

Dissenting Report by Government Senators Williams and Heffernan

1.1 As an island nation, shipping is a vital part of our transport network. In a land as vast as ours, surrounded by oceans and separated from major international markets, safe, efficient maritime transport networks are vital in sustaining a healthy economy. A viable shipping industry is essential to Australia's capacity to compete in global markets. With 99 per cent by weight and 79 per cent by value of Australia's international trade carried by sea, Australia must ensure that our shipping services are more open and competitive.

1.2 Australia's freight task is expected to grow by 80 per cent come 2030, but coastal shipping will only increase by 15 per cent. This is simply because it is currently not viable or competitive.

1.3 In 2006-7, we had 30 major Australian trading vessels with a General Licence, by 2013-14 the number had declined to just 15. Labor's efforts under the *Coastal Trading Act 2012* to revitalise coastal shipping has been a disaster for local businesses and the need for reform that will save the sector is very clear. Based on standard crew numbers, this represents over 1,000 Australian seafarer jobs lost in coastal shipping under Labor in the same period. However far more shore-based jobs have been lost in Australian manufacturing, which relies heavily on coastal shipping. Manufacturing accounts for approximately 85 per cent of Australia's coastal shipping task and coastal shipping represents 15-20 per cent of Australian manufacturers' total costs.

1.4 The cost of Australia domestic shipping services is uncompetitive on a global scale and the movement of manufacturing inputs and completed products on the Australian coast can be more expensive than importing inputs or finished products from other countries.

1.5 Foreign participation in the Australia domestic maritime industry is essential for the foreseeable future. The key question is one of the level of participation of foreign ships, which is currently up to 97 per cent. Labor's *Coastal Trading Act 2012* has restricted access to the Australian market and has resulted in a situation where Australian businesses frequently cannot access efficient, flexible and cost-effective shipping services suitable to meet their business needs.

1.6 The Australian fleet is not large enough to meet demand of shippers. The Australian fleet is ageing and becoming increasingly expensive to run and maintain compared to younger fleets. The average Australian flagged vessel is 23 years old where there is a preference for ships under 15 years old. Australian labour is relatively expensive compared with international counterparts in a globally competitive industry. Major reinvestment in the Australian fleet is unlikely - therefore Australian reliance on foreign shipping services is likely to grow.

1.7 The number of temporary licences granted since the provisions were introduced in 2012, has not changed significantly under either Governments. The Government oversight has complied with the *Coastal Trading Act*, which Labor

introduced, including allowing other Australian General Licence holders an opportunity to express an interest in carrying the cargo and other third parties to respond to the application. There was no Australian General Licence holder to carry the cargo and no third party responses were made within the time frames in relation to the *MV Portland*. The decision to retire the *MV Portland* a 27-year old vessel was a commercial decision made by Alcoa.

1.8 Not all foreign vessels operating under temporary licences are flags of convenience. Correlations should not be made that Australian seafarers have poor outcomes when applications are made by operators of foreign vessels for temporary licences - especially where no other Australian vessels are operating. Furthermore there exists no prohibition to Australian seafarers working on board foreign vessels.

1.9 In relation to visas, late in the inquiry, officials from the Department of Immigration and Border Protection confirmed that Australia does have a robust system to monitor foreign seafarers working in Australian waters. The Department official clarified that:

...We also have a visa system which allows us to screen individuals prior to arrival and manage their entry and exit over a longer period of time, but whether or not a visa can be revoked or cancelled depends on the level of evidence. We do encounter people in the normal course of our activities who need to have visas removed, cancelled or refused, and we do so where the weight of evidence or information is sufficient to take that kind of action...¹

1.10 When questioned by Senator Rice whether there was sufficient evidence to cancel the visa of the former master of the *MV Sage Sagittarius* in relation to his subsequent eight months of coastal trading, the Department official confirmed:

That is essentially correct. We have some allegations about handling of weapons and perhaps gun-running. We have searched vessels and not been able to identify any illegal activity in our jurisdiction, and there is a coronial inquiry underway, but that is not yet concluded. At this stage we would not have sufficient evidence to take any action.²

1.11 The Department of Infrastructure and Regional Development clarified that they had obtained a copy of the transcript of the ongoing NSW Coronial Inquiry hearing where the former master was appearing. The Department of Infrastructure and Regional Development has reported that the former master gave evidence he collected money and helped crew fill in paperwork related to the purchase and charged a commission for these services. Based on the information in the transcript, the actual firearms were not on board the vessel. It is inaccurate to suggest that there has been a lack of oversight or that Australia's security system is vulnerable. The evidence from

1 Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management, Department of Immigration and Border Protection, *Proof Committee Hansard*, 30 March 2016, p. 11.

