



COMPANY OF MASTER MARINERS OF AUSTRALIA LTD

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Increasing use of so-called Flag of Convenience shipping in Australia

Submission of the Company of Master Mariners Australia (CMMA)

The Company of Master Mariners (CMMA) was established in 1938 to provide in Australia a unified body of Master Mariners capable of collective representation on all occasions and in all matters affecting their interests or the status of the Merchant Navy and its officers. It endeavours to preserve and enhance the dignity and prestige of the Master Mariner and to promote the efficiency of Australian and International maritime services generally and it constitutes a body of experienced seamen available to become members of, hold seats on, advise or give evidence before Royal Commissions, Courts of Marine Inquiry, Committees or Federal Courts of any description; or of governing, examining, or other official or unofficial bodies; or for consultation on any matter affecting judicial, scientific, educational, technical, or commercial aspects of the Merchant Navy, the safety of life at sea, vessels and/or their cargoes, or any other associated aspect.

Our submission:

The CMMA notes the use of the term 'Flag of Convenience shipping' in the title of this Inquiry. The term 'Flag of Convenience shipping' appears to be used emotively to conjure up a picture of third world crews working in slave labour conditions for negligible wages on unseaworthy ships. While sub-standard ships with ill-treated crews are without doubt operating under the flags of countries with open registries, such ships are also to be found operating under the flags of traditional shipping nations. It also needs to be recognised that many of the world's most reputable shipping companies operate from open registry countries. It is noteworthy that the table showing share of detentions compared to share of inspections in AMSA's 2014 Port State Control Report showed that ships of the predominant so-called Flag of Convenience country, Panama, had a detention rate of 7.4%, which was not significantly different from the average detention rate across all flag states of 7.2%.

CMMA considers the use of the term 'Flag of Convenience' to be prejudicial and that the term 'foreign flag shipping' would be more appropriate.

Comments on the reference points:

- a. The effect on Australia's national security, fuel security, minimum employment law standards and our marine environment.

The CMMA does not believe the increased use of foreign flag shipping would have a significant detrimental effect on national security or fuel security. The ready availability of international merchant shipping for charter during past and present conflicts around the world suggests there would be little, if any, increased risk to national security were foreign flag ships to perform a larger share of Australia's domestic and international seaborne trade. Furthermore, Australia's shipping task has changed significantly in recent years:

- The closure of some Australian oil refineries and increasing direct import of oil products into Australian ports has changed the nature of the oil tanker coastal trade;
- The closure of the steel works in Newcastle has reduced the requirement for large bulk carriers to haul iron ore from the Pilbara ports.

The CMMA strongly supports the enforcement of Australian minimum law standards on foreign flag ships operating in domestic trades. Similarly, the CMMA supports the enforcement of the international Maritime Labour Convention 2006 on foreign ships engaged in Australia's international trade.

The CMMA does not consider the increased use of foreign flag shipping would pose a significant risk to the marine environment. Well in excess of 90% of Australia's seaborne trade is carried in foreign flag ships. While there are marine oil pollution incidents from time to time, generally resulting from accidental spills through human error or equipment failure, the stringent IMO rules governing ship design, ship equipment and operating standards have significantly reduced the risk of marine pollution. In Australia, these standards are monitored and enforced by AMSA. IMO has also recognised the Great Barrier Reef region as an area warranting the additional special protection of having compulsory pilotage. Furthermore, the relevant state, territory and federal marine environment protection authorities monitor the Australian coast and coastal waters and, whenever a pollution incident is detected, take measures to identify the offending vessel, recover the clean-up costs and impose appropriate penalties.

In addition to the measures to prevent oil pollution, there are a number of other international standards developed through IMO to protect the marine environment. These standards include controls on ballast water discharges to prevent the introduction of exotic harmful marine species, controls on the disposal of rubbish at sea and controls on the use of certain types of anti-fouling paint. All these measures apply to foreign flag ships trading to and around Australia.

b. The general standard of Flag of Convenience vessels and their methods of inspection to ensure they are seaworthy and meet required standards.

