

Chapter 3

Maritime incidents with FOC vessels

3.1 A number of case studies are presented in this chapter, depicting instances of Australian workers losing employment as vessels are re-flagged and international seafarers employed. There are also examples of international seafarers receiving inadequate wages and working in poor conditions.

3.2 This chapter details recent incidents in and around Australian waters, involving FOC vessels and serious instances of poor working conditions, disappearances and deaths at sea.

3.3 It details the challenges with jurisdictional responsibility for investigating these incidents when they occur in international waters, under an FOC flag. These issues were discussed by the State Coroner's Court of NSW, in its inquest into the deaths of Cesar Llanto and Hector Collado, which is also discussed in this chapter.

Employment of Australian seafarers

3.4 Numerous examples have been presented to the committee of Australian seafarers losing employment, as companies engaging in shipping along the Australian coast employ FOC vessels and cheaper, overseas crew.

3.5 The committee's interim report detailed a number of situations that illustrated the problem of FOC shipping for Australian seafarers. This included the replacement of the Australian ship *MV Portland* and its crew with a foreign-flagged vessel and a foreign crew, operating under a temporary licence. Nearly 40 Australian seafarers lost employment, with the replacement foreign crew reportedly subject to very poor wages and insufficient training.¹

3.6 A number of further, similar examples have occurred since the events on the *MV Portland*, where Australian seafarers have been replaced by foreign crew, and where foreign crew have allegedly received wages far below Australian legal requirements.

Case studies

CSL Melbourne and CSL Brisbane

3.7 The bulk carrier *CSL Melbourne* was a vessel that shipped alumina along the Australian east coast for five years, for the Pacific Aluminium company, a subsidiary of Rio Tinto. Coming shortly after the incidents on the *MV Portland*, in February

1 Detailed discussion on the case of the *MV Portland* can be found in Chapter 2 of the committee's interim report.

2016 it was decided by Pacific Aluminium to send the *CSL Melbourne* to Singapore, where the Australian crew were to be dismissed and the vessel redeployed on international routes. The 16 crew refused to leave the vessel when it was docked in Australia, an industrial action deemed illegal by the Fair Work Commission.²

3.8 Following the crew's refusal to sail the vessel to Singapore, on 5 February 2016 police forced the crew from the ship.³

3.9 In early 2016 Pacific Aluminium received a temporary coastal licence, allowing it to use foreign crews on the east coast route. The ITF argued that the *CSL Melbourne* would be 'replaced on its coastal route by a Liberian-flagged ship operated by a Greek company, with Filipino crew'. The company conversely stated that the decision to reassign the ship was due to the loss of a long-term contract, and it would work to reassign Australian crew members to other vessels in the fleet.⁴

3.10 In September 2016, CSL Australia announced that Australian crew would be removed from the *CSL Brisbane*, and the vessel instead crewed by foreign workers, with the company seeking voluntary redundancies across the fleet. While the ship was dry docked in Singapore, the company advised that it would relinquish its Australian general licence for the vessel, and return the vessel to its international fleet sailing around Asia. In instances where the ship was required to return to Australian waters, the company would apply for a temporary licence.⁵

3.11 The vessel has since been renamed *Adelie*, and is registered to the Bahamas. Records indicate that between March and May 2017, the *Adelie* made at least five port calls to Geraldton in Western Australia.⁶

3.12 The MUA argued that Rio Tinto had failed to adhere to a 2010 agreement that it use Australian-flagged ships and crew on 70 per cent of its fleet carrying bauxite from Weipa in north Queensland to the port of Gladstone. The MUA estimated that

2 Nick Toscano, 'Sacked crew on CSL Melbourne stir new shipping jobs fight', *The Age*, 3 February 2016, <http://www.theage.com.au/victoria/sacked-crew-on-csl-melbourne-stir-new-shipping-jobs-fight-20160203-gmkmm8.html> (accessed 17 November 2016).

3 Elizabeth Colman, 'Angry politicians take up case of sacked CSL Melbourne crew', *The Australian*, 6 February 2016, <http://www.theaustralian.com.au/national-affairs/industrial-relations/angry-politicians-take-up-case-of-sacked-csl-melbourne-crew/news-story/0a4488b3b9752fbb74874f64f94584d3> (accessed 17 November 2016).

4 Nick Toscano, 'Sacked crew on CSL Melbourne stir new shipping jobs fight', *The Age*, 3 February 2016.

5 Mich-Elle Myers, 'Important Note to Members Regarding CSL Brisbane', *Maritime Union of Australia*, 1 October 2016, http://www.mua.org.au/important_note_to_members_regarding_csl_brisbane (accessed 9 June 2017).

