTON (DPMC)

PRIME MINISTER	MIN FOREIGN AFFAIRS	MINISTER FOR TRADE
ATTORNEY GENERAL	MIN DEFENCE	MIN IMMIG+MC AFFAIRS
MIN JUSTICE-CUSTOMS	MR. R. CORNALL (A/GS)	MR. RICHARDSON (ASIO)
COMM. M. KEELTY (AFP)	MR. L. WOODWARD (ACS)	RADM M. BONSER (NSC)

## INDONESIA: SINKING OF ILLEGAL IMMIGRANT VESSEL

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MR F LEWINCAMP (DIO) MR C R JONES (CNA) \*\*\*

ACTION: MR. R. SMITH (IDB)

DR. A. CALVERT (SEC)	MR. P. GREY (D/S)	MS. P. FAYLE (D/S)
DR. A. THOMAS (D/S)	MR. D. RITCHEIE (D/S)	MR. J. FRYDENBERG (MIN B)
MS. S. BORCHERS (MIN F)	MS. A. HAWKINS (MIN. G)	MS. L. MANTON (MIN H)
MS. C. MILLAR (EXB)	MR. P. GRIGSON (SED)	MR. G. LADE (MRB)
DR. G. RABY (ILD)	MR. P. DOYLE (PS TF)	MR. I. MCCONVILLE (LGB)
MR. B. PATERSON (ISD)	MR. C. SPARKE (GCB)	MR. B. MILLER (STB)
MR. L. ROWE (POD)	MR. C. DECUPE (PMB)	MR. E. DAVIS (DG-AUSAID)
MR. C. TAPP (PHI)	MR. P. FLANAGAN (HCB)	MR. M. DILLON (APNG)
MS. A. O'KEEFFE (SPA)		

ACTION: ;

INFO: ;

[REDACTED]



THIS DOCUMENT (WITH  
BLANKED OUT SECTIONS)  
HAS BEEN DOWNGRADED  
TO UNCLASSIFIED 2:  
AUGUST 2002

Department of Immigration and Multicultural Affairs  
Border Protection Branch  
Intelligence Analysis Section

**Intelligence Note**

**83/2001**

Internal:

- Minister
- Secretary
- Deputy Secretary
- FAS Border Control and Compliance
- FAS Refugee and Humanitarian
- FAS Detention Strategy and Facilities
- FAS Detention Taskforce
- AS Border Protection
- AS Detention Strategy
- AS Detention Infrastructure
- AS Indonesia Task Force
- Director Unauthorised Arrivals
- Director Onshore Compliance
- Director Detention Operations
- Director Indonesia Task Force

External:

[REDACTED]

**ASSESSMENT OF BOAT ACTIVITY AS AT 1400, 23 OCT 2001**

**SUMMARY**

(U) **Abu Gussay's** boat with 421 passengers on board sank last Friday (19 October) [REDACTED] with the loss of possibly 352 lives.

(U) [REDACTED] boat, carrying up to 300 plus passengers, is located off Christmas Island [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(U) To the east, possibly [REDACTED] boat remains off the Ashmore Islands, and [REDACTED] may have boats on the water heading for the Islands.

[REDACTED]

(U) Post reporting indicates the IOM may be involved in the relocation from Roti Island to Kupang of passengers probably from the boat [REDACTED]

### CURRENT SITUATION

(U) Media reporting has highlighted the sinking of **Abu Qussay's** boat with probably only 69 survivors from the **421 passengers** that boarded the boat [REDACTED] [REDACTED] indicate the heavily overloaded 19.5 X 4m boat departed southern Sumatra at approximately 0130 hours on Thursday, 18 October. Qussay was said to be at the departure. The boat apparently took shelter in the lee of an island at about 0900 hours due to bad weather. 24 passengers are believed to have left the boat at that time.

