

Chapter 1

Introduction and context of inquiry

Referral

1.1 On 18 June 2015 the Senate referred the following matters to the Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by the first sitting day of 2016 (being 2 February 2016):

The increasing use of so-called Flag of Convenience shipping in Australia, with particular reference to:

- (a) the effect on Australia's national security, fuel security, minimum employment law standards and our marine environment;
- (b) the general standard of Flag of Convenience vessels trading to, from and around Australian ports, and methods of inspection of these vessels to ensure that they are seaworthy and meet required standards;
- (c) the employment and possible exposure to exploitation and corruption of international seafarers on Flag of Convenience ships;
- (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;
- (e) progress made in this area since the 1992 House of Representatives Standing Committee on Transport, Communications and Infrastructure report *Ships of shame: inquiry into ship safety*; and
- (f) any related matters.¹

1.2 The Senate agreed to two extensions of time for reporting, the final reporting date being 22 June 2016.² A substantive interim report was tabled in the Senate on 3 May 2016.³ On 9 May 2016 the inquiry lapsed with the dissolution of the Parliament.

1.3 On 15 September 2016 in the 45th Parliament the Senate agreed to re-refer the inquiry, with a reporting date of 19 July 2017. It was also agreed that the committee

1 *Journals of the Senate* No. 98, 18 June 2015, p. 2708.

2 *Journals of the Senate* No. 138, 22 February 2016, p. 3747.

3 *Journals of the Senate* No. 152, 3 May 2016, p. 4210. The substantive interim report was the second interim report of the committee. The report can be found at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping/Second_Interim_Report

have the power to consider and use the records of the committee as it was constituted in the previous Parliament.⁴

Conduct of the inquiry

1.4 The committee held a number of public hearings during the 44th Parliament. It held further public hearings in Canberra on 13 and 21 June 2017, the details of which are referred to in Appendix 2. The committee received 25 submissions as part of its inquiry.

1.5 All public submissions and the Hansard transcripts of evidence from the hearings can be accessed through the committee's webpage.⁵

Acknowledgements

1.6 The committee thanks all individuals and organisations that assisted the committee and gave evidence to the inquiry, either by making submissions or attending public hearings.

Flag of convenience shipping

Definition

1.7 As detailed in the interim report, flag of convenience (FOC) shipping refers to those vessels that travel internationally, but are not registered to the state it is most closely associated with. Regardless of where a ship may be operating, the national registration determines the applicable laws governing all the activities on the ship.⁶

1.8 FOC registration is most commonly used as a means of reducing or minimising operating costs and other financial imposts, including:

- reducing the tax burden for ship owners;
- making the vessel subject to less stringent labour legislation, thereby reducing wages and the financial burden of enforcing higher working conditions and safety standards;
- minimising currency exchange and investment controls that ship owners are subject to; and

4 *Journals of the Senate* No. 7, 15 September 2016, p. 225.

5 See http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport

6 Cindy Lazenby, 'SOS: The Call Sign of the 'Ships of Shame'', *Deakin Law Review*, Volume 4, No 1 (1998), p. 74.

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- avoiding costs from meeting more stringent safety or inspection regimes for vessels.⁷

1.9 It is often argued that FOC registration is used by shipping owners to maintain anonymity, and avoid the employment, tax and environmental requirements and restrictions in place at what would normally be considered the ship's country of origin.

1.10 This is despite Article 5 of the 1958 United Nations Convention on the High Seas, which states that 'there must exist a genuine link between the [flag] state and the ship; in particular, the state must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag'.⁸

1.11 Article 91 of the United Nations Convention on the Law of the Sea (UNCLOS) also provides that every state shall 'fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag'. Article 91 also states that there must be a 'genuine link' between a flag state and a ship.⁹

1.12 In a submission to the inquiry, the Department of Infrastructure and Regional Development (DIRD) argued that there is no definitive understanding of what a 'genuine link' is. This has 'seen the requirement for a genuine link not being widely observed' and the development of two types of shipping registries:

- Traditional or closed registries: generally focus on establishing a genuine link between the state and the ship in order to register that ship; and
- Open registries: allowing foreign ship owners to register with a state, with little to no focus on the genuine link concept.¹⁰

1.13 As canvassed in the interim report, some stakeholders hold concerns over the term 'flag of convenience'. They argued that it attracts negative connotations, and prefer the term 'open registries'.¹¹ As with the interim report, this report will use the flag of convenience terminology, reflecting the Senate's terms of reference.

