



**NATIONAL BULK
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The Committee Secretary
Senate Education, Employment and Workplace Relations Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By E-mail: eewr.sen@aph.gov.au

Dear Madam/Sir

Re: Senate Inquiry into *Fair Work Bill 2008*

In the context of the Review of the *Fair Work Bill 2008*, the National Bulk Commodities Group Inc (NBCG) seeks to emphasise the importance it attaches to Australian based employers continuing to have the capacity to employ foreign crews on foreign flagged ships operating under permits granted in accordance with the Commonwealth's *Navigation Act 1912*.

The NBCG

The NBCG is the peak national body representing Australia's dry bulk commodity shippers and receivers. The aim of NBCG is to represent the collective interests of its members on issues connected with the production, transportation, storage, loading, unloading and shipment of Australia's dry bulk commodities.

Importantly, the principal focus of NBCG is the promotion of efficient and quality maritime services that are available to Australian shippers at internationally competitive prices.

The Australian Maritime Safety Authority (AMSA) records show there were 22,964 foreign flag vessels calls at Australian ports in 2008. Of this total 9,248 were dry bulk carriers. Dry bulk carriers therefore represented approximately 40% of all foreign flagged ship visits. Australia's dry bulk export and import task is exclusively carried in foreign flagged dry bulk carriers.

The NBCG shares a common position with ship owner representatives (Shipping Australia Limited and the Australian Ship Owners Association) as well as the ports advocacy group Ports Australia on a number of issues concerning maritime cost efficiency.

The principal area of differentiation between the NBCG and ship owner advocates is related to commercial issues, where freight rates and/or charter party issues have the capacity to become points of difference.

As a generalisation, the NBCG becomes involved in maritime issues that have the potential to impact on either freight rates and/or charter hire.

A list of current NBCG members is attached.

The current regulatory framework for Australian shipping

The Commonwealth's *Navigation Act 1912* and accompanying Regulations are designed to deliver to the Australian people a competitive shipping service that delivers low cost freight outcomes. All ships trading – either inter-State or intra-State, are either licensed vessels or vessels issued with a Permit. A vessel that has been issued with a Permit is normally foreign owned and crewed and its commercial activities are regulated under s. 286 of the *Navigation Act 1912*.

To qualify for a Permit, the applicant must satisfy the Minister for Infrastructure, Transport, Regional Development and Local Government that there are no licensed ships available or adequate to perform the voyage and that the issuing of a Permit is in the public interest.

Permits are only issued for a maximum of three months. At the expiry of this period the ship must exit Australia and report "in" and "out" at an overseas port before it is permitted to apply for another Permit.

In its submission to the House of Representatives standing committee for Infrastructure, Transport, Regional Development and Local Government review of shipping policy and regulation the NBCG's submission (copy attached) noted the current permit arrangements are economically defensible and provide shippers and consignees of small dry bulk parcels with an option that is immediate and cost efficient with a time limitation that is designed to prevent the Permit system becoming a de facto licensing alternative.

Permit vessels are usually deployed carrying relatively small parcels of dry bulk cargoes shipped at the behest of shippers and/or receivers at irregular intervals that make the licensing of a suitable vessel difficult, if not impossible to commercially justify. Dry bulk vessels operating on the Australian coast under the current Permit arrangements play an important role in the dynamics of this nation's competitive and cost efficient maritime transport system.

Australian Shipping Policy and Workplace Relations Law

The NBCG supports the current arrangements which make a clear distinction between shipping licenses and Permits.

Under the current *Workplace Relations Act*, regulations can be made to exclude a person or entity from a provision of the Act where the Minister is satisfied that the provision should not apply to the person or entity in Australia because there is not sufficient connection between the person or entity and Australia.

The *Workplace Relations Regulations 2006*, made pursuant to the *Workplace Relations Act* excludes foreign employers and foreign crew on a permit ship from the ACT.

The NBCG's recommendation

The NBCG argues that Clause 31 of the *Fair Work Bill 2008* contains a similar exclusion to Section 12(1) of the *Workplace Relations Act*. The NBCG notes that the Government has not yet released draft regulations to support the *Fair Work Bill 2008*.

The NBCG recommends that a similar regulation to the current Regulation 2.1.1 should be included to ensure the current shipping arrangements continue to be both cost effective and flexible.

If the provisions in Regulation 2.1.1 to the *Workplace Relations Act* relating to Permit vessels are not mirrored in the Regulations to the *Fair Work Bill* the implications include:

- Increases in the cost of dry bulk cargoes shipped domestically;
- Increased potential for domestic customers to import product as an alternative to purchasing domestic product and shipping inter and intra-State; and
- Adverse employment outcomes.

Future contact

The NBCG looks forward to working with all levels of government to ensure that Australia's dry bulk exports and imports continue to positively contribute to the Nation's economic prosperity.

Please contact the undersigned if you wish to receive further advice on the issues raised in this letter.

Yours faithfully
For National Bulk Commodities Group Inc

Dale Cole
Executive Chairman

NATIONAL BULK COMMODITIES GROUP INC

List of Members:

BHPB Freight Pty Ltd

Minerals Council of Australia

Queensland Alumina Limited

Queensland Sugar Limited

Rio Tinto Shipping Pty Limited

Strang International Pty Ltd

The Grain Pool of Western Australia

List of Associate Members:

Australasian Institute of Marine Surveyors

Central Queensland Port Authority

CSL Australia

Fertilizer Industry Federation Australia

Inchcape Shipping Services Pty Ltd

Inco Ships Pty Limited

Penrice Soda Products Pty Ltd

Ports Corporation of Queensland

Sanko-Kisen (Australia) Pty Limited