



Australian Shipowners Association

10 June 2011

Julia Morris
Committee Secretary
Joint Standing Committee on Infrastructure and Communications
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Parliament House
Canberra ACT 2600

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Dear Ms Morris

Submission to the Joint Standing Committee on Infrastructure and Communications inquiry into the Navigation Amendment Bill bringing into force the Maritime Labour Convention 2006

Thank you for the invitation for the Australian Shipowners Association (ASA) to participate in the Committee's inquiry into the Navigation Amendment Bill and the *Maritime Labour Convention 2006* (MLC). As you are aware ASA has previously made a submission emphasising the importance of the Australian Government's ratification of the MLC to the Joint Standing Committee on Treaties (JSCOT). In addition ASA has written on several previous occasions to relevant Ministers urging early ratification of this important instrument.

Maritime Labour Convention

As the employer representative in matters involving shipping at the International Labour Organization (ILO), ASA has been closely monitoring the progress of the MLC ratification in Australia and internationally.

ASA has a long history of involvement with the ILO developing conventions for the shipping industry. The prolonged process of consolidation that went into the finalised MLC text was supported at the highest level within ASA via direct representation in the employer group; ASA had a representative present at the ILO's International Labour Conference in Geneva in February 2006, which adopted the MLC and since adoption ASA has participated in the ILO's tripartite expert group meetings on guideline development.

Since adoption of the Convention, ASA has worked closely with government departments and written to State and Federal Ministers expressing support for the MLC and encouraging ratification by Australia.

The stated purpose of the MLC is to:

- lay down, in its Articles and Regulations, a firm set of rights and principles relating to the living and working conditions of seafarers on board ships;
- to allow, through the Code, a considerable degree of flexibility in the way Member States implement those rights and principles; and
- to ensure that the rights and principles are complied with and enforced by ILO member states.

ASA believes that MLC and in particular Australia's ratification will:

- provide additional levels of protection to a potentially vulnerable workforce;
- benefit quality shipowners by addressing some of the areas of competitive disadvantage that exist in the shipping industry by levelling the playing field of international standards of employment; and
- assist in providing certainty and assurance to charterers and other stakeholders that basic social standards can be assessed and enforced.

The commitment of ASA to seeing the MLC ratified by Australia at the earliest possible opportunity has been unwavering.

This inquiry

ASA has examined copies of the National Interest Analysis and the Regulatory Impact Statement regarding the MLC for the purposes of its previous submission to the JSCOT, as well as giving consideration to the text of the MLC from a shipowner's perspective. We have previously provided feedback to the Department of Education, Employment and Workplace Relations (DEEWR) on some aspects of the MLC that particularly affect Australian shipowners, much of which was replicated in the submission to JSCOT.

Having had the opportunity to review a number of submissions made to JSCOT from other stakeholders, ASA was pleased to see that the overriding theme was one of support and encouragement that the MLC be ratified. The support generated referred not only to the importance of ensuring seafarers around the world could be assured of reasonable terms and conditions of employment, but also that vessel operators from ratifying member states could obtain the appropriate documentation to ensure that their vessels would not be unduly impacted or delayed through the Port State inspection process by virtue of the 'no more favourable treatment' provisions in the MLC.

ASA does not share the concerns raised in the submission to JSCOT by Shipping Australia Ltd about potential adverse impacts should Australia ratify the convention and therefore subject non ratifying state vessels to detention and delays while Port State inspections are carried out. The very purpose of the 'no more favourable treatment' test is to ensure that unscrupulous vessel operators cannot gain a competitive advantage by derogating from the internationally recognised minimum terms and conditions of employment for seafarers. This encourages ILO membership as well as ratification of this tremendously important Convention. Further, we consider the example provided of Hong Kong being not a member of the ILO and therefore unable to ratify the MLC is not quite accurate. Hong Kong is not a member

of the ILO because it is not a State. But ratification will be extended to Hong Kong by China, either before or at the time that China ratifies the Convention.

Non-Convention ships visiting Australia will be potentially subject to a full inspection against the provisions of the Convention since there will not be any MLC compliant documentation on board as prima facie evidence of compliance. But detention is not assured, as is implied in the submission by Shipping Australia, and obviously this will require consideration on the part of the 'authorized officers' which will be appointed to perform Port State Control functions.

The Convention comes into force 12 months after ratification, meaning, as we understand it, that Port State Control cannot exercise its inspectorate function for compliance until the Convention comes into force. We understand that several nations that have already ratified have a system of voluntary compliance in place which will ultimately assist ship operators with understanding their obligations prior to the Convention coming in force.

In any event, there can be no doubt that there will be a high level of ratification of this Convention as has been demonstrated by many significant shipping nations having already ratified the MLC. It is ASA's view that the MLC will be the cornerstone of seafarers rights internationally and a failure by the Australian Government to ratify the MLC at the earliest available opportunity will diminish Australia's standing in the international maritime industry and within the International Maritime Organization and adversely affect Australian ship operators engaged in international trade as they will be unable to comply with documentary requirements, exposing them to the risk of costly delays at international ports.

We trust this submission adequately addresses why the ASA is strongly supportive of the timely ratification of the MLC. Should you have any questions, please do not hesitate to contact Teresa Hatch on .

Yours sincerely,

Teresa Hatch
Executive Director