7 Cindy Lazenby, 'SOS: The Call Sign of the 'Ships of Shame'', *Deakin Law Review*, Volume 4, No 1 (1998), p. 75.

8 United Nations, *Convention on the High Seas*, 29 April 1958, p. 3, http://www.gc.noaa.gov/documents/8_1_1958_high_seas.pdf

9 United Nations Convention on the Law of the Sea, 1982, p. 58, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

10 Department of Infrastructure and Regional Development, *Submission 7*, p. 5.

11 See for example the International Chamber of Shipping, *Submission 8*. The issue of contested terminology is discussed in Chapter 1 of the interim report.

Flag of convenience registries

1.14 A number of countries offer FOC shipping registrations. Primary countries include Panama, Liberia, and the Marshall Islands, along with Bolivia, Cambodia, North Korea, Belize, Bolivia, Vanuatu, Antigua and Barbuda, and Moldova. A number of smaller countries have also started to offer FOC registration, including Tonga and Gibraltar.¹²

1.15 Collectively, in 2016 Panama, Liberia and the Marshall Islands accounted for the registration of more than 60 per cent of shipping vessels, a marked increase from only 4 per cent of ship registrations during the 1950s. Other countries not traditionally associated with the shipping industry are increasing their presence on international waters via ship registration. This includes Mongolia, despite it being a landlocked country.¹³

1.16 DIRD noted that the open registries of Liberia, Panama, the Marshall Islands and the Bahamas have all ratified and are bound by a number of international Conventions regarding ship operations, and relating to maritime safety and environmental protection. However, these nations have not ratified subsequent amendments to these conventions.¹⁴

1.17 The International Transport Workers' Federation (ITF) has argued that in some instances, the registries themselves are not run by the country in which they are situated:

Some FOC shipping registers are franchised out to foreign companies and are also corporate registers. The Liberian Registry, the second largest in the world, is administered by the Liberian International Ship and Corporate Registry (LISCR), a wholly US owned and operated company.¹⁵

1.18 The ITF has argued for the 'genuine link' between the real owner of a vessel, and the flag being flown by the vessel, to increase accountability and improve conditions for seafarers.¹⁶

12 International Transport Workers' Federation, *Flags of Convenience*, 2016, <http://www.itfglobal.org/en/transport-sectors/seafarers/in-focus/flags-of-convenience-campaign/> (accessed 10 July 2017).

13 Craig Moran, 'Flags of Convenience: Panama Papers on the high seas', *World Policy Blog*, 20 July 2016, <http://www.worldpolicy.org/blog/2016/07/20/flags-convenience-panama-papers-high-seas> (accessed 7 November 2016).

14 Department of Infrastructure and Regional Development, *Submission 7*, p. 8.

15 International Transport Workers' Federation, 'ITF comment on Panama Papers revelations', press release, 7 April 2016, <http://www.itfglobal.org/en/news-events/press-releases/2016/april/itf-comment-on-panama-papers-revelations/> (accessed 21 November 2016).

16 International Transport Workers' Federation, 'ITF comment on Panama Papers revelations', press release, 7 April 2016.

1.19 In the United States, research has shown that over 70 per cent of privately owned American ships (with a gross tonnage over 1000 tons) are registered outside the country, primarily in the Marshall Islands, Liberia and Vanuatu. It has been reported that the total average cost of operating a 'US flag vessel in foreign commerce [is] 2.7 times higher than foreign-flag equivalents'.¹⁷

1.20 In Britain, it has been reported that the majority of ships are now registered under flags of convenience, with only a third of British-owned vessels registered under a British flag. A European Union (EU) initiative to ensure that crews on ships sailing between EU states are paid and regulated under EU law is yet to be approved or implemented.¹⁸

1.21 The International Chamber of Shipping (ICS) submitted to the committee that while there has been considerable improvement in the operations and regulation of numerous flag states:

There are a number of smaller flag States that still have considerable work to do, and ICS continues to suggest that shipowners should think very carefully about using such flags. The largest of these [in 2015] is Tanzania, but Mongolia, Moldova, Cambodia and Sierra Leone are also conspicuous examples.¹⁹

1.22 Some countries have taken steps to address FOC registration issues. In September 2016, the Cambodian government announced that foreign-owned ships would no longer be able to use the Cambodian flag, as it was not benefitting the country. A number of Cambodian-flagged vessels had been involved in illegal fishing activities and were caught carrying drugs and weapons. By cancelling FOC registration, Cambodia hoped to improve its image, while acknowledging it did not have the capability for long-range law enforcement and monitoring.²⁰

1.23 It should be noted that not all ships flying a foreign flag are doing so under an FOC scheme. The ITF's Fair Practices Committee declares those countries which it considers to be running FOC shipping registries, based on the following factors of the flag state:

17 Josie Albertson-Grove and Masako Melissa Hirsch, 'Family's shipping company could pose problems for Trump's Transportation pick', *ProPublica*, 12 December 2016, <https://www.propublica.org/article/familys-shipping-company-could-pose-problems-for-trumps-transportation-pick> (accessed 19 December 2016).

18 Polly Toynbee, 'How Britain sank its shipping industry by waiving the rules', *The Guardian*, 30 August 2016, <https://www.theguardian.com/commentisfree/2016/aug/30/malaviya-twenty-britain-sank-shipping-industry> (accessed 7 November 2016).

19 International Chamber of Shipping, *Submission* 8, p. 10.

20 Kali Kotoski, 'Flag of convenience scheme retired', *The Phnom Penh Post*, 1 September 2016, <http://www.phnompenhpost.com/business/flag-convenience-scheme-retired> (accessed 7 November 2016).

- the ability and willingness to enforce international minimum social standards on its vessels;
- its social record – considering whether the state has ratified and enforced International Labour Organization conventions and recommendations; and
- its safety and environmental record – considering whether or not it has ratified and enforced International Maritime Organization conventions.²¹

1.24 The ITF currently has 35 countries declared as offering FOC registries.²²

Australian shipping industry

1.25 Throughout its inquiry, the committee received a significant amount of evidence that emphasised the decline in the Australian shipping sector, despite Australia being an island nation with a heavy and increasing reliance on shipping. The ongoing decline of Australian shipping is increasing the opportunities for FOCs to operate along Australia's coast, using foreign crew.

1.26 Information published by DIRD highlights the issues facing the Australian shipping industry:

- between 2000 and 2012, shipping's share of Australia's freight task fell from around 27 per cent to under 17 per cent, while the volume of Australian freight grew by 57 per cent;
- an Australian ship can cost around \$5 million a year more than a comparable foreign ship on comparable routes; and
- 49 million tonnes of coastal freight was loaded in 2012-13, yet in 2007-08 it was over 59 million tonnes, representing a 2.4 per cent decline each year in the total weight of coastal freight.²³

1.27 Evidence suggests that FOC vessels will continue to increase their presence in Australian waters in coming years. In 2014, the Office of Transport Security (OTS) noted that:

The maritime industry will see continued diversity in crew origin and ship ownership. Trends to date indicate that the Australian trading fleet is becoming increasingly registered overseas....The international trading fleet facilitating Australia trade is made up of a diverse range of foreign flags

21 International Transport Workers' Federation, *Defining FOCs and the Problems they Pose*, <http://www.itfseafarers.org/defining-focs.cfm> (accessed 10 July 2017).

22 International Transport Workers' Federation, *Flags of Convenience*, 2016, <http://www.itfglobal.org/en/transport-sectors/seafarers/in-focus/flags-of-convenience-campaign/> (accessed 10 July 2017).

