

AUSTRALIAN BORDER FORCE

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Rural and Regional Affairs and Transport
Policy, regulatory, taxation, administrative and funding priorities for Australian shipping

9 September 2020

QoN Number: 01

Subject: Flags of Convenience

Asked by: Glenn Sterle

Question:

CHAIR: You would remember my last—sorry, mine; I happen to be the chair—or one of our last inquiries on the flags of convenience, the carry-on around the Sage Sagittarius and Captain Salas. I vividly remember ABF saying that flag-of-convenience shipping posed opportunities for organised crime and terrorist groups to do bad stuff. What have you done to deal with that threat?

Mr Duckworth: Firstly, from a starting point, when we look at the vessels that are coming into Australia, we are fundamentally applying the Customs Act and the legislation around that that is around managing the risks of vessels entering into Australia and then coming into ports or whatever they then do here. We have a full risk assessment process that we apply to every vessel that comes in, regardless of its flag. So, if a vessel were to be entering Australia, we would receive a series of reports on that vessel coming in—security reports, pending arrival reports and so on. That provides us with details on information such as the ownership of the vessel, the flag of the vessel, of course, and previous ports it has visited. It would include cargo, crew details, a full range of information. And we would then look to make an assessment of the risks of that ship and tailor any intervention accordingly. That's our approach regardless of the flag.

The flag for the purposes of how we administer those obligations is not in itself really an essential piece. It is just part of the risk assessment process that we undertake. So, I'm sorry, Senator, as to the question of comments at a previous inquiry, I'm not fully across those so I would need to take that on notice and go back and have a look. But on the question of whether we are doing anything specifically about looking at the issue of flags of convenience: not at this point, because it is not on its own a specific issue that we're concerned about. We look at the full risk picture of the vessel based on a broad range of details.

CHAIR: Thanks, Mr Duckworth. I understand that you're not across what we did before, but it was a major issue in this nation. It was a huge concern because we had a confessed gun runner—Captain Salas; I'll just help you out. Not only had he confessed to gun running but he had mysteriously lost three lives on his ship. On the one sailing from wherever he came into Australia, someone

fell overboard and went missing; someone fell into the hold and was killed; and, when the Japanese company that owned the vessel planted a detective on the ship, the detective was mysteriously killed while unloading in Japan. All of a sudden Captain Salas was facing charges here in Australia and the sad part for all those listening—and I pay my respects to our agents and departments in national security—is there was a court case going on with Captain Salas in absentia. It was going to be postponed at smoko, because they didn't have Captain Salas there. A diligent news reporter on the Sunshine Coast, who was covering the case, was sitting in the courtroom and went up to the prosecutor at smoko and said, 'Sir, I know where Captain Salas is. He'll be coming into the port of Gladstone in two days'—he named the ship. The sad part is that none of our agencies even knew. I don't expect you to know, Mr Duckworth, but it sent shivers, and so it should have, through the Australian safety and security agencies. That's why I said the ABF were very good. They made the statement that terrorists can do bad things on flags of convenience. We can't dismiss the flags of convenience statement because it ain't the Aussie ships that we have to fear for our security under Aussie crews and Aussie captains.

Take more on notice. I really hope that Australian Border Force after that embarrassing situation with Captain Salas has moved mountains to make sure that we know every single foreign seafarer from the captain all the way down to the cook—and I don't mean to be disrespectful in making the cook any less important than the captain— and that there have been some significant improvements in our processes. I'll move on from that one. We identified that what I've just said is a security threat?

Mr Duckworth: I beg your pardon? As a security threat?

CHAIR: Yes.

Mr Duckworth: Looking at the sorts of circumstances you just outlined, there would be a range of issues, a range of threats, that would be identified in that sort of circumstance. Where a vessel is entering into Australian waters and we are receiving the reports that we do: where it's been, what it's carrying, who's on it, and, yes, absolutely I can assure you it goes all the way down to the cook. We would look at all of that as part of our risk assessment process. We absolutely would take into consideration—for example, you mentioned things like weapons, guns. Where a vessel is carrying those sorts of goods they're obviously prohibited items, so that would be part of the risk assessment and would mandate particular types of treatment.