6 MarineTraffic, *Adelie*, Bulk Carrier, <http://www.marinetraffic.com/en/ais/details/ships/shipid:373415/mmsi:311038300/imo:9207807/vessel:ADELIE> (accessed 9 June 2017); Vessel Finder, *Adelie – Bulk Carrier*, <https://www.vesselfinder.com/vessels/ADELIE-IMO-9207807-MMSI-311038300> (accessed 9 June 2017).

70 per cent of Rio Tinto's fleet operating between Weipa and Gladstone were instead under FOCs, with crews from Burma, India or the Philippines paid \$3 to \$4 an hour. The MUA stressed that in challenging Rio Tinto's position, it was seeking better conditions for all seafarers, regardless of nationality.⁷

3.13 More generally, there have been claims that CSL sought to fill up to three dozen positions with foreign workers under the 457 visa program, thus failing to comply with legal obligations to prioritise local workers. The Australian Institute of Marine and Power Engineers argued that there were at least 250 unemployed marine engineers in Australia, and that these engineers should be employed over 'cheaper' foreign workers. CSL responded that while its advertised positions called for Australian citizens and permanent residents, it would 'give genuine consideration to all applications'.⁸

Incidents in Australian waters

3.14 While the use of FOC vessels is a problem for the global shipping industry, serious risks to seafarer safety and national security have been demonstrated by the operations of FOC vessels in Australian waters.

3.15 This was highlighted by the events around the *MV Sage Sagittarius*, an FOC vessel where two crew members died in a short period of time and under suspicious circumstances, and where a company investigator into these deaths also later died.⁹ A NSW Coronial Inquest into the two deaths recently found that both crew members had met with foul play, and highlighted the issues involved in investigating disappearances or deaths on foreign-flagged vessels.¹⁰

3.16 In recent years and since these matters were canvassed in the interim report, further incidents involving FOC vessels have occurred in Australian waters, often involving stranded, underpaid or missing crew or presenting risks to Australia's security. The following examples provide an account of the varied and numerous issues that FOC vessels present to Australian authorities.

7 Kaye Broom, 'Resisting Rio Tinto', *Red Flag*, 3 April 2017, <https://redflag.org.au/node/5755> (accessed 4 April 2017).

8 Fergus Hunter, 'Union fears shipping giant CSL will bring in dozens of cheaper foreign workers under 457 visas', *The Sydney Morning Herald*, 3 April 2017, <http://www.smh.com.au/federal-politics/political-news/union-fears-shipping-giant-csl-will-bring-in-dozens-of-cheaper-foreign-workers-under-457-visas-20170330-gv9wli.html> (accessed 5 April 2017).

9 Detailed discussion on the case of the *MV Sage Sagittarius* can be found in Chapter 3 of the committee's interim report.

10 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, p. 84. The coroner's report is discussed in further detail later in the chapter.

Case studies

OS 35

3.17 On 10 July 2016, the Tuvalu-flagged vessel *OS 35* docked at Gladstone, Queensland. It was reported that the crew of 19 Syrian sailors were given permission to leave the ship at port, despite only one of the crew having a valid visa as the ship approached the port. In response, the Department of Immigration and Border Protection (DIBP) argued that while 18 crew did not have proper clearance when discovered by Border Force off the Queensland coast, the crew was assessed prior to arrival. All crew had passed security clearance by the time of arrival at the port.¹¹

3.18 The ITF argued that the only way the security clearances could have been obtained was through officials communicating with Syrian counterparts, and it was unlikely that Syrian officials were in a position to respond to Border Force so quickly.¹²

Five Stars Fujian

3.19 On 19 July 2016, the Chinese-bound Hong Kong-flagged cargo ship *Five Stars Fujian* and its crew was abandoned off the port of Gladstone. The ship was detained by Australian authorities after sitting idle for weeks. While holding about \$40 million worth of coal, the ship's crew had not been paid in months, and were paid \$2 an hour when wages were paid, in breach of ILO regulations.¹³

3.20 The crew were running out of food following the abandonment, and emergency supplies were provided by AMSA. On 12 August 2016 AMSA inspected the ship, and detained the vessel for deficiencies in relation to food supply and payment of wages.¹⁴

3.21 On 1 September 2016, AMSA released the vessel following confirmation from the vessel owners that the outstanding wages had been paid, and the vessel had sufficient fuel and provisions for the trip to China. AMSA further banned the operators from bringing the ship to any Australian port for a twelve-month period.¹⁵

11 Owen Jacques, '18 Syrian crew let off ship after rushed security checks', *Gladstone Observer*, 25 July 2016, <https://www.gladstoneobserver.com.au/news/19-syrian-sailors-allowed-into-gladstone-without-v/3067124/> (accessed 9 November 2016).