23 Department of Infrastructure and Regional Development, *Factsheet: Coastal Shipping Reform*, 7 January 2015, <https://infrastructure.gov.au/maritime/publications/factsheets.aspx> (accessed 6 July 2017).

such as: Liberian and Korean vessels carrying bulk cargo; British, Singaporean and Tongan vessels carrying containerised and general cargo; and Australian, Bermudan and Hong Kong flag vessels carrying LNG.²⁴

1.28 While in 2011-12, the majority of Australian coastal shipping vessels were Australian flagged, in the five years to 2014 the number of Australian registered vessels declined at a rate of 4.4 per cent per year. In the same period, foreign-flagged vessels increased their presence by 17.3 per cent per year.²⁵

1.29 Statistics on vessels operating on the Australia coast in 2014-15 reveal the decline in Australian-flagged vessels:

- in the major trading fleet there were four vessels registered to Australia for major international trading, a decrease from nine in 2005-06;
- for coastal trading, there were 20 registered ships, down from 32 ten years prior; and
- there were 15 major Australian registered ships (over 2000 dead weight tonnes) operating under a general licence, a decrease from 33 vessels in 2005-06.²⁶

1.30 Despite this marked decrease in the Australian shipping fleet, vessel activity is forecast to increase by 28 per cent between 2013 and 2025, comprising mostly bulk vessels and containerships.²⁷

Flags of convenience vessels operating in Australian waters

1.31 In 2016, there were 27 516 ship arrivals in Australian ports, by 5719 foreign-flagged vessels. Port Hedland was the busiest Australian port for foreign vessels, accounting for a total of 10.3 per cent of nationwide ship arrivals.²⁸

1.32 On the arrival of foreign-flagged and other vessels, Port State control (PSC) activities are undertaken by the Australian Maritime Safety Authority (AMSA), including vessel inspections. In 2016, PSC undertook 3675 inspections of foreign-flagged vessels, at 54 Australian ports, and detained 246 vessels. Intervention and detention occurs if a ship does not adhere to the applicable maritime conventions,

24 Department of Infrastructure and Regional Development, *Transport Security to 2025*, 2014, p. 9.

25 Department of Infrastructure and Regional Development, *Transport Security to 2025*, 2014, p. 9.

26 Bureau of Infrastructure, Transport and Regional Economics, *Maritime Statistical Report: Australian sea freight 2014-15*, April 2017, p. 59.

27 Department of Infrastructure and Regional Development, *Transport Security to 2025*, 2014, p. 8.

28 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, p. 7.

and is not allowed to sail until it no longer presents a danger to the vessel, its crew, or the environment, regardless of scheduled departures.²⁹

1.33 Of all inspections, five flag states accounted for 65 per cent of the vessels inspected:

- Panama – 942 vessels;
- Hong Kong – 426 vessels;
- Singapore – 368 vessels;
- Liberia – 360 vessels; and
- Marshall Islands – 358 vessels.³⁰

1.34 FOC vessels were detained primarily on safety grounds. The most prevalent cause for detention related to the operation of the International Safety Management (ISM) Code, regarding passage planning and the conduct of voyages.³¹ AMSA stated that this was a 'major cause of concern as it indicates that the management of ships still leaves considerable room for improvement'.³²

1.35 Further to ISM issues, 7.1 per cent of detainable deficiencies in 2016 related to labour conditions (25 deficiencies). AMSA advised that:

In 2016 material issues such as fire safety (13.9%), emergency systems (12.5%) and lifesaving appliances (12.5%) continued to be a regular cause of detention. This has been a consistent trend over the years 2014-16.

During 2016, [AMSA] continued to work with flag States and ship owners to try and improve performance with regards to requirements related to fire safety, lifesaving appliances and pollution prevention.³³

1.36 AMSA examined the rate of total inspections against detention by flag state, and found that 'where the percentage share of detentions is higher than the percentage share of inspections this is an indication that the flag State is not performing well'. The worst-performing flag states were Taiwan (22.2 per cent), Netherlands (11.8 per cent), Italy (10 per cent), Antigua and Barbados (9.8 per cent), Marshall Islands (8.1 per cent), Cyprus (8 per cent) and Panama (7.9 per cent).³⁴

29 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, pp. 7, 24.

30 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, pp. 4-5, <http://www.amsa.gov.au/forms-and-publications/international/publications/Ship-Safety/PSC-Annual-Reports/PSCREPORT-2016.pdf>.

31 27.8 per cent of vessels detained in 2016 concerned ISM infringements.

32 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, pp. 6, 24.

33 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, p. 6.