CHAIR: Mr Duckworth, I'll save you, take it on notice. Come back to me. Go have a read of the last report, please, okay? Those decent, hard-working men and women in the ABF were very concerned. I will have a series of questions that will be structured around: if that was a statement that was made by ABF and nothing's been done we can't let that lie, because that would be a travesty in this nation. You take that on notice and come back to us.

Mr Duckworth: That's fine. We'll take it on notice.

Answer:

The Australian Border Force (ABF) addresses security and crime-related risks associated with international shipping by monitoring all international vessel and crew movements to and from Australia, and conducting inspections and searches based on the active assessment of risk and intelligence.

The ABF conducts a range of intelligence-led intervention activities in relation to vessels and crew. This includes carrying out risk assessments and visa checks on arriving commercial vessels and crew.

The ABF applies relevant and tailored risk treatments to commercial vessels entering Australian ports regardless of their flag or crew composition. Each vessel is assessed without bias and independent of precedence set by vessels flying the same flag. All available data is utilised to comprehensively assess the risk that the vessel poses to the Australian community.

Information sharing among Commonwealth agencies and relevant international partners has increased considerably since 2016, with the ABF regularly sharing risk information with key stakeholders to foster a collaborative approach to treating the risk. This is particularly evident in the manner in which agencies have come together to address health risks aboard arriving commercial vessels, and in ensuring the risk treatment is inclusive of the full suite of actions available to the Commonwealth and State and Territory partners.

AUSTRALIAN BORDER FORCE

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Rural and Regional Affairs and Transport
Policy, regulatory, taxation, administrative and funding priorities for Australian shipping

9 September 2020

QoN Number: 02

Subject: Visa validity for maritime crew visas

Asked by: Glenn Sterle

Question:

Ms Bjerregaard: I am happy to assist with your question in relation to visa validity for maritime crew visas. CHAIR: [inaudible] It's not maybe the ships are doing it. They are doing it. They are Rio Tinto ships and they're carting out of Rio Tinto sites. I hope you can help me there.

Ms Bjerregaard: I can't comment specifically on the Rio Tinto example that you're referring to, but what I can say is maritime crew visas have a maximum three-year validity—just noting your comments about an indefinite maritime crew visa as a product. It has a three-year validity.

CHAIR: So? I'm sorry, what does that mean? I'll tell you what it means: Australian seafarers aren't employed. It's foreign seafarers. It's exploitation of the visa system. We know that, for a fact. Rio Tinto carting Australian product is running indefinitely. Under section 112 they get exemption from the Customs Act. I'll tell you the vessels; that might even help: the RTM Gladstone, the RTM Dias—these are Rio Tinto owned; the more I hear about Rio Tinto the more sick I feel—Azalea Wave, Raga and the Sargam. They're running with exemption. I just want to know how that happens.

Mr Duckworth: Maybe I can assist with that. Just to clarify, section 112 of the coastal trading act provides an exemption from the consequences of importation—provides exemption from entering for home consumption—for vessels that are carrying a licence. That exemption will not apply if a vessel is operating without a licence. I don't know the specific circumstances of those vessels you're referring to. It could be that they are vessels that are on a continuing international voyage, in which case they remain, effectively, an international vessel. Customs control requirements would apply to them but they would not be required to make an entry, or it could be that they have been entered and are operating as fully-entered and imported ships. I apologise, I don't know the specific detail of the vessels you're addressing, but there would be a range of possibilities there.

CHAIR: Ms Bjerregaard, do you wish to add anything?

Ms Bjerregaard: No, thank you, Chair. Just to confirm, from a maritime crew visa perspective, it has a three-year validity period for that specific visa.