12 Owen Jacques, '18 Syrian crew let off ship after rushed security checks', *Gladstone Observer*, 25 July 2016.

13 Cargo ship crew 'abandoned' off central Queensland coast', *ABC News*, 16 August 2016, <http://www.abc.net.au/news/2016-08-16/crew-stuck-on-abandoned-ship/7748084>

14 Cargo Ship crew 'abandoned' off central Queensland coast', *ABC News*, 16 August 2016.

15 'Five Stars Fujian Released, Banned from Australia for a Year', *World Maritime News*, 2 September 2016, <http://worldmaritimenews.com/archives/201048/five-stars-fujian-released-banned-from-australia-for-a-year/> (accessed 14 June 2017).

Maratha Paramount

3.22 The cargo ship *Maratha Paramount* is Indian-owned and flagged to the Marshall Islands. As with the *CSL Melbourne*, the *Maratha Paramount* was chartered by Pacific Aluminium as a wholly-owned subsidiary of Rio Tinto. In October 2016, the vessel was detained in Gladstone and boarded by Australian authorities who were investigating claims that the crew had not been paid, and were living in squalid conditions.¹⁶

3.23 The vessel carried 22 Indian crew members who had not been paid for over two months. AMSA inspectors found that the captain had asked the crew to sign off on having received wages, despite not having received them. Additionally, there was very little food on board the vessel, and the drinking water was discoloured.¹⁷

3.24 AMSA issued the vessel with two deficiency notices, for failing to pay wages for two months, and for failing to provide the crew with clean facilities. The ship was released by Australian authorities and was subject to a follow-up inspection when it arrived in the Newcastle port. The ITF called for the suspension of the *Maratha Paramount's* temporary licence, which allowed it to travel domestically between the Gladstone and Newcastle ports.¹⁸

Deaths and disappearances at sea

3.25 In instances where a seafarer disappears or dies while working on an FOC vessel in Australian waters, it is often difficult to discern which investigatory or oversight body may have jurisdiction to examine the case. A disconnect between the ship's physical operating location, and its flag nation, both creates and exacerbates this problem.

3.26 A number of incidents in Australian waters have highlighted both the serious risks to crew working on FOC vessels, and the lack of jurisdiction for further investigation into serious instances of injury, disappearance or death involving FOC ships.

3.27 The following examples provide evidence of jurisdictional issues, and the lack of investigational responsibility taken on by the registered flag nation, in instances of disappearance and death at sea.

16 Nick Toscano, 'Very little food, drinking water is brown': Ship probed over pay and conditions', *Sydney Morning Herald*, 12 October 2016, <http://www.smh.com.au/business/workplace-relations/very-little-food-drinking-water-is-brown-ship-probed-over-pay-and-conditions-20161012-gs0tv3.html> (accessed 8 May 2017).

17 Cathy Van Extel, 'Ships of shame: Bulk carrier chartered by Rio Tinto subsidiary caught failing to pay crew', *ABC News*, 12 October 2016, <http://www.abc.net.au/news/2016-10-12/ships-of-shame-bulk-carriers-failing-to-pay-crew/7924982> (accessed 8 May 2017).

18 Nick Toscano, 'Very little food, drinking water is brown': Ship probed over pay and conditions', *Sydney Morning Herald*, 12 October 2016.

Case studies

K Pride

3.28 In May 2015, the Panamanian-flagged coal vessel *K Pride* was off the coast of Papua New Guinea and travelling to Newcastle when a 54-year-old seafarer fell overboard and was presumed dead. It reportedly took 3 hours before fellow crew noticed the seafarer missing, and, while the incident reportedly happened on 14 May 2015, local union officials were not notified until 25 May 2015.¹⁹

3.29 The ITF noted that as the incident occurred in international waters, it was unlikely to be investigated by Australian authorities, despite the vessel heading to Australia and travelling regularly between Newcastle and Korea with Australian cargo.²⁰

3.30 The Korean owner of the vessel, SK Shipping, told media that there would be an investigation, involving Australian police. However, the AFP said they were not involved, and referred the matter to the NSW Police Force.²¹

3.31 NSW Police later boarded the ship while it was docked in Newcastle, to interview crew as part of an investigation. AMSA also boarded the vessel for a 'routine follow-up Port State Control inspection'.²²

3.32 It appears to the committee that no further details on this matter have been released, or findings of any investigation announced. Notwithstanding the Australian investigatory efforts, the committee notes that as the vessel was in international waters, the primary investigative responsibility lay with the flag nation of Panama.