(U) At about 1400 hours on Friday, when approximately 60NM south of the Sunda Strait, the boat began taking water and finally capsized and sank at about 1600 hours. The boat resurfaced and started breaking up and 120 passengers were known to be clinging to the debris. There were about 70 life jackets on board, but were of such poor quality that they were of no use.

(U) Between 1100 and 1200 hours the following day (Saturday), 44 survivors were rescued by an Indonesian fishing boat and the survivors were taken to a port near Jakarta. Another fishing boat picked up three bodies and a lone female survivor. The survivors are now being cared for by the IOM and UNHCR at a camp about one hour from Jakarta.

(U) [REDACTED] boat, carrying between **250 - 300 passengers**, remains off Christmas Island awaiting further Australian Government action.

(U) [REDACTED]

[REDACTED] IAS COMMENT: [REDACTED] may decide to move quickly to avoid any increased Indonesian Government action as a result of the sinking of Qussay's boat and the international attention it may attract.

[REDACTED]

[REDACTED]

[REDACTED]

(U) A boat, [REDACTED] [REDACTED] with approximately 200 passengers remains off the Ashmore Islands awaiting further Australian government action.

[REDACTED]

[REDACTED]

[REDACTED]

#### ASSESSMENT

(U) The consequences of the loss of Abu Qussay's boat and the heavy loss of life are unknown. As a relatively small player among the people smugglers, he probably does not have the degree of protection other, more prominent and powerful organisers have. To this end, he may attempt to flee the country. Given the wide international coverage the sinking has had, the Indonesian Government can be expected to act, at least against Qussay. At present, there is probably only one major player, [REDACTED] who would be significantly affected by increased Indonesian Government attention. With up to 500 passengers already in place in the Jakarta area, he may decide to move quickly to avoid being caught up in increased police activity.

#### ACTION

(U) Australian agencies in Jakarta are continuing to liaise with Indonesian authorities [REDACTED].

Tony Pollock  
Director  
Intelligence Analysis Section

23 October 2001

[REDACTED]

PEOPLE SMUGGLING TASKFORCE – HIGH LEVEL GROUP MEETING  
3.15 p.m. TUESDAY, 23 OCTOBER 2001

Attendees: Andrew Metcalfe, Ed Killesteyn, Vince McMahon, Jenny Bedlington (DIMA); Shane Castles (AFP); Mark Zanker, Bill Campbell (A-Gs); Geoff Raby (DFAT); Mike Mrdak (DTRS); John Hawksworth (Customs); Ian Errington (Coastwatch); Warrick Gateley (Defence); Jane Halton, Katrina Edwards, Jenny Bryant (PM&C).

**Current State of Play**

*PNG*

- [REDACTED] have now arrived at Manus –to be accommodated separately prior to their removal. **B**
- Talking points for Downer on disturbance circulated for comment (attached)
- DIMA considering using an Australian Iraqi community leader, Dr Al Salami, who is member of Detention Advisory Group and has been helpful in Woomera disturbances in the past, to assist on Manus.
- UNHCR has indicated they have not yet received a request from PNG to assist with processing
- Mixed reports on whether perimeter was breached. One asylum seeker may have psychiatric condition.

*Christmas Island*

- Engine of SIEV6 started but running rough. Weather has closed in, choppy with high seas forecast for 2 days.
- Defence going to Reith. CO on scene to make judgement about feasibility and safety of move in current conditions
- Life saving equipment to be on board.

*SIEV7 at Ashmore*

- Humanitarian assistance being provided. Restless and irate group of 8 demanding to know where they will be taken –told decision may be 5-7 days. Same script as for SIEV5
- NorCom moving Arunta to Ashmore – 2<sup>nd</sup> boarding party will be on board. Samson Explorer due at Ashmore on 25/10
- Still possibilities of 2 more boats at Ashmore and further boat at Christmas – risks of exposure at each location to be weighed.