CHAIR: Will you go away and check these for us, both agencies? Will you go and check, to see what's going on? I mentioned the boats. I'll do it again for you: the RTM Gladstone; RTM Dias. I'll let you take that down. These are both owned by Rio Tinto, and I'd be very keen to hear back on what their voyages have been, where they've been and how long they've been doing it. Also there's the Azalea Wave, Raga and the Sargam. What the committee have done for you, Mr Duckworth and Ms Bjerregaard, for your assistance here, is agree that if there are answers to questions taken on notice we have two weeks, with close of business from today, and I believe that's the 23rd—it shouldn't take you that long, but if you need it—for you to come back to us with the full spate of what those ships have been up to. With the other ships I've mentioned, if you know who the owners are, crew agent information and any background checks for the crew I'd be very interested in that too.

Help me out here. With this section 112, is there any limit on the operation of the exemption or can it be applied indefinitely? You said three years.

Answer:

The Department of Infrastructure, Transport, Regional Development and Communications issues Coastal Trading Licences under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* ('the Coastal Trading Act') which exempts vessels from being entered for home consumption.

Section 112 of the Coastal Trading Act exempts a qualifying vessel from the consequences of importation under the *Customs Act 1901*. Maritime Crew Visa (MCV) holders are permitted to crew on vessels that are covered by a Coastal Trading Licence where those vessels otherwise meet the definition of a non-military ship.

Details on the operation of the Coastal Trading Act should be referred to Department of Infrastructure, Transport, Regional Development and Communications.

As with all visas processed by the Department of Home Affairs (the Department), MCV applicants are checked against a range of data holdings as part of the assessment of their applications to determine their suitability for the grant of a visa.

The MCV is valid for three years from the date of grant, unless otherwise ceased or cancelled, and provides for multiple entries.

An MCV may be ceased or cancelled at any time during the life of visa if adverse information regarding the visa holder becomes available to the Department or the Australian Border Force.

Based on open source information, all five vessels are owned by Rio Tinto Marine.

The following table provides voyage information whilst in Australian waters for the five named vessels.

Craft ID	Craft Name	Arrival Details		Departure Details	
		Port Name	Arrival Date	Departure date	Port Name
C0134378	Azalea Wave	Gove - Melville Ba	25-Jan-20	29-Jan-20	Gladstone
C0134378	Azalea Wave	Gladstone	3-Feb-20	8-Feb-20	Weipa
C0134378	Azalea Wave	Weipa	12-Feb-20	13-Feb-20	Gladstone
C0134378	Azalea Wave	Gladstone	17-Feb-20	23-Feb-20	Gove Harbor - Melville Bay
C0134378	Azalea Wave	Gove Harbor - Melville Bay	2-Mar-20	4-Mar-20	Port of Rizhao
C0134378	Azalea Wave	Gove Harbor - Melville Bay	5-Apr-20	7-Apr-20	Gladstone
C0134378	Azalea Wave	Gladstone	13-Apr-20	18-Apr-20	Gove Harbor - Melville Bay
C0134378	Azalea Wave	Gove Harbor - Melville Bay	22-Apr-20	27-Apr-20	Port of Qingdao
C0134378	Azalea Wave	Weipa	27-May-20	1-Jun-20	Port of Qingdao
C0134378	Azalea Wave	Weipa	2-Jul-20	4-Jul-20	Gladstone
C0134378	Azalea Wave	Gladstone	9-Jul-20	14-Jul-20	Gove Harbor - Melville Bay
C0134378	Azalea Wave	Gove Harbor - Melville Bay	20-Jul-20	21-Jul-20	Gladstone
C0134378	Azalea Wave	Gladstone	27-Jul-20	31-Jul-20	Gove Harbor - Melville Bay
C0134378	Azalea Wave	Gove Harbor - Melville Bay	4-Aug-20	7-Aug-20	Port of Longkou
C0134378	Azalea Wave	Weipa	11-Sep-20	16-Sep-20	Gladstone
C0134378	Azalea Wave	Gladstone	20-Sep-20		
C0135624	Raga	Weipa	16-Nov-19	19-Nov-19	Gladstone
C0135624	Raga	Gladstone	24-Nov-19	30-Nov-19	Weipa
C0135624	Raga	Weipa	4-Dec-19	8-Dec-19	Gladstone
C0135624	Raga	Gladstone	13-Dec-19	16-Dec-19	Weipa
C0135624	Raga	Weipa	19-Dec-19	21-Dec-19	Gladstone