34 Australian Maritime Safety Authority, *Port State Control – 2016 Report*, p. 27.

1.37 The Australian Transport Safety Bureau (ATSB), when deciding to undertake a shipping investigation, does not consider the country of registration of that vessel. However, given the proportion of foreign ships in and out of Australian ports, 'the very significant majority of the ATSB's investigations have involved ships under foreign flags, including the so-called 'flags of convenience''. The ATSB had not identified any safety issues that were more prevalent, or associated with, FOC vessels when compared with other ships.³⁵

1.38 Shipping Australia Limited (SAL) likewise stated that despite the frequency and volume of foreign ships entering Australian ports, there were very few serious accidents or incidents. SAL argued that this was testament to 'the effectiveness of the international and national maritime regulatory (safety and security) framework under which these ships are governed'.³⁶

1.39 Submissions received by the committee argued for the regular monitoring of FOC vessels engaged in coastal trade, to ensure compliance with Australian standards as enforced by AMSA and other authorities like the Australian Federal Police (AFP).³⁷

1.40 In its submission to the committee, the Maritime Union of Australia (MUA) argued that Australia has an important role to play in improving shipping standards both internationally and locally:

Australia, which has the 5th largest shipping task in the world, is ideally placed to be an influential player in setting the expectations for international shipping standards, and in fact has a national interest responsibility to do so given the nation's dependence on shipping, the importance of its coastline to communities, to tourism and to the environment, and to the length and exposure of its borders.³⁸

International incidents

1.41 Concerns over the operations of FOC shipping are not limited to Australia. There are numerous reports identifying serious international incidents involving FOC vessels, and a variety of flag states.

1.42 It has been argued that flags of convenience allow unscrupulous operators to avoid authorities in countries in which they may operate. Many FOC registries are 'from weak or impoverished – even landlocked – nations desperate for hard currency'. Additionally:

35 Department of Infrastructure and Regional Development, *Submission 7*, p. 16.

36 Shipping Australia Limited, *Submission 2*, p. 2.

37 Navy League of Australia, *Submission 6*.

38 The Maritime Union of Australia, *Submission 19*, p. 2.

Flags of convenience continue to provide cover for owners engaged in criminal enterprises, which include not just smuggling fuel, but such dangerous gambits as shipping weapons to terrorists.

Rogue flag-of-convenience ships tend to be found around the world's ungoverned or barely governed spaces.³⁹

1.43 Reports state that in 2016, prior to amendments to Cambodia's FOC scheme, a Cambodian-flagged vessel called *Jie Shun*, with a North Korean captain and crew, was found to be carrying 30 000 rocket grenades. The weapons were hidden on the ship under thousands of tons of iron ore. Official records listed the ship's cargo as 'underwater pump parts'. It was not long after this discovery that Cambodia moved to cancel FOC registration.⁴⁰

1.44 The Tongan FOC registry was reportedly forced by international pressure to shut down its foreign registrations, due to the alarming operations of its registered vessels. Several Tongan-flagged ships were discovered to belong to al Qaeda, while others were reported to be transferring weapons and ammunition, or carried crew reported to be planning terrorist activities in Europe.⁴¹

1.45 In European waters, an investigation revealed that some cargo and other large vessels routinely turn off GPS tracking, allowing them to 'disappear' and undertake suspicious or illegal activity. During January and February 2017, there were 2850 occasions where ships halted GPS transmission before entering European waters; more than 60 per cent of these ships were under FOC registration. Experts have argued that 'cargo ships may anchor in foreign waters to pass people, weapons and drugs to smaller vessels while avoiding detection by maritime authorities'.⁴²

1.46 Flags of convenience are not always limited to cargo vessels. The Deepwater Horizon oil rig, that in 2010 spilled 5 million barrels of oil into the Gulf of Mexico, was registered to the Marshall Islands under a flag of convenience. The resulting disaster was therefore the responsibility of the Marshall Islands registry, as was the safety and quality of the equipment leading up to the event.⁴³

39 Ann Marlowe, 'Whose Convenience? The murky world of bottom-feeding shipping registries', *The Weekly Standard*, 12 December 2016, <http://www.weeklystandard.com/whose-convenience/article/2005622> (accessed 19 December 2016).

