



WAFIC FISHING
PEARLING
AQUACULTURE

Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senators

Senate Inquiry - Performance of the Australian Maritime Safety Authority

Introduction

The WA Fishing Industry Council (WAFIC) submits that the current national maritime safety regulation system provides a positive work-in-progress towards a stable and consistent basis for marine safety management in Australia.

WAFIC supported the establishment of a national approach to marine safety management and worked in close consultation during the development phases with both AMSA and Department of Transport (WA). Establishing a national system such as this will not be perfect from the very start and it is naïve to think every matter will be fully covered and effectively managed. WAFIC recognises there will be issues and is now actively participating with the marine industry and AMSA to manage, review and improve the national system over the next 3-5 years.

The Commonwealth, State and Territory governments have recognised there will be a settling-in period for the national system model and have supported the transition through financial assistance for at least the first three years resulting in no levy payments by industry and a share cost basis over the first 10 years.

To dismantle or disrupt the national system and return to the disjointed state based marine safety management system would be a retrograde step in driving efficiency and effectiveness in our industries. It would also be a complete waste of the time and energy invested by governments and industry in establishing the national system over the past 10-12 years. And in reality it is likely to be impossible to return to the previous arrangements both logistically and financially.

Background

In August 2011 COAG agreed (all Commonwealth, State and Territory leaders signing) to a national regulatory reform agenda to establish national systems for heavy vehicles, rail safety and commercial vessel safety aimed at improved safety and reduced costs and regulatory burden for Australian transport companies.

COAG entered into an Intergovernmental Agreement (IGA) on maritime safety regulation. The IGA identified maritime safety regulation as a competition reform priority and was to be read in conjunction with the National Partnership Agreement to Deliver a Seamless National Economy.

COAG agreed the aim IGA was to deliver a national safety system for commercial vessels that is effective, consistent and efficient; minimises legal and administrative costs; and does not result in an overall increase in regulatory burden.

Specifically, COAG agreed on 2 July 2009 that the Australian Maritime Safety Authority would be the national safety regulator for commercial vessels in Australian waters. At the time of signing the IGA the ongoing role of State and Territory maritime agencies in service delivery was integral to the national system.

The objectives and outcomes of the IGA were to be achieved by the establishment of:

- national law for all commercial vessels operating in Australian waters, including
- appropriate transitional provisions as required;
- a National Regulator that develops, maintains, monitors and enforces national standards;
- a national compliance and enforcement system, consistently applied, for all commercial vessels; and
- a national database of commercial vessels linking ownership, vessel details, inspection and survey history, incidents and operators to provide better data as a basis for improved risk management and compliance monitoring. Over time, it is expected that this will improve safety levels and enable more efficient use of resources.

The national law (including regulations) was to be developed by the Commonwealth in accordance with the national maritime safety standards and maintained collaboratively by Australian maritime authorities or transport agencies under leadership of the National Regulator (AMSA). States and the Northern Territory agreed to legislate to apply the national law in their respective jurisdictions to the extent necessary to ensure that the national law applies to all commercial vessels in Australian waters.

Part 6, Clause 50(h) of the IGA set out that States and Territories not fully recovering costs from industry will consider progressively moving towards full cost recovery in the long term. Any State or Territory-based subsidisation of operators will take into account implications for the national system.

At the time of introducing the national system the estimated total annual cost of service delivery across the State and territory marine safety jurisdictions was \$40m.

The national system was introduced in July 2013 under this arrangement.

Further consideration by COAG and state/Territory marine safety jurisdictions resulted in agreement for AMSA to become both national regulator and service deliverer. This system was introduced in July 2018.

The AMSA annual budget for service delivery of the national system is \$22m.

Whilst this was a whole-of-government driven process at a national level our Industry was closely consulted throughout this process and offered significant opportunity to provide input to the outcomes.