Craft ID	Craft Name	Arrival Details		Departure Details	
		Port Name	Arrival Date	Departure date	Port Name
C0135624	Raga	Gladstone	26-Dec-19	31-Dec-19	Weipa
C0135624	Raga	Weipa	3-Jan-20	5-Jan-20	Gladstone
C0135624	Raga	Gladstone	10-Jan-20	18-Jan-20	Weipa
C0135624	Raga	Weipa	22-Jan-20	24-Jan-20	Port of Qingdao
C0135624	Raga	Weipa	20-Feb-20	29-Feb-20	Port of Qingdao
C0135624	Raga	Weipa	26-Mar-20	31-Mar-20	Gladstone
C0135624	Raga	Gladstone	5-Apr-20	13-Apr-20	Weipa
C0135624	Raga	Weipa	17-Apr-20	18-Apr-20	Gladstone
C0135624	Raga	Gladstone	23-Apr-20	27-Apr-20	Gove Harbor - Melville Bay
C0135624	Raga	Gove Harbor - Melville Bay	1-May-20	6-May-20	Gladstone
C0135624	Raga	Gladstone	12-May-20	15-May-20	Weipa
C0135624	Raga	Weipa	18-May-20	21-May-20	Port of Qingdao
C0135624	Raga	Weipa	17-Jun-20	22-Jun-20	Gladstone
C0135624	Raga	Gladstone	26-Jun-20	1-Jul-20	Weipa
C0135624	Raga	Weipa	4-Jul-20	6-Jul-20	Port of Qingdao
C0135624	Raga	Weipa	2-Aug-20	11-Aug-20	Gladstone
C0135624	Raga	Gladstone	16-Aug-20	20-Aug-20	Weipa
C0135624	Raga	Weipa	24-Aug-20	25-Aug-20	Gladstone
C0135624	Raga	Gladstone	31-Aug-20	4-Sep-20	Mackay
C0135624	Raga	Hay Point	7-Sep-20	9-Sep-20	Port of Kuantan
C0132751	RTM DIAS	Weipa	2-Jan-20	3-Jan-20	Gladstone
C0132751	RTM DIAS	Gladstone	8-Jan-20	16-Jan-20	Weipa