This is a matter for AMSA to answer. The CMMA notes, however, that the AMSA website publishes detailed annual reports on the conduct of its port state control inspections. These reports cover the years from 1998. The 2014 Port State Control Report shows that in 2014 there were 3742 PSC inspections of foreign ships carried out in 54 Australian ports. There were 269 ship detentions (7.2%). The report shows that AMSA uses a multiple criteria risk profiling system to assist in allocating inspection resources in the most effective way (for example an older ship would have a higher risk of deficiencies than a newer ship). Ships categorised with a risk factor of more than 5% probability of detention had a target inspection rate of 80%, reducing to a 20% target rate for ships with a risk factor probability of 1% or less (the number of inspections carried out by AMSA exceeded its target rate in every category). These inspections follow the port state control procedures developed by the IMO and cover all aspects of international certification, seaworthiness, shipboard safety, operational equipment and pollution prevention measures. AMSA also conducts inspections on Australian flag ships (Flag State Control) using the same risk criteria as applies to foreign flag ships. There were 80 FSC inspections in 2014 with 3 ship detentions (3.8%).

There are 34 national registries recognised by the International Transport Workers Federation (ITF) as being Flag of Convenience registries. Of these, the Panama and Liberia registries are by far the largest in terms of tonnage. The 2014 detention rate by AMSA for Panamanian ships was 7.8% and Liberian ships 8.9%. While higher than the average of 7.2%, the CMMA does not consider these detention rates to be exceptional.

The CMMA considers the methods adopted in by AMSA in its port state control function and its performance in this role is effective in maintaining a safe shipping environment.

c. The employment and possible exposure to exploitation and corruption of international seafarers on Flag of Convenience ships.

The CMMA acknowledges and applauds the work of the ITF and maritime unions throughout the world in investigating and exposing the many examples of exploitation, corruption and ill treatment of international seafarers on FOC and non-FOC ships, and the assistance given by the ITF and its associated maritime unions to seafarers who have suffered exploitation or ill-treatment. The Maritime Union of Australia (MUA) has been very active in the work of the ITF and the MUA's General Secretary, Paddy Crumlin, is currently serving his second term as President of the ITF.

The CMMA strongly supports all measures that can be applied by flag states and port states to detect and take action to ensure seafarers world- wide are not exploited, receive their proper wages and entitlements and enjoy decent living and working conditions on board ship.

However, the CMMA believes the focus of this element of the Inquiry should be confined to any exploitation etc detected on foreign ships trading to and around Australia. In this regard the CMMA notes that Australia has ratified the Maritime Labour Convention 2006, which came into force internationally in 2013. AMSA has always included elements relating to crew living conditions in its PSC inspections. The broader inspection provisions of MLC 2006 has strengthened AMSA's role and is welcomed by the CMMA.

d. Discrepancies between legal remedies available to international seafarers in state and territory jurisdictions, opportunities for harmonisation and the quality of shore-based welfare for seafarers working in Australian waters.

There is, unfortunately, a lack of harmonisation between the states and territories in many aspects of Australian regulatory and legal regimes. While the CMMA does not have the expertise to comment on any particular discrepancies between legal remedies available to international seafarers the CMMA would, in principle, support their harmonisation.

On the quality of shore-based welfare for seafarers the CMMA recognises the vital importance of providing high standards of such welfare. Modern terminal operations mean that ships are generally berthed well away from population centres and often spend only a short period in port. As a consequence, the services provided by the local seafarer welfare organisation(s) may be the only opportunity for a seafarer to indulge in the simple pleasures of taking a trip ashore, phoning home, meeting other people, having a meal away from the ship or buying small gifts. These welfare services, staffed largely by volunteers, have traditionally been provided in Australian ports by Christian denominationally-based organisations. They were established in an era when Australian international shipping trades were predominantly served by British and European shipping, and Australian domestic trades were restricted almost exclusively to Australian ships. It is perhaps possible that some seafarers with non-Christian religious beliefs may feel inhibited from using these services.

The CMMA notes the Australian Seafarers' Welfare Council (ASWC) is the representative organisation of seafarer welfare organisations in Australian ports and that AMSA chairs the ASWC. The CMMA would welcome a review by AMSA and the ASWC of seafarers' welfare services in Australia to ascertain their current effectiveness, what improvements could be made and whether some funding assistance would be appropriate.

e. Progress made since the 1992 Ships of Shame Inquiry.

The terms of reference of that Inquiry were:

1. Factors associated with recent vessel losses and incidents, particularly involving bulk carriers and tankers proceeding to and from Australian ports.
2. General standard of foreign vessels trading to Australia with particular reference to bulk carriers and tankers.

