



Australian Government

Department of Infrastructure and Regional Development

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Dr Narelle McGlusky
Inquiry Secretary
Joint Standing Committee on Treaties
R1.109
Parliament House
PO Box 6021
CANBERRA ACT 2600

Dear Dr McGlusky

Amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL)

I am writing to clarify a statement made at the 22 June 2015 hearing of the Joint Standing Committee on Treaties (JSCOT) regarding amendments to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 and the Protocol of 1997 (MARPOL).

The JSCOT Chair, Mr Wyatt Roy MP, requested an explanation as to why the proposed amendments were brought before the Parliament in June 2015 when they had been agreed to by the Marine Environment Protection Committee (MEPC) in October 2014, and will come into effect from 1 September 2015. The answer provided by Mr Johnston detailed a number of processes which may occur following MEPC agreement to amendments, prior to resolution being provided to JSCOT for scrutiny. However, on examining the transcript of the hearing, we have realised that there is a discrepancy in the description of the processes that applied in this particular case.

The answer given indicated that the amendments being discussed were further considered by the Maritime Safety Committee (MSC), and the following MEPC meeting. While this is often the case, on closer examination of the IMO processes that applied to the three resolutions before JSCOT, only the second resolution (harmful substance labelling) was considered by the MSC and this occurred prior to adoption by MEPC in October 2014. However, the resolutions were subject to a number of processes that do provide reasons for the time taken to bring the resolutions to Parliament.

The International Maritime Organization (IMO) Secretariat released the final versions of the three resolutions on 28 November 2014. The Department of Infrastructure and

Regional Development (Infrastructure) and the Australian Maritime Safety Authority (AMSA) then conducted a detailed analysis of the resolutions to determine if legislative amendments were required, and to determine the regulatory impact on industry.

Consultation with affected stakeholders occurred prior to MEPC 68, however additional consultation on the final resolutions with a number of internal and external stakeholders was required to ensure adherence to the Australian Government's best practice regulation requirements. Advice was also sought from the Australian Government Solicitor to determine the legal requirements to implement the first resolution (prohibiting heavy grade oil carriage as ballast in the Antarctic).

Following consultation, and prior to seeking agreement from the Foreign Minister to table the treaty matter in Parliament, Infrastructure sought the views of the Office of Best Practice Regulation (OBPR), which assesses the regulatory burden analysis undertaken by Infrastructure and AMSA and determines whether a Regulation Impact Statement is required.

Following advice from OBPR, the Department of Foreign Affairs and Trade (DFAT) assessed the treaty matter to determine whether the resolutions are major or minor. The Office of International Law and DFAT must then approve the National Interest Analysis prior to providing it to the Foreign Minister.

Infrastructure notes that the deemed acceptance date for the three resolutions is 1 September 2015 and the amendments enter into force on 1 March 2016. The resolutions are subject to tacit acceptance procedures which were introduced to some IMO conventions, including MARPOL, to ensure amendments are introduced in a timely and expeditious manner and international standards keep pace with technological advances in the shipping industry. The procedures provide that an amendment shall enter into force at a particular time unless objections to the amendment are received from a specified number of Parties before the deemed acceptance date.

Tacit acceptance procedures have resulted in timelier implementation of amendments that are generally considered by the IMO to be minor and technical in nature. However, this arrangement does put increased pressure on Member States to quickly progress amendments through domestic treaty processes.

Ms Katrina Cristofani is the point of contact for this matter in my Branch, she can be reached on 02 6274 6664 or at Katrina.Cristofani@infrastructure.gov.au.

Yours sincerely

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Maritime and Shipping Branch
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