Craft ID	Craft Name	Arrival Details		Departure Details	
		Port Name	Arrival Date	Departure date	Port Name
C0132751	RTM DIAS	Weipa	20-Jan-20	22-Jan-20	Gladstone
C0132751	RTM DIAS	Gladstone	26-Jan-20	1-Feb-20	Weipa
C0132751	RTM DIAS	Weipa	2-Feb-20	7-Feb-20	
C0132751	RTM DIAS	Weipa	10-Mar-20	15-Mar-20	Gladstone
C0132751	RTM DIAS	Gladstone	20-Mar-20	26-Mar-20	Gove Harbor - Melville Bay
C0132751	RTM DIAS	Gove Harbor - Melville Bay	30-Mar-20	1-Apr-20	Gladstone
C0132751	RTM DIAS	Gladstone	7-Apr-20	11-Apr-20	Gove Harbor - Melville Bay
C0132751	RTM DIAS	Gove Harbor - Melville Bay	18-Apr-20	21-Apr-20	China – Port Unknown
C0132751	RTM DIAS	Gove Harbor - Melville Bay	20-May-20	22-May-20	Gladstone
C0132751	RTM DIAS	Gladstone	28-May-20	31-May-20	Weipa
C0132751	RTM DIAS	Weipa	4-Jun-20	7-Jun-20	Gladstone
C0132751	RTM DIAS	Gladstone	12-Jun-20	16-Jun-20	Weipa
C0132751	RTM DIAS	Weipa	19-Jun-20	24-Jun-20	Port of Qingdao
C0132751	RTM DIAS	Weipa	28-Jul-20	30-Jul-20	Port of Qingdao
C0132751	RTM DIAS	Gove Harbor - Melville Bay	1-Sep-20	9-Sep-20	Port of Qingdao
C0148736	RTM Gladstone	Weipa	14-Jan-20	15-Jan-20	Gladstone
C0148736	RTM Gladstone	Gladstone	19-Jan-20	23-Jan-20	Weipa
C0148736	RTM Gladstone	Weipa	27-Jan-20	31-Jan-20	Gladstone
C0148736	RTM Gladstone	Gladstone	4-Feb-20	8-Feb-20	Weipa
C0148736	RTM Gladstone	Weipa	12-Feb-20	14-Feb-20	Gladstone
C0148736	RTM Gladstone	Gladstone	18-Feb-20	26-Feb-20	Gove Harbor – Melville Bay
C0148736	RTM Gladstone	Gove Harbor - Melville Bay	4-Mar-20	6-Mar-20	Gladstone

Craft ID	Craft Name	Arrival Details		Departure Details	
		Port Name	Arrival Date	Departure date	Port Name
C0148736	RTM Gladstone	Gladstone	11-Mar-20	17-Mar-20	Weipa
C0148736	RTM Gladstone	Weipa	21-Mar-20	23-Mar-20	Gladstone
C0148736	RTM Gladstone	Gladstone	28-Mar-20	31-Mar-20	Weipa
C0148736	RTM Gladstone	Weipa	4-Apr-20	5-Apr-20	Port of Qingdao
C0148736	RTM Gladstone	Weipa	4-May-20	7-May-20	Gladstone
C0148736	RTM Gladstone	Gladstone	12-May-20	17-May-20	Weipa
C0148736	RTM Gladstone	Weipa	21-May-20	22-May-20	Gladstone
C0148736	RTM Gladstone	Gladstone	27-May-20	2-Jun-20	Weipa
C0148736	RTM Gladstone	Weipa	6-Jun-20	8-Jun-20	Gladstone
C0148736	RTM Gladstone	Gladstone	12-Jun-20	18-Jun-20	Gove Harbor – Melville Bay
C0148736	RTM Gladstone	Gove Harbor - Melville Bay	24-Jun-20	27-Jun-20	Gladstone
C0148736	RTM Gladstone	Gladstone	2-Jul-20	7-Jul-20	Weipa
C0148736	RTM Gladstone	Weipa	9-Jul-20	11-Jul-20	Gladstone
C0148736	RTM Gladstone	Gladstone	16-Jul-20	19-Jul-20	Gove Harbor - Melville Bay
C0148736	RTM Gladstone	Gove Harbor - Melville Bay	26-Jul-20	27-Jul-20	Port of Qingdao
C0148736	RTM Gladstone	Gove Harbor - Melville Bay	27-Aug-20	6-Sep-20	Gladstone
C0148736	RTM Gladstone	Gladstone	12-Sep-20	15-Sep-20	Gove Harbor - Melville Bay
C0148736	RTM Gladstone	Gove Harbor - Melville Bay	22-Sep-20	25-Sep-20	Gladstone
C0148736	RTM Gladstone	Gladstone	30-Sep-20		
C0128351	Sargam	Gove Harbor - Melville Bay	13-Mar-20	15-Mar-20	Gladstone
C0128351	Sargam	Gladstone	21-Mar-20	29-Mar-20	Gove Harbor - Melville Bay
C0128351	Sargam	Gove Harbor - Melville Bay	3-Apr-20	5-Apr-20	Port of Longkou