3. Adequacy of parameters established by international law and conventions for action by a port state in the inspection of foreign vessels.

The IMO has made major advances in international shipping safety regulation and marine environment protection. This work is on-going. Similarly, the ILO has made major advances in developing international crew welfare and safety regulation. The adoption internationally of the Maritime Labour Convention 2006 was a highly significant measure. Both AMSA and its predecessor, the Marine Standards Division of the Department, have been active participants in the development of IMO and ILO standards. Furthermore, Australia was among the first countries to adopt port state control measures for ship safety.

The CMMA recognises that the classification societies operating in Australia maintain high survey standards, both in relation to Australian ships and to international ships under survey. AMSA annually audits the operation of the classification societies in Australia. The CMMA acknowledges that many flag states and classification societies operating in overseas countries are less diligent in maintaining proper seaworthiness and safety standards but believes the port state control regime operated by AMSA is appropriate to detect and address defects in ships coming to Australian ports. Furthermore, the Committee will recall it was noted in the 1992 report that the reputation of AMSA as a diligent inspection authority was acting as a deterrent to the operators of sub-standard ships bringing their vessels to Australia. The CMMA is confident that the tightening of the port state control regime in Australia and the high costs involved should a ship be detained for repairs in Australia is proving an even greater deterrent to operators of sub-standard ships bringing their vessels to Australia.

Additional commentary:

Up to the mid-1980s, Australia had a domestic shipping regime almost entirely protected from foreign competition and, additionally, had a number of ships operating in international trades, including those operated by the Commonwealth owned Australian National Line. Shipboard disputes were commonplace and ships were held up from sailing, or placed under threat of being held up, until the dispute was resolved. Australian wages and shipboard conditions became exceptionally generous by international standards. Similarly, Australian crew levels were very high by international standards. On the waterfront productivity was low. As a result, the cost of shipping goods in Australian ships became prohibitive and the domestic shipping trade was eroded by competition from road and rail (particularly with the improvements in national highways and the adoption of the standard rail gauge between state capitals). Shipowners were understandably reluctant to invest in new tonnage.

In the mid-1980s the then Labor Government took measures, in consultation with the ACTU, maritime unions and shipowners, to modernise the industry, multi-skill Australian seafarers and to reform shipboard work practices. The resulting Ships (Capital Grants) Act 1987 encouraged Australian shipowners to replace their relatively old ships with modern, fuel-

efficient vessels. The scheme essentially subsidised the construction of new technologically advanced ships suitable for operation at reduced crewing levels.

A later Labor Government introduced the International Shipping (Australian -resident Seafarers) Grants Act 1995. This legislation provided Australian ship operators with a grant equivalent to the income tax paid by seafarers working on Australian registered ships in international trades. In return for this benefit, the shipowners, maritime unions and the ACTU negotiated further efficiencies in work practices.

While crewing levels were reduced under the reforms, they did not catch up with levels then prevailing internationally. Furthermore Australian seafarer wages and leave conditions remained high by international standards. Nonetheless, there is no doubt that the Ships (Capital Grants) Act 1987 was a major impetus to shipping reform in Australia and the efficiencies introduced through the scheme have flowed through to today's fleet.

When the Coalition took office in the late 1990s it repealed both pieces of legislation. However, in 2012, the Labor government reintroduced limited measures designed to encourage Australian shipping operations through the renewal of the ageing fleet and the employment of Australian seafarers. The Shipping Reform (Tax Incentives) Act 2012 and the Tax Laws Amendment (Shipping Reform) Act 2012 provide the option of accelerated depreciation or an income tax exemption for certain shipping activities. The legislation also introduced a seafarer tax offset applicable to Australian ships engaged in international trades, a measure broadly similar to the arrangements under the former International Shipping (Australian -resident Seafarers) Grants Act 1995.

The current state of the Australian flag fleet is depressing. There are currently only four ships under the Australian flag operating internationally (LNG carriers). Additionally there are two foreign flag ships, crewed by Australians, that triangulate from the Pilbara to Port Kembla and thence to North Asia. The Bureau of Infrastructure, Transport and Regional Economics Maritime Sea Freight Report 2012-13 shows there were an additional 34 overseas registered ships in international trades owned or operated by Australian companies, none of which was operated with an Australian crew. By contrast, twenty years or so ago, Australia National Line operated several Australian flag container ships in international trades; BHP operated a fleet of Australian flag bulk carriers and the oil majors each operated one or more Australian petroleum tankers.