Spring Hydrangea

3.33 On 30 April 2016, the Japanese-owned Panamanian-flagged iron ore bulk carrier *Spring Hydrangea* was in international waters, off the Pilbara coast in Western Australia. A Filipino crew member, Mr Robert Bantol, went missing, and this was

19 Giselle Wakatama, 'Man presumed dead after falling overboard from coal ship en route to Newcastle', *ABC News*, 26 May 2015, <http://www.abc.net.au/news/2015-05-26/man-overboard-from-coal-ship-en-route-to-newcastle/6497266> (accessed 6 June 2017).

20 Giselle Wakatama, 'Man presumed dead after falling overboard from coal ship en route to Newcastle', *ABC News*, 26 May 2015.

21 Giselle Wakatama, 'Man presumed dead after falling overboard from coal ship en route to Newcastle', *ABC News*, 26 May 2015.

22 Gabriel Wingate-Pearse, 'K Pride: police search ship in Newcastle after crew member lost off Papua New Guinea', *Newcastle Herald*, 28 May 2015, <http://www.theherald.com.au/story/3109510/police-search-ship-after-crew-member-lost/> (accessed 9 June 2017).

reported to AMSA. AMSA undertook sea and air searches to no avail, and medical advice concluded that Mr Bantol could not have survived.²³

3.34 Given the location of the vessel, the obligation for investigation rested with the flag nation, in this instance Panama. While on 2 May 2016 the Panama Maritime Authority reportedly commenced an investigation, the ship was sold soon after, its flag nation changed to Liberia in West Africa, and its name changed to the *MV Monegasque Eclat*, frustrating the prospect of any further investigation into the disappearance.²⁴

3.35 The family of Mr Bantol urged Australian authorities to investigate, arguing that Mr Bantol was supporting a young family and would not have jumped overboard. Despite this and other calls for an Australian investigation into the disappearance, the Minister for Justice the Hon Michael Keenan MP advised that it was up to the AFP to determine what cases they investigate. However, the AFP advised the media that it wasn't involved in the matter, and both the ATSB and Western Australia Police confirmed they were not investigating the disappearance.²⁵

3.36 It was later reported that the Japanese shipping company that owned the vessel had refused to investigate the disappearance, and was refusing to pay compensation to the seafarer's wife and two children.²⁶

SBI Samba

3.37 On 12 January 2017, the *SBI Samba*, a Greek-owned bulk carrier flagged to the Marshall Islands, was off the Australian coast at Hay Point, Queensland when a 47-year-old Filipino crew member went missing. There was approximately four hours between the time when the crewman was last seen and then reported missing. Following the missing person report, AMSA undertook an extensive search of the area. The search ceased when it was determined that the seafarer could not have survived.²⁷

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- 23 Joseph Dunstan, 'Union calls for investigation into disappearance of worker on iron ore carrier off WA coast', *ABC News*, 23 May 2016, <http://www.abc.net.au/news/2016-05-23/union-calls-for-fpa-investigation-worker-disappearance/7437006> (accessed 9 June 2017).
 - 24 Thomas Oriti, 'Flag of convenience ships a major security risk in Australian waters, union warns', *ABC News*, 9 June 2016, <http://www.abc.net.au/news/2016-06-07/flag-of-convenience-ships-continue-to-pose-threat/7487992> (accessed 9 June 2017).
 - 25 Joseph Dunstan, 'Union calls for investigation into disappearance of worker on iron ore carrier off WA coast', *ABC News*, 23 May 2016.
 - 26 Shakira Sellen, 'Man disappears from bulk carrier heading to Hay Point', *Daily Mercury*, 13 January 2017, <https://www.dailym Mercury.com.au/news/man-disappears-from-bulk-carrier-heading-to-hay-po/3131571/> (accessed 23 January 2017).
 - 27 Shakira Sellen, 'Man disappears from bulk carrier heading to Hay Point', *Daily Mercury*, 13 January 2017.