Craft ID	Craft Name	Arrival Details		Departure Details	
		Port Name	Arrival Date	Departure date	Port Name
C0128351	Sargam	Weipa	7-May-20	10-May-20	Port of Qingdao
C0128351	Sargam	Gove Harbor - Melville Bay	12-Jun-20	14-Jun-20	Gladstone
C0128351	Sargam	Gladstone	20-Jun-20	23-Jun-20	Gove Harbor - Melville Bay
C0128351	Sargam	Gove Harbor - Melville Bay	29-Jun-20	1-Jul-20	Port of Longkou
C0128351	Sargam	Weipa	9-Aug-20	12-Aug-20	Port of Longkou
C0128351	Sargam	Weipa	12-Sep-20	15-Sep-20	Gladstone
C0128351	Sargam	Gladstone	19-Sep-20	23-Sep-20	Weipa
C0128351	Sargam	Weipa	25-Sep-20		

The vessels listed in the table have performed both domestic and international voyages whilst in Australian waters. Domestic voyages, approved under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*, are all recorded as undertaking the transport of Australian Domestic Cargo in ABF systems. The details describing the cargo are not held by the Australian Border Force.

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Rural and Regional Affairs and Transport Committee
Inquiry into the policy, regulation, taxation, administrative and funding priorities for
Australian Shipping

9 September 2020

QoN Number: 03

Subject: Temporary licence owned by Origin Energy

Asked by: Glenn Sterle

Question:

CHAIR: Right. Let's get back to the Epic St Agnes. The vessel operates on a temporary licence held by Origin Energy. Can you confirm the status of the crew of this vessel and what the legal mechanism is that allows the vessel to operate with a crew on a day visa for almost two years?

Ms Bjerregaard: I'm happy to take that specific question on notice for that vessel

Answer:

The Maritime Crew (Subclass 988) (MCV) visa is a temporary visa which allows crew to undertake work that meets the normal operational requirements of a non-military ship. A 'non-military ship' is defined as one that:

- is engaged in commercial trade, or the carriage of passengers for reward or
- is owned and operated by a foreign government for the purposes of scientific research or
- has been accorded public vessel status by DFAT or
- has been imported under section 49A of *the Customs Act 1901* (the Customs Act) and registered in the Australian International Shipping Register or
- has been entered for home consumption under section 71A of the Customs Act and registered in the Australian International Shipping Register.

A 'non-military ship' does not include a vessel which has been imported or entered for home consumption under the Customs Act and is not registered in the Australian International Shipping Register.

However, a Coastal Trading Licence issued by the Department of Infrastructure, Transport, Regional Development and Communications under *the Coastal Trading (Revitalising Australian Shipping) Act 2012* exempts international ships engaged in

domestic trade from importation. MCV holders are permitted to crew on vessels that are covered by a Coastal Trading Licence where those vessels otherwise meet the definition of a non-military ship.

Since 2018, Orica has been issued multiple Coastal Trading Licences for voyages undertaken by the Epic St Agnes.

All commercial vessels are required to comply with standard ABF reporting for international voyages and remain under customs control from arrival in Australian waters until departure, which applies for any domestic legs that are undertaken.

The MCV is valid for three years from the date of grant, unless otherwise ceased or cancelled, and provides for multiple entries. The MCV does not specify a maximum time in Australia for individual journeys while the MCV holder remains signed-on to a 'non-military ship' as a member of crew and holds a valid visa.

Foreign crew members who arrive by air holding a valid MCV have five days to sign onto a vessel. Foreign crew members who hold a MCV and sign-off a vessel have a five day period during which time the crew member must depart Australia, sign-on to another vessel or otherwise regularise their status.

There is no limit on the number of MCVs a foreign national may hold during their lifetime. Foreign nationals can only apply for MCVs when they are outside of Australia.

Matters relating to the employment conditions of seafarers, including the maximum period of shipboard service under the Maritime Labour Convention 2006, should be referred to the Australian Maritime Safety Authority.