40 Megha Rajagopalan, 'Trump has said cutting off North Korea's trade is easy. Here's why he's wrong', *BuzzFeed News*, 6 June 2017, https://www.buzzfeed.com/meghara/north-korea-flags-of-convenience?utm_term=.axwN69NDY#.lla3p03B6 (accessed 7 June 2017).

41 Ann Marlowe, 'Whose Convenience? The murky world of bottom-feeding shipping registries', *The Weekly Standard*, 12 December 2016.

42 Fiona Hamilton, 'Ghost ships' spark European terror fears', *The Times*, 10 March 2017, <https://www.thetimes.co.uk/article/ghost-ships-in-european-waters-spark-terror-fears-hkdbffdv5> (accessed 14 March 2017).

43 Craig Moran, 'Flags of Convenience: Panama Papers on the high seas', *World Policy Blog*, 20 July 2016.

1.47 The shipping practices of some of Australia's closest neighbours are also a matter of concern. In 2016, the International Organization for Migration (IOM) released a report into human trafficking and forced labour in the Indonesian fishing industry. As part of its findings, the IOM identified that:

- fishers and seafarers were actively recruited from South East Asian countries, via systemic and organised deceptive recruitment practices;
- some vessels were double-flagged and registered in two countries, with forged documents;
- illegal fishers were operating in multiple countries and under flags of convenience, and selling the fish in the international market at high cost;
- illegal fishing operations were managed by large companies utilising commercial or businesslike structures, often established with foreign investments, yet were evading taxes and breaking the law;
- some crew witnessed the murder of fellow crew members and the illegal disposal of the corpses; and
- there were extreme cases of labour exploitation with fishers working in excess of 20 hours a day, up to seven days per week.⁴⁴

Employment of seafarers

1.48 The increasing use of FOC vessels to transport cargo around Australia is contributing to ongoing job losses for Australian seafarers, particularly in light of the various financial benefits afforded to FOC operators over locally registered operators. The committee in its interim report presented evidence that job losses would result in an erosion of the skills base for maritime workers, making it even harder to reinvigorate the local shipping industry.

1.49 The committee was advised that in Australia, it takes more than ten years of training and sea service to become a qualified Master, in addition to passing physical assessments, and medical examinations every five years. Despite extensive training, there is limited ability for Australian seafarers to secure work.⁴⁵

1.50 The majority of the non-officer crew on foreign-flagged vessels in the Asia-Pacific region are predominantly from the Philippines and India, with these countries likely to 'continue to be leading providers of seafarers to the maritime industry, as they have established technical colleges for training technicians and lower level crews'.⁴⁶

44 International Organization for Migration, *Report on Human Trafficking, Forced Labour and Fisheries Crime in the Indonesian Fishing Industry*, 2016, pp. xi-xii.

45 Australian Maritime Officers Union, *Submission 20*, pp. 2-3.

46 Department of Infrastructure and Regional Development, *Transport Security to 2025*, 2014, p. 9.

1.51 The committee's interim report examined the evidence concerning various workplace safety and seafarer wellbeing issues, often associated with FOC vessels. Primary concerns include the potential for exploitation and corruption, poor wages, inadequate safety conditions, bullying and abuse of crews, and a lack of welfare services on-shore.⁴⁷

1.52 A survey of seafarers highlighted the serious hazards of this occupation:

38 per cent of 1,594 respondents said that they worked on a ship where there had been a serious injury or fatality to another member of the crew. Twenty-eight per cent of respondents had made a compensation claim for an injury or disease due to their seafaring work. In 2012, it is estimated that worldwide 1,051 seafarers lost their lives at work. The year before, the number was 1,095.⁴⁸

1.53 A number of case studies will be presented in this report, providing examples of poor working conditions, crew exploitation and deaths at sea, for workers of all nationalities.

Interim report

1.54 The committee's interim report examined key issues around the use of FOC shipping in Australia. Matters considered by the committee included employment issues that arise from the use of FOC vessels, such as Australian job losses, poor working conditions, and the decline of the local shipping sector. The committee also considered the risks presented by FOC shipping to Australia's national, environmental and fuel security.