3.38 During the second day of the search, the *SBI Samba* reportedly left the search area of its own accord, to head to port and load cargo, leaving Australian authorities to continue the search. The ITF demanded an immediate investigation into the seafarer's disappearance.²⁸

3.39 The shipping company claimed that it would leave the 'missing person' investigation to the AFP, who in turn advised that the Queensland Police were leading the investigation. Queensland Police boarded the vessel at the port at Hay Point, ruling that the death was not suspicious. The crewman is thought to have disappeared after 'consuming a toxic substance', on which the police were unable to elaborate.²⁹

Coronial Inquest

MV Sage Sagittarius and Coronial findings on jurisdiction

3.40 The NSW Coronial Inquest into the deaths of Cesar Llanto and Hector Collado, who died under suspicious circumstances while working on board the Panamanian-flagged *MV Sage Sagittarius*, identified concerns with jurisdictional responsibility when deaths occur at sea. In relation to FOC vessels, the Deputy State Coroner, Magistrate Sharon Freund, found that:

there is no apparent connection between the nationality of the owner of the Vessel, the ordinary geographical operations of the Vessel, nor the nationality of the crew of the Vessel and its flag. The Panamanian Flag is a "flag of convenience" which allows the ship owners to operate principally under the regulatory framework of the flagged nation.³⁰

3.41 As part of the Inquest findings, the Deputy State Coroner found that:

there are very significant practical impediments created by a disappearance or a death on board a foreign flagged vessel. Many thousands of foreign seafarers, including many Filipinos, work on foreign flagged vessels that venture into Australian waters in the course of trade.³¹

3.42 The Deputy State Coroner noted that the 'Ships of Shame' report detailed the 'significant practical impediments to investigating suspected lawlessness that may take place on a foreign flagged vessel', but that:

28 Owen Jacques, 'Lost sailor may have "consumed toxic substance"', *Mackay Daily Mercury*, 17 January 2017, <https://www.dailym Mercury.com.au/news/lost-sailor-may-have-consumed-toxic-substance/3132626/> (accessed 23 January 2017).

29 Owen Jacques, 'Lost sailor may have "consumed toxic substance"', *Mackay Daily Mercury*, 17 January 2017.

30 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, p. 10.

31 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, p. 84.

It is essential...that such investigations take place and be done thoroughly. Lawlessness, wherever it takes place, should always be investigated. Persons at fault should be brought to account wherever the jurisdiction.³²

3.43 The Coronial Inquest found that while the AFP and the NSW Police Force did their best in investigating the disappearances and deaths on the *MV Sage Sagittarius*, investigators faced difficulties for a number of reasons. These included:

- a bifurcation of investigations, as the AFP investigated the disappearance of Mr Llanto under the *Crimes at Sea Act 2000* while the NSW Police Force had investigative jurisdiction for Mr Collado;
- actual or perceived time pressures on investigators, as the vessel was a commercial coal loading ship with commercial engagements, which also prevented the re-engagement of witnesses; and
- the relevant witnesses were Filipino nationals who required an interpreter, and some felt intimated or scared enough based on their experiences on the vessel to withhold evidence.³³

3.44 DIBP confirmed to the committee that the Australian Customs and Border Protection Service (ACBPS) and later Australian Border Force (ABF) did not have any jurisdiction to investigate the deaths of Mr Collado and Mr Llanto.³⁴

Responses to jurisdictional issues

3.45 In responding to the incident on the *SBI Samba*, Mr Dean Summers of the ITF spoke strongly about the issue of seafarer deaths at sea and the investigatory process:

Too many times foreign seafarers have lost their lives and their employer [sic] use the excuse Man Over Board to avoid a proper investigation. These tragedies go under-reported, demonstrating to the world that these employers think international seafarers are a disposable commodity.

Under the lawless FOC system, the country where the ship is registered has the responsibility to investigate. If this happens at all in FOC countries like North Korea, Panama, Mongolia and the Marshall Islands, the reports are scant and incidental.³⁵

32 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, pp. 84-85.

33 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, p. 85.

34 Department of Immigration and Border Protection, answers to questions taken on notice, 13 June 2017 (answered 21 June 2017).

35 Shakira Sellen, 'Man disappears from bulk carrier heading to Hay Point', *Daily Mercury*, 13 January 2017.

3.46 The Coronial Inquest into the deaths of Hector Collado and Cesar Llanto recommended a number of measures that would go some way to improving the investigation of deaths at sea.