2 Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management, Department of Immigration and Border Protection, *Proof Committee Hansard*, 30 March 2016, p. 12.

the Department of Immigration and Border Protection confirmed that Australia does have a robust system to monitor foreign seafarers working in Australian waters.

1.12 The inquiry received various submissions and heard evidence from a range of government agencies, confirming that Australian Government's approach to maritime transport security is robust, with government agencies and industry working together to ensure a layered approach to maritime security. All foreign vessels are assessed and treated according to their assessed risk profile.

1.13 The inquiry learned that the Australian Maritime Safety Authority (AMSA) is charged with implementing the minimum employment law standards, ensuring seafarers' working and living conditions are in accordance with the mandatory requirements of the Maritime Labour Convention (MLC), an international convention developed under the International Labour Organization (ILO). The MLC applies to all international vessels visiting Australian ports.

1.14 The Department of Infrastructure and Regional Development, in its submission identified that sixty-four ILO Member States representing more than 80 per cent of the world's global shipping tonnage have ratified the MLC which regulates minimum employment conditions for 1.5 million seafarers. AMSA ensures compliance with the MLC during Port State Control (PSC) inspections. There was no evidence to support the statement that the minimum wage is around \$2 per hour for foreign seafarers.

1.15 Evidence from AMSA included recognition by the Australian Council of Trade Unions of AMSA's commitment to implementation and enforcement of the Maritime Labour Convention (MLC). AMSA included an extract of the ACTU's submission to the 2014 International Labour Organization (ILO) where the ACTU and their affiliate the Maritime Union of Australia (MUA) welcomed the ratification and implementation of the MLC.

1.16 In the Department of Infrastructure and Regional Development of Infrastructure's submission, it was stated that flags of convenience has a contested meaning. Not all foreign vessels can be considered flags of convenience. The International Transport Workers Federation (ITF), identifies 34 flag States as offering a 'Flag of Convenience'. Most countries classified as Flags of Convenience by the ITF are International Maritime Organization (IMO) Member States - the head United Nations organisation for the ILO. The significance is that, as stated above, sixty-four ILO Member States representing more than 80 per cent of the world's global shipping tonnage, have ratified the MLC which regulates minimum employment conditions for 1.5 million seafarers.

1.17 From their evidence AMSA reported that in 2014, flag of convenience ships accounted for 60 per cent of inspections and that the overall deficiency rate for all PSC inspections was 2.9 but for MLC deficiencies it was only 0.44 (health and safety, accommodation, wages etc).

1.18 In regard to the rate of deficiencies, flag of convenience ships had a significant improvement between 1994 and 2004, and since 2004 flag of convenience ships have performed comparably to all foreign flag ships. This also includes in

relation to protecting the marine environment. The evidence from AMSA was that risk is more related to the age, type and history of the ships, not their flag. AMSA point out that in 2014, the average age of foreign ships visiting Australian ports was 8.4 years - less than half of the average age of the world fleet (20.2 years). This demonstrates the outcomes achieved through AMSA's PSC inspection regime and is a measure of the effectiveness of AMSA's reputation in conducting rigorous PSC inspections. AMSA reported a significant increase in the 'low risk' ships or ships with a probability of detention less than one per cent.

1.19 In relation to individual ships, 82 per cent of the foreign fleet visiting Australian ports in 2014 had a probability of detention of less than three per cent. By upholding such high standards, this is one way in which Australia is influencing improvements to and compliance with, international shipping standards in safety, labour and the environment.

1.20 We disagree with the views and recommendations of the committee. This inquiry including the report and recommendations should have focussed more on what actions Australia is taking, and could be taking, to improve the standards of international shipping in Australia. The inquiry did not include references to re-examine coastal shipping, however some evidence was received during the inquiry that touched on aspects of coastal shipping reform. These issues were not the subject of wide and/or balanced examination and therefore this inquiry should not form the basis for a significant change in government policy towards creating locally owned vessels crewed by Australians as an essential part of our national transport infrastructure.

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