**HOME AFFAIRS PORTFOLIO
AUSTRALIAN BORDER FORCE**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Rural and Regional Affairs and Transport Committee
Inquiry into the policy, regulation, taxation, administrative and funding priorities for
Australian Shipping

9 September 2020

QoN Number: 04

Subject: Ruby Princess

Asked by: Glenn Sterle

Question:

CHAIR: Okay. I'm making that an official complaint. Thank you, Ms Bjerregaard. You'll find out everything for us and come back to the committee. Could anyone advise whether the Ruby Princess was deemed imported under section 49A of the Customs Act? Given it was in Australia between 18 March and 23 April 2020—that is, longer than 30 days—how were the crew able to remain in Australia on a subclass 988 maritime crew visa? There are a couple of questions in there.

Mr Duckworth: I will take the first part of that, on the customs measures. Firstly, I will just refer you to the ABF commissioner's response on this matter to the Senate Select Committee on COVID-19 on 18 August, where I think he went through a lot of this in detail. I can take specific questions like this one on notice. As a principle, the cruise ship may or may not have been entered. Normally I would assume it would not in that circumstance, because the vessel would have come into Australian waters and it would have operated under a ministerial determination that exempts cruise vessels from the requirements for importation. But that's talking about whether the vessel is actually imported; that doesn't go to the question of the crew visas. Again, I will hand over to my departmental colleague for anything further on that.

CHAIR: Thanks, Mr Duckworth. Let's break it up. Am I right that it came in under section 49A and was here in Australia between 18 March and 23 April? Let's just address that first.

Mr Duckworth: I'm not sure what arrangements it came in under. I'll take that on notice and come back to you.

Answer:

The Ruby Princess was not imported under section 49A of the Customs Act 1901.

Section 49A applies in circumstances where there is a disagreement between the Australian Border Force (ABF) and a ship owner or operator over the importation status of a vessel. The section empowers the ABF to direct the ship owner or operator to either enter the vessel for home consumption or depart Australia, within 30 days. The section did not apply to the situation regarding the Ruby Princess.

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Rural and Regional Affairs and Transport Committee
Inquiry into the policy, regulation, taxation, administrative and funding priorities for
Australian Shipping

9 September 2020

QoN Number: 05

Subject: Ruby Princess

Asked by: Glenn Sterle

Question:

CHAIR: Okay. I'm making that an official complaint. Thank you, Ms Bjerregaard. You'll find out everything for us and come back to the committee. Could anyone advise whether the Ruby Princess was deemed imported under section 49A of the Customs Act? Given it was in Australia between 18 March and 23 April 2020—that is, longer than 30 days—how were the crew able to remain in Australia on a subclass 988 maritime crew visa? There are a couple of questions in there.

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Mr Duckworth: I'm not sure what arrangements it came in under. I'll take that on notice and come back to you.

CHAIR: Mr Duckworth, someone sitting beside you or someone on the phone—this is not some obscure dinghy that floated into Sydney Harbour. Let's be very clear. Someone in the room knows exactly the day it came in and the day it left and on what section under the Customs Act it entered. Can someone have a crack for me, please, not taking it on notice?

Mr Duckworth: I don't have the specific dates as to when it came in, but I think the question of the Customs Act is—

CHAIR: Mr Duckworth, stop. You've said you don't know. I'm giving you an

opportunity. Look to your left. Someone there knows. Flick the camera around please, Broadcasting. Ms Bjerregaard, tell me if I'm right. Did the Ruby Princess—this bloody ship that keeps popping up; it's not something we don't know about—come into Australia on 18 March and leave on 23 April under section 49A of the Customs Act? Please help me, and don't dare take it on notice.

Ms Bjerregaard: I can only comment in relation to the Migration Act in relation to visas, so I'm happy to take your visa questions on notice.

CHAIR: I'm going to come back to you on that. The department will tell me now. You will answer the question that I've posed three times now.

Mr Hallinan: We don't have the dates, I'm afraid. That's not something we have oversight of.