3.47 The Deputy State Coroner recommended the establishment of a permanent standing group with members from at least the AFP, NSW Police Force, AMSA and ATSB, 'for the purposes of liaising, contact and assistance in connection with any investigation of the death or suspicious death on board, or disappearance from, an international vessel in or bound for Australian waters'. The standing group would have a principal contact officer from each agency, who would regularly liaise with the group to ensure the appropriate sharing of forensic and other evidence between agencies during an investigation.³⁶

3.48 In responding to questions taken on notice, DIBP acknowledged that a number of reviews and inquiries had identified issues with lack of communication between agencies in such circumstances. While DIBP was not considered as part of the Inquest recommendations, DIBP advised that the ABF has:

created a Border Intelligence Fusion Centre (BIFC) which brings together representatives from:

- Australian Federal Police
- Australian Criminal Intelligence Commission
- Attorney General's Department
- Department of Education, Employment & Workplace Relations
- Department of Foreign Affairs & Trade
- Department of Environment & Energy; and
- Department of Infrastructure and Regional Development.³⁷

3.49 The BIFC, established on 1 July 2016, provides 'real time profiling and targeting intelligence analysis and advice to support the ABF in making intelligence informed operational decisions'. DIBP also argued that the commencement of the department, from 1 July 2015, allowed for border and visa threats to be considered simultaneously, rather than in isolation.³⁸

36 State Coroner's Court of New South Wales, *Inquest into the disappearance and suspected death of Cesar Llanto and Inquest into the death of Hector Collado*, 31 May 2017, pp. 87-88.

37 Department of Immigration and Border Protection, response to questions taken on notice, 13 June 2017 (received 21 June 2017).

38 Department of Immigration and Border Protection, response to questions taken on notice, 13 June 2017 (received 21 June 2017).

Committee view and recommendations

3.50 The committee is very disturbed by the many examples of job losses, poor working conditions, inadequate wages and deaths and disappearances at sea, both presented here and in other examples provided in evidence throughout the course of the inquiry.

3.51 To have seafarers disappearing and dying in and around Australian waters, and while in transit to Australian ports, is unacceptable. While it will take a global effort to prevent deaths at sea and improve the working conditions of international seafarers, Australia can and should be doing its part to improve conditions where it can, and when these tragedies occur in our waters.

3.52 Australian authorities have provided extensive assistance in search and rescue operations, as soon as disappearances at sea are reported to them. However, the apparent disconnect between a ship's flag state and its physical location has resulted in a situation where there are no follow-up investigations. In effect, there is a lack of accountability for events that take place on board FOC vessels.

3.53 The job losses of Australian seafarers, and their replacement by foreign crews, is removing trained, skilled and specialised local workers from coastal shipping and key freight routes, and reducing Australia's ability to reinvigorate its maritime industry.

Jurisdictional issues

3.54 The case studies presented clearly show the critical issues with jurisdictional responsibility into investigating disappearances and deaths at sea. While flag states have a responsibility to investigate all incidences on their vessels, it is only too apparent that this is not happening.

3.55 Further, Australian authorities do not always have clear authority to investigate matters in international waters, even if an FOC vessel regularly enters Australian waters and transports Australian products.

3.56 The government needs to address this serious issue. As noted by the NSW Deputy State Coroner, lawlessness should always be investigated, regardless of jurisdiction, and accountability enforced.

3.57 The committee hopes that the creation of the permanent standing group of relevant authorities, as recommended by the Deputy State Coroner, and the BIFC, go some way to addressing the serious jurisdictional issues that are encountered when investigating deaths that occur in Australian waters.

3.58 The committee takes the view that, alongside the important work of the standing group, there would be benefit from having clear guidelines and procedures put in place to direct authorities on how to respond to deaths at sea, and how to engage efficiently and effectively with a vessel's flag state.

3.59 The committee strongly urges the Australian Government to consider whether governing legislation for federal investigative authorities could be amended, to provide clearer guidance on jurisdictional responsibility, and to best ensure that deaths at sea can be appropriately investigated from beginning to completion. The government should progress issues over state jurisdiction through COAG

Recommendation 3

3.60 The committee recommends that the Australian Government implement clear guidelines and procedures to direct authorities on how to respond to deaths that occur on shipping vessels travelling in or to Australian waters, including how to engage with a vessel's flag state in a timely manner to progress appropriate investigations.

Recommendation 4

3.61 The committee recommends that the Australian Government consider any possible amendments to legislation governing federal investigative authorities, to provide clarity on jurisdictional responsibility for investigating deaths at sea, when they occur on shipping vessels travelling in Australian waters. The Australian Government should progress jurisdictional issues with the states and the Northern Territory at COAG to ensure satisfactory outcomes.