The Australian coastal shipping fleet is also in decline. In a 2014 submission to the Department of Infrastructure and Regional Development, the MUA noted there were, in May 2014, just 16 Australian registered coastal trading ships (all with Australian crews) and a further 15 foreign flag ships with Australian crews. However, since 2014, there has been a further reduction in the number of Australian crewed petroleum tankers engaged in the coastal trade.

As Australian crewed ships have been withdrawn from the Australian coastal trade, the situation has arisen that there are insufficient suitable Australian licensed ships to fulfil Australia's coastal shipping requirements. Where a suitable licensed ship is not available, a foreign flag ship with a non-Australian crew can be utilised. Recent and proposed changes to the coastal regulatory regime have sought to streamline these arrangements.

A strong, modern Australian shipping industry is highly desirable. It provides direct benefits to the economy; it gives Australia some degree of control in domestic and international shipping services upon which Australia critically depends and; provides a supply of personnel with maritime skills to perform the many specialist shore-based roles associated with shipping (port management, pilotage, terminal operations, surveyors, educators etc).

The high quality of Australian maritime education and training is widely recognised. Qualified Australian deck and engineering officers are in high demand both in Australian shore-based industries and in senior positions on foreign flag ships. Furthermore, nearly 40% of students currently undertaking Advanced Diploma and Bachelor Degree courses at the Australian Maritime College are from overseas. Quality training provided to overseas students assists in raising the standard of foreign seafarers, provides job opportunities in the Australian education sector and generates foreign income for Australia.

The CMMA strongly support the revitalisation of the Australian shipping industry and would welcome further measures to improve the efficiency and competitiveness of Australian shipping. However, Australian crew costs continue to be high by international standards and this has no doubt been a factor in Australian shipowners and operators' decisions to reduce their reliance on Australian-crewed ships. Furthermore, the maritime unions have demonstrated a propensity for costly industrial disruption to support their wage claims. One needs look no further than the stand-over tactics and militancy adopted by the MUA's Western Australian branch in the offshore sector in recent years. In this regard, the former Labor MP, Martin Ferguson, a past president of the ACTU, was scathing in his 2014 radio interview remarks about the MUA's industrial tactics and the damage caused to the multi-billion dollar Gorgon gas project on Barrow Island.

The CMMA regrets the general demise of job opportunities for seafarers on Australian ships. However, it must be recognised that the number of seafarers employed on Australian trading ships is relatively small when compared with the number of people employed in the Australian maritime sector as a whole. An efficient Australian crewed shipping sector benefits the Australian economy. However, an Australian shipping sector that is not exposed to a degree of competition ultimately leads to higher costs. Domestically, these higher costs inevitably affect Australian consumers and, in international markets, they make Australian goods less competitive.

The CMMA believes the decline over the past decade or so in the Australian crewed shipping sector can be attributed largely to commercial decisions by Australian shipowners

and operators rather than to any action, or lack of action, by governments. Nonetheless, the CMMA is concerned that any future changes in the regulatory regime should aim to promote, rather than hinder, the development of a strong, sustainable Australian shipping industry.

As well:

In conclusion we feel that the committee should be aware of the fact that Australia does not have a Freight Strategy. Our focus seems to be on road transport, which is costly and the least environmental friendly means of moving goods.

The scope of the inquiry must be broadened to include the costs and inefficiencies of ports and stevedoring. Road transport has always been the preferred option of transport for reasons of reliability. Shippers and consignees cannot be guaranteed the timely arrival of their goods in ports.

It is our view to focus on an efficient and reliable coastal shipping industry, not necessarily fixated on flying the Australian flag, but to provide job opportunities for Australian residents which can provide training for mariners who will be required in shore based maritime positions, such as harbour masters, pilots, surveyors, etc.

The carbon footprint of ships is the smallest of all modes of transport and subject to improved efficiencies in the ancillary services, coastal shipping can deliver a good economic return for the consumer.

Submitted by the Federal Secretariat at Fremantle, 11 August, 2015

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