*Cocos*

- DTRS working with EA. Clearance has been given to complete sewerage but if more than 100 people were to be accommodated, would need to either follow statutory processes under *Environment Protection and Biodiversity Conservation Act 1999* or apply for exemption in the national interest. EA have briefed Hill.
- 40 Sri Lankans proposed to be removed Wednesday next week – AFP completing work and documents being finalised

*Other possible sites*

- DFAT document on status of discussions in South Pacific circulated (attached)

- Further [redacted] document circulated (attached)

B

*Indonesia*

- DIMA reported 2<sup>nd</sup> Immigration Working Group meeting last week went well. Progress on karantinas. Hoping they will come here in 2 weeks. Indonesian concerns relate to holding problem and resettlement rates.

- [redacted]
- [redacted]

B

- Information campaign moving well – comprehensive set of ideas engaging at all levels

- [redacted]

B

- APC first week of December

- [redacted]
- [redacted]

B

- DFAT to seek Rick Smith's views on making of assistance direct to Embassy here. AFP could send resources if required
- Detailed report from 19 yo Afghani male survivor - reports sunk vessel departed 0130 hours 18/10 with 421 on board, including 70 children. Stopped near Karakatu group of Islands at 0900 where 24 left vessel. 397 still on board. At 1400 on 19/10 vessel was taking water out of sight of land. Sank very quickly but resurfaced. About 120 people on surface. 7000 litres of fuel escaped? Seas rough. Only 70 lifejackets – none worked. 19-20 hours in water from 1500 on Friday 19/10 till rescued by 2 fishing vessels around 1100 on Saturday, 20/10. One fishing vessel rescued 44 people; another rescued 5 – 4 deceased and 1 survivor. 41 adults and 3 children survived, 352 drowned. Survivors taken to Jakarta – being cared for by IOM at Bogor outside Jakarta. Vessel likely to have been in international waters south of Java.

*Nauru*

- No update on visit by 60 minutes crew – lawyer is migration agent in Fairfield
- UNHCR has responded to Amnesty approach saying their assistance is not needed and will not permit them to sit in on interviews

*Other issues*

- Attorney has instructed A-Gs to oppose expedition of appeal. Hearing now likely this week or next. Talked to Solicitor-General re affidavits on current status of group on Nauru. Reasons for opposing appeal have to be in S/11.
- PI Law Officers meeting – paper being prepared (paper circulated – attached).
- Meeting with Australian Petroleum Exploration Association tomorrow – concerns re asylum seekers landing – platforms now excised areas.

## Disaster for 300 Potential Illegal Immigrants

**IBonWEB.com** - Trying to reach Australia as potential illegal immigrants, around 353 people, including 70 children, died due to high seas that sunk their vessel last Friday. As reported by AFP, an Egyptian organization Abu Quassey that successfully sent two previous vessels reaching Australian territory organized suspected illegal entry vessel (SIEV) to sail to Christmas Island.



Based on the report, approximately 430 potential illegal immigrants (PIIs) departed Cipanas (South of Jakarta) and traveled to Sumatra, possibly Bandar Lampung, via Jakarta and Merak last Wednesday. The day after, Quassey informed PIIs to pack their belongings as they were departing that evening and the vessel was waiting for them.