WAFIC Submission

For many years fishing vessels with home ports in WA but also operating in the NT, Qld and South Australia were subject to regular variations in each jurisdiction through non-recognition of qualifications and vessel operational capacities leading to increased costs, loss of fishing

time, limits on vessel transfers and labour shortages. This also applied to fishing vessels on the East coast working across neighbouring state borders or for mariners wishing to work across State borders.

The concept of a national marine safety system encouraging consistency through single legislation, acceptance of qualifications and labour/vessel movement between states and territories and the efficiency of a single service delivery agency was strongly supported by the fishing industry in Western Australia.

WAFIC worked in close consultation with both AMSA and Department of Transport (WA) from as early as 2010 during the development phases of the national system and is now actively participating with the marine industry and AMSA to manage, review and improve the national system over the next 3-5 years.

WAFIC has maintained close consultation with AMSA and the remainder of the marine industry across Australia since July 2013 through direct representation on several AMSA industry advisory committees. WAFIC ensures that the AMSA liaison officer based in WA is also in close consultation with the fishing industry by regularly attending local fishery management meetings along the vast WA coastline to meet directly with fishermen.

WAFIC, in conjunction with AMSA, has been instrumental in establishing a WA AMSA Industry Advisory Committee incorporating representatives across all facets of the domestic commercial vessel spectrum in WA to enable direct consultation with government and industry on marine safety law and service delivery. The success of this consultation model has led to a roll out across the nation in each state and territory.

AMSA has achieved a number of the stated IAG objectives in the short time since the IAG was signed in late 2011:

- AMSA has finalised national law for all commercial vessels operating in Australian waters, including appropriate transitional provisions under grandfathering arrangements for vessels operating pre-July 2013 and significant financial commitment from all governments to reduce levy imposts on industry throughout the first 10 years;
- AMSA has established a national database of commercial vessels linking ownership, vessel details, inspection and survey history as a basis for improved risk management and compliance monitoring. This database has had to be built from the ground up given the range of differing types of data sets and recording processes used by the separate state and territory jurisdictions;
- AMSA has demonstrated its capacity as a National Regulator to develop, maintain, monitor and enforce national standards; and
- AMSA is in the process of finalising a national compliance and enforcement system that can be consistently applied across the nation for all commercial vessels.

There are several issues in the national system that WAFIC wishes to bring to the attention of the Senate Inquiry:

1. *Cost Recovery* – it was clear from the IAG (see clause 50(h)) that COAG was agreeing to all States and Territories to consider progressively moving towards full cost recovery in the long term. The estimated total annual cost of regulation and service delivery of marine safety by individual states and territories was in the vicinity of \$40m with some jurisdictions applying a level of government subsidy around 90%. Any move to secure greater cost recovery by individual jurisdictions under the old marine safety system would have seen extraordinary cost imposts on industry.

The decision of COAG to move the regulation and service delivery of marine safety to the Commonwealth (i.e. AMSA) was made with the clear knowledge that full cost recovery would apply under the federal government policy. Thankfully AMSA has budgeted their regulation and service delivery model at \$22m compared to the previous model at \$40m. WAFIC acknowledges that for some in industry, where high subsidies were provided under the old system, any increase in levy costs will be seen as significant but these costs are expected to be much lower under AMSA than they could have been under the old system with full cost recovery. WAFIC also highlights that governments have acknowledged the costs imposed and have provided financial support to industry over the next 10 years. During this time AMSA has committed to working closely with industry to refine the service delivery model in an effort to drive further efficiencies and reduce costs.

2. *Safety Management Systems (SMS)* – are required under national marine safety law for every commercial vessel. An SMS is a process by which an operator of any commercial enterprise (including a fishing or charter vessel) identifies hazards in their operation, assesses the risk and then determines how to best manage safety against that risk. Operators are then required to educate and train their workers in the fundamentals of the SMS for their vessel including regular drills for emergency procedures – sinking, fire and man overboard.