CHAIR: Oh, for crying out loud! You cannot be serious! I am one of the most gentle, quietest senators in this parliament, but I am really, really frustrated. Someone in the department or the ABF—get your fingers typing very quickly on your telephones, please, people. Do not insult the intelligence of the Australian Senate. You can insult my intelligence but not the committee. Someone needs to answer this and answer it right now. Stop hiding. Mr Duckworth or Ms Bjerregaard or someone, send off an SMS very quickly.

Mr Duckworth: I am sorry, but I think these details in terms of dates and precise movements and instructions have been canvassed in quite some detail by our commissioner. Our commissioner provided this information at the Senate select committee hearing on 18 August, I understand, so I'd refer you to those comments. I am, however, happy to take the specific details of our records of the dates that the vessel entered and departed—I can get those for you for the purposes of this committee. I do not have them to hand today but, as I said, this is a matter obviously—as you've correctly pointed out—that is a significant issue and so has been canvassed in quite some detail.

I am happy to address the question of the Customs Act. There is some confusion out in the industry as well over exactly what happens when a ship comes in. There's not necessarily any requirement for any vessel, any ship, be it a cruise ship or a container ship, to come in and actually be entered under the Customs Act, or to have some sort of Customs Act permission. It is a question of fact that we apply as to whether a ship is intending to be imported or not. A vessel such as a cruise ship that would be doing a round-trip to another country, come into an Australian port, pick up some passengers, drop off passengers and the like—in many circumstances, that would just be part of a continuing voyage and there would not be any expectation of specific Customs Act intervention on that, beyond the usual processes and reporting that are required for any vessel that enters Australia.

CHAIR: I tell you, I am underimpressed. I am absolutely underimpressed. This is a load of bulldust that no-one can answer my question. You even blatantly, all of you, refuse and hide behind 'The commissioner has already made this clear.' It's a very poor attempt. Up till now, Mr Duckworth, and the lot of you, I've given you the opportunity. You've now just stained the sheet, I can tell you. Does someone want to answer the second part of the question while you're all paper-shuffling there? I want to know how it is that the crew could stay longer than 30 days in Australia under the 988 maritime crew visa. Is someone going to answer that one for me? If you're not, pack up your books, thanks very much, and I'll move on. I'm peed off. Does anyone want to have a crack?

Ms Bjerregaard: Can I please clarify your question in relation to visas?

CHAIR: Yes, you can. I know the dates when the ship came in and came out. I won't

hide behind any minister's directions—they should be ashamed, I can tell you. The ship was here for longer than 30 days, so, under their visa, the 988, I'm led to believe that they could not remain in Australia that long, and yet they did. Can someone tell me how that worked? Please give it a go.

Ms Bjerragaard: I can make just a general comment in relation to the maritime crew visa, and that is that it's a three-year, multiple entry visa. I don't have the specific details in relation to the scenario you're talking about.

CHAIR: Oh my oh my. I'm going to go out the back and bang my head against a brick wall again, because I'll probably get more satisfaction than what I'm getting here. Senator Brown, do you have any questions? If you do, good luck in getting an answer.

Senator CAROL BROWN: No, not at this point, Chair. I hear your frustration.

CHAIR: Thank you, Senator Brown. I thank the officers. You can head back to Aussies and grab a coffee, or whatever you do. Are you taking my questions on notice—those last ones, at least? I know you are, Mr Duckworth. What about you, Ms Bjerragaard.

Ms Bjerragaard: I'm happy to take your visa questions on notice.

Answer:

The Maritime Crew (Subclass 988) (MCV) visa is a temporary visa which allows crew to undertake work that meets the normal operational requirements of a non-military ship. The MCV is valid for three years from the date of grant, unless otherwise ceased or cancelled, and provides for multiple entries. The MCV does not specify a maximum time in Australia for individual journeys while the MCV holder remains signed-on to a non-military ship as a member of crew and holds a valid visa.