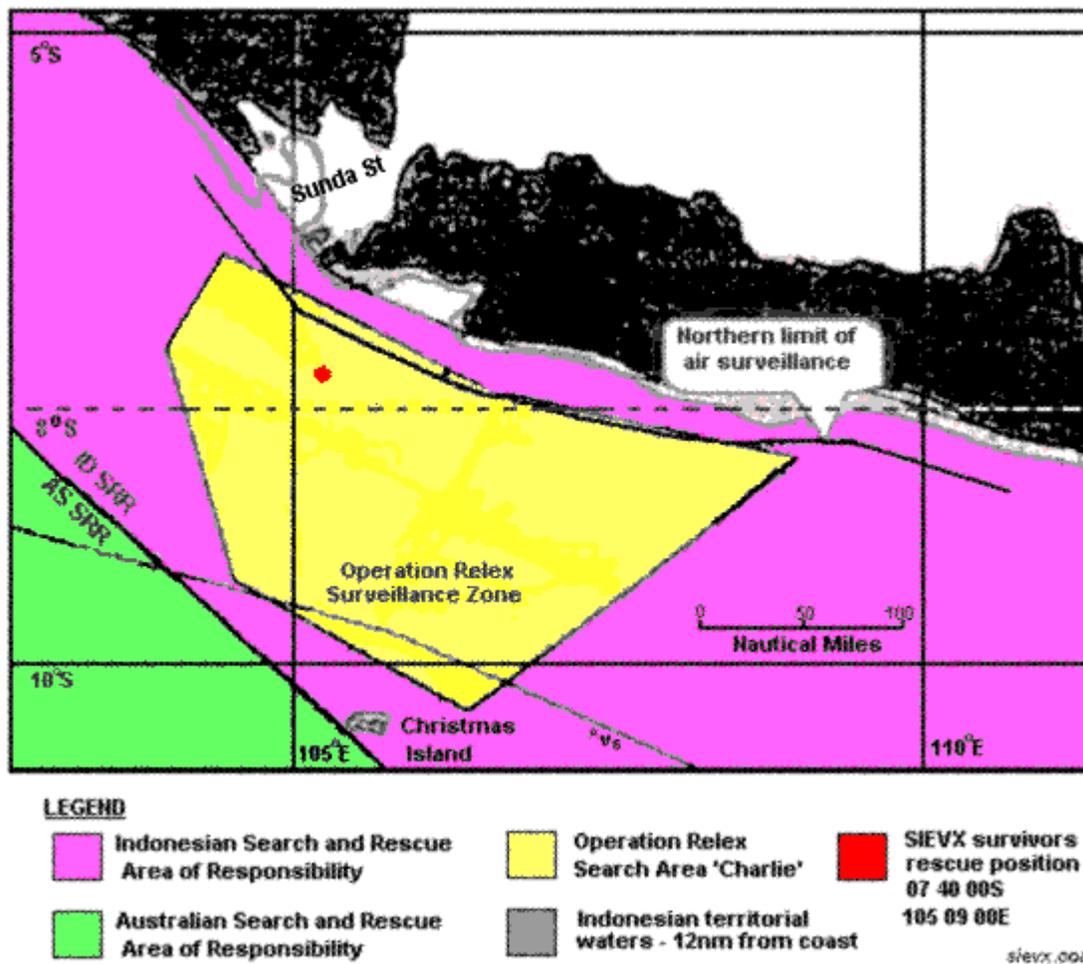
Around one hour after departure, 420 PIIs apparently became apprehensive about the ability of the vessel to remain afloat with the numbers onboard. Their anxiety then became a disaster for PIIs. Despite the vessel's crews sought to reassure the passengers by telling them that that this was a small problem, the vessel began full of water.

On Friday, the vessel sunk completely after momentarily remaining neutrally buoyant. The majority of the PIIs drowned immediately with some 120 initial survivors. Unfortunately, the exact position of vessel at the time of sinking is unknown, but it is judged as no further south than eight degrees south latitude on a direct line from Sunda to Christmas Island.

The ten passengers who refused to board the boat on arrival is assumed remain in Southern Sumatra while the survivors have been taken by International Organization for Immigration (IOM) to accommodation in Bogor area. **KM**

Source: <http://articles.ibonweb.com/webarticle.asp?num=1048>; downloaded 7 July 2002

### Map showing zones and rescue position of SIEVX survivors



Sources: Rescue position: Jakarta Harbour Master document, 24 October 2001; map template based on RAAF aerial surveillance maps provided to CMI Committee as part of 'Defence Internal Review of Intelligence', 4 July 2002; CMI Additional Information, item no. 28