



Australian Government
Australian Maritime Safety Authority

CHIEF EXECUTIVE OFFICER

Mr Stephen Palethorpe
Secretary
Senate Education and Employment Committee
References Committee
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Dear Mr Palethorpe

I refer to your letter dated 11 July 2018 drawing my attention to the adverse comments included in a submission received from the Construction, Forestry, Maritime, Mining and Energy Union (CFMEU) to the inquiry into the prevention, investigation and prosecution of industrial deaths in Australia.

Thank you for the opportunity to respond on behalf of the Australian Maritime Safety Authority (AMSA). The submission contains a number of statements that I wish to address.

I refer to page 15 of the submission, which states that government policies have led to an increase in Flag of Convenience vessels on the Australian coast inferring that this has contributed to the reluctance of crew members to lodge or provide evidence to AMSA through investigations and inspections.

As the Committee may be aware, the International Labour Organization's Maritime Labour Convention, 2006 (MLC) requires ships to have workplace health and safety measures to provide protections for their crews. AMSA enforces the MLC on board Australian flagged ships and foreign ships visiting Australian ports.

In the 2017/2018 financial year, AMSA responded to 158 complaints under the MLC, and upon investigation substantiated eight claims, resulting in detention of three ships and the issuing of deficiency notices to the other ships. Of these, six complaints related to workplace health and safety matters.

On pages 16 and 17 of the submission, there are claims that AMSA is unwilling or unable to effectively prosecute employers who breach safety laws and endanger workers. The CFMEU submission also claims that there is legislative inconsistency in the offshore oil and gas industry (page 21).

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However, those claims do not recognise the work in progress with other regulators to provide clarity at the interface between the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, and Commonwealth maritime laws. AMSA has scheduled a comprehensive review of marine orders that apply to the offshore industry and will progress this work in consultation with industry stakeholders. Our objective is to provide clarity and consistency for operators and to strive for a seamless transition of jurisdictional responsibility.

While I note the CFMEU's comments about prosecutions, the enforcement mechanisms employed by AMSA extend beyond fines and prosecutions. Direction and improvement notices for domestic commercial vessels, and deficiencies and detentions for Navigation Act ships lead to a defined action to rectify breaches in safety standards and include follow up measures. While these sanctions are not by way of a direct fine they can lead to significant expenses and loss of revenue for a business that has a vessel unable to operate while prohibited or detained. These compliance actions enhance safety by ensuring that instances of non-compliance with safety standards are rectified before a vessel is permitted to resume operations.

As a safety regulator, it is AMSA's mission to drive and implement change to contribute to the prevention of workplace fatalities. I would like to assure the Committee that AMSA will continue to work with industry and other regulators to improve the effectiveness of current and future work, health and safety measures.

Yours sincerely

[Redacted signature]

MICK KINLEY

27 July 2018