1.55 The interim report's recommendations focused on growing the Australian maritime sector, enhancing work opportunities and conditions for Australian seafarers, and improving the conditions, legal accountability and safety of FOC vessels operating in Australian waters.⁴⁹

1.56 The recommendations were aimed at promoting the support and growth of the Australian-flagged shipping industry as it moves into a future of heightened security risks, increased use of vessels flying flags of convenience, and drastic changes to the work environment both in Australia and internationally.

47 Detailed discussion on working conditions, training and standards can be found in Chapter 3 of the committee's interim report.

48 David Walters and Nick Bailey, *Lives in Peril: Profit or Safety in the Global Maritime Industry?* as cited by Mr Brian Mitchell MP, *House of Representatives Hansard*, 1 June 2017, p. 72.

49 The interim report is available on the committee's website at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Shipping, with recommendations found on pp. vii-viii.

1.57 The committee noted in the interim report that this inquiry has raised a number of serious issues that will be of ongoing concern to the government, including how flag of convenience vessels are managed and overseen whilst in Australian waters.⁵⁰

Government response to interim report

1.58 On 10 May 2017, the government tabled its response to the interim report. Of the 10 recommendations made, the government did not support six and noted the remaining four.⁵¹

1.59 The government did not agree with the committee's main recommendation regarding a review into the Australian maritime sector, including an examination of the security and marine environment risks presented by FOC vessels. The government also did not agree to the tightening of temporary licence provisions as they apply to FOC vessels and their crew.⁵²

1.60 In declining to support a review into the maritime sector, the government argued that a number of reviews into this sector had recently been completed, along with subsequent reforms to legislation. The government stated that 'another review is unlikely to change the current decline of the Australian shipping industry'.⁵³

1.61 The government noted recommendations in relation to risk assessments and oversight of seafarers working in Australia, and improving the working conditions, safety standards and remuneration rates for international seafarers. The government also noted the recommendations regarding improved legal accountability for FOC vessels, and providing early intervention and counselling resources to crews of international vessels.

1.62 In noting the recommendations, the government stated that there were high levels of immigration compliance by the commercial maritime industry, via the Maritime Crew Visa (MCV) program, and oversight by AMSA as to the rights and conditions of international seafarers and the enforcement of minimum employment standards.⁵⁴

50 Rural and Regional Affairs and Transport Committee, *Increasing use of so-called Flag of Convenience Shipping in Australia*, Interim report May 2016, p. 2.

51 Senator the Hon Simon Birmingham, Minister for Education and Training, *Senate Hansard*, 10 May 2017, pp. 3345-3348.

52 *Senate Hansard*, 10 May 2017, pp. 3345-3347.

53 *Senate Hansard*, 10 May 2017, p. 3345.

54 *Senate Hansard*, 10 May 2017, pp. 3346-3347.

Report structure

1.63 This chapter provides a brief overview of the committee's interim report, and examines the government's response to the recommendations made in that report. It provides an overview of the state of FOC shipping internationally, and the current state of the Australian shipping industry.

1.64 Chapter 2 provides a summary of reviews and legislative amendments completed into the Australian maritime sector. This chapter considers the efficacy of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* and the temporary licence system. This chapter also discusses the wages paid to seafarers, and the provision of seafarer welfare services.

1.65 Chapter 3 details recent serious incidents involving FOC vessels in Australian waters, including Australian job losses, poor working conditions, disappearances and deaths at sea. A number of case studies are provided. The chapter discusses issues with interjurisdictional responsibility and legal accountability when these incidents occur, and details the Coronial Inquest findings into the deaths of Hector Collado and Cesar Llanto on the *MV Sage Sagittarius*.

1.66 Chapter 4 considers the national security and environmental threats presented by FOC vessels. The chapter discusses the appropriateness and efficacy of border inspection regimes of FOC vessels, including the visa clearance and approval processes, and security in place at Australian ports. The efficacy of immigration and border alert systems are discussed, with regards to Captain Venancio Salas of the *MV Sage Sagittarius*.

1.67 Chapter 5 will discuss the future of the Australian shipping industry. The chapter looks at some of the reviews and reforms that have recently been announced with regards to coastal shipping. The chapter will examine the government's response to the interim report, and summarise the committee's key views and recommendations.