WAFIC accepts that the concept of a mandatory SMS under marine safety law is new, however this requirement has applied to commercial vessels under workplace safety law in Western Australia since 1988. It is a basic safety tool that should not be compromised.

3. *Vessel Surveys* – the approach in the national law is to increase a vessel operator's responsibility for marine safety and to reward those operators who demonstrate acceptable marine safety practices. AMSA has introduced a model that rewards operators demonstrating strong safety outcomes by extending survey schedules thus requiring less down time from fishing, slipping costs and surveyor fees. Initially no vessel operator will undergo more surveys than in the past, however, over time should the history of incidents and inspection reports indicate an operator has poor safety practices they may be required to enter an increased vessel survey inspection regime until their record improves.

WAFIC strongly supports this type of incentive based model that sustains marine safety practices whilst rewarding good operators with less regulation and reduced costs. AMSA will also be able to tailor their inspection and compliance operations that should also result in reduced costs across their budget.

4. *Approvals Process* – there has been issues surrounding delays in approvals for certificates of operation and survey, qualifications for skippers and engineers and timely advice processes for general queries on technical issues. This has frustrated industry to some extent who have, in the past, gained a more immediate reaction to these matters when dealing with local jurisdictions in the past. WAFIC agrees that these frustrations have added a taint to the good work done by AMSA in many other areas of their operations as set out earlier. WAFIC has found that the close co-operation and involvement of the AMSA Liaison Manager based in WA has enabled many of these issues to be sorted quickly.

WAFIC has taken the position that the current national maritime safety regulation system provides a positive work-in-progress towards a stable and consistent basis for marine safety management in Australia. Establishing a national system such as this will not be perfect from the very start and it is naïve to think every matter will be fully covered and effectively managed. WAFIC recognises there will be issues such as the delays referred above and is now actively participating with the marine industry and AMSA to manage, review and improve the national system over the next 3-5 years.

5. *Vessel Stability Testing* – is one issue that continues to be raised by industry as an unnecessary impost from the introduction of the AMSA national system. WAFIC understands that every vessel when designed and built undergoes a stability test against specific standards. Once approved documents (stability book) are created to allow demonstration of the continued vessel attributes into the future. Vessel surveys subsequent to the original upon building completion should refer to the stability documentation and compare the vessel at that time taking into account modifications that may have taken place to alter the stability of the vessel. It appears over time that surveys have not required stability books to be produced and through transfer of ownership stability books have been lost.

WAFIC understands that AMSA are now requiring stability documentation to be produced for vessels at survey as a requirement of the national law. Failure to produce such documentation has in some cases required a vessel owner to spend up to \$15,000 for a stability test and documentation prepared. This has caused some angst for vessels that have operated incident free for many years. Unfortunately, recent incidents (e.g. the loss of FV Returner) have demonstrated the problems surrounding vessel stability and failure at survey to accurately assess modifications and adjustments to a vessel. WAFIC understands the frustration of owners having to find the funds to demonstrate an existing vessel's stability credentials however the risk associated with incomplete knowledge or assessment of modifications that may undermine a vessel's safety profile cannot be compromised.

Conclusion

The importance of a stable and consistent basis for marine safety management in Australia should not be understated.

WAFIC accepts that the national marine safety system has had some initial issues of concern to industry however there have also been several significant initiatives that will drive improvements in marine safety overall as well as increase efficiency and reduce costs to industry.

WAFIC believes that it is still early days in the life of the new marine safety system and industry and AMSA should continue to work together to 'mould' the existing framework during the transition period provided through the financial support from governments around Australia.

To dismantle or disrupt the national system and return to the disjointed state based marine safety management system would be a retrograde step in driving efficiency and effectiveness in our industries and a waste of the time and energy invested by governments and industry in establishing the national system over the past 10-12 years.

Yours sincerely

John Harrison
Chief Executive Officer
29th March 2019