

The Senate

Rural and Regional Affairs
and Transport
References Committee

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

Interim report

May 2016

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Senator Joe Bullock (to 13 April 2016)	Western Australia, ALP
Senator Alex Gallacher (from 18 April 2016)	South Australia, ALP
Senator Sue Lines	Western Australia, ALP
Senator Peter Whish-Wilson	Tasmania, AG
Senator John Williams	New South Wales, NATS

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List of recommendations

Recommendation 1

4.12 The committee recommends that the Commonwealth undertake a review of the Australian maritime sector, with a view to building on the 2012 reforms aimed at growing the Australian-flagged shipping industry in the future.

Recommendation 2

4.13 The committee recommends that this review include a comprehensive whole-of-government assessment of the potential security risks posed by flag of convenience vessels and foreign crews.

Recommendation 3

4.14 The committee recommends that this review include consideration of ways to harmonise the operations of the Australian shipping sector across jurisdictions through COAG to reduce red tape for vessel and port operators, including cargo handling provisions.

Recommendation 4

4.15 The committee recommends that this review include widespread consultation with the Australian shipping industry to ensure that its findings are relevant and directed to shared objectives for the future of the local maritime sector.

Recommendation 5

4.16 The committee recommends that the Commonwealth immediately tighten the provisions for temporary licenses in Australian maritime law, to flag of convenience vessels being used on permanent coastal freight routes if they fail to pay Australian award wages to their crew.

Recommendation 6

4.17 The committee recommends that the Commonwealth adopt a broader and more rigorous approach to the risk assessment and oversight of seafarers working in Australian waters on maritime visas, and better share this information across relevant Commonwealth and jurisdictional agencies.

Recommendation 7

4.18 The committee recommends that the Australian Government continue to work with international agencies, including the International Labour Organisation (ILO), to improve the working conditions, safety standards, and rates of remuneration for seafarers working in international shipping.

Recommendation 8

4.19 The committee recommends that the Australian government look for ways to support the Maritime Labour Convention (MLC) to make flag of convenience

shipping more accountable to international law and, when in Australian waters, to our national regulations.

Recommendation 9

4.20 The committee recommends that the Commonwealth consider ways to improve the early intervention and counselling resources available to crews on international vessels, including those operating on flag of convenience registers.

Chapter 1

Introduction and background

Referral

1.1 On 18 June 2015, the Senate moved that the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by the first sitting day of 2016 (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

Conduct of the inquiry

1.2 The committee advertised the inquiry on its website and in *The Australian* newspaper. The committee also invited some organisations to make submissions by 21 September 2015. The committee received 25 submissions, which are all available on the committee's website.² A list of these submissions can be found at Appendix 1 of this report.

1.3 The committee held public hearings in Canberra on 4 December 2015, 3 February 2015, 23 February 2016, 16 March 2016 and 30 March 2016. A list of witnesses who appeared at these hearings is at Appendix 2 of this report. Hansard transcripts of evidence from all hearings are available on the committee's website.

1.4 On 2 February 2016, the committee tabled an interim report in the Senate, seeking an extension to the final reporting date to 25 February 2016, which is

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

2 See www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport

available on the committee's website.³ On 22 February 2016 the Senate granted a further extension of the reporting date to 22 June 2016.⁴

1.5 This inquiry has raised certain issues that should be ongoing concerns for the Commonwealth, particularly regarding how FOC vessels are monitored and overseen whilst operating in Australian waters. Given this, the committee has decided to table this report as an interim report, in the hope that the work of this inquiry can continue in the new Parliament following the 2016 election.

Acknowledgements

1.6 The committee thanks all individuals and organisations that participated in the inquiry by making submissions and giving evidence at public hearings.

1.7 The committee would particularly like to recognise the attendance of crew members of the *MV Portland* who appeared at the hearing on 3 February 2016, and thank them for sharing their stories.

Background

What is Flag of Convenience Shipping?

1.8 Every ship engaged in international trade has a nation registration that determines the laws all persons and activities aboard it are subject to, regardless of where in the world the ship is operating. The term 'Flag of Convenience' (FOC) ship refers to:

...those vessels engaged in international navigation but which are not registered in the state with which the ship is most closely associated.⁵

1.9 There are several reasons why FOC registration is used, most of which have the effect of reducing operating costs, including:

- reducing the tax burden that ship owners are subject to;
- making the vessel subject to less stringent labour legislation required for crews, thereby reducing wages and the financial burden of enforcing higher working conditions and safety standards;
- minimising current exchange and investment controls that ship owners are subject to; and
- avoiding costs from meeting more stringent safety or inspection regimes for vessels.⁶

3 *Journals of the Senate, No. 135 – 2 February 2016*, p. 3662.

4 *Journals of the Senate, No. 138 - 22 February 2016*, p. 3748.

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

6 Cindy Lazenby, 'SOS: The Call Sign of the 'Ships of Shame'' in *Deakin Law Review*, Volume 4, No 1 (1998), p. 75. Note Lazenby also lists 'political reasons' for the use of FOC shipping, i.e. in order to bypass trade blockades and to avoid capture in times of conflict, although the examples she draws on to illustrate this are largely historical and so irrelevant to this inquiry.

1.10 Globally, the registration of FOC ships is clustered predominantly in a handful of countries that offer favourable incentives to shipowners, including tax concessions, nominal fee structures and less stringent safety regimes. According to the United Nations Conference on Trade and Development (UNCTAD) the largest fleets (by gross tonnage) that operate under open registers are, in descending order of size: Panama, Liberia, the Marshall Islands, Singapore, the Bahamas, Malta, Cyprus and the Isle of Man (UK).⁷

1.11 According to evidence received by the committee, between 50 and 65 per cent of global shipping is now carried out by FOC vessels.⁸

Contested terminology

1.12 The submission made by Shipping Australia Ltd argued that the term 'flag of convenience' is anachronistic and has negative connotations, which means that many stakeholders now prefer the term 'open register' shipping.⁹ The International Chamber of Shipping also noted this, stating that:

The term used by the United Nations and IMO Member States to describe those flag States which permit the registration of ships that may be beneficially owned in another country is 'open register'. However, the shipping industry, as represented by ICS, actually believes that distinctions between open registers and so-called 'traditional' maritime flags are not relevant today, particularly when making generalisations about the effective implementation of international regulations governing safety, environmental protection and employment standards.¹⁰

1.13 However, most submissions used the term FOC rather than 'open register'. Although most submissions did not provide an explanation for this use, the Australian Institute of Marine and Power Engineers stated:

The entire point of the term 'Flag of Convenience' ship is to identify that the ship is NOT carrying the flag of the nation in which it is owned: this emphasis would be lost if one were to accept the submission by Shipping Australia Ltd to instead call them 'open register' ships.¹¹

1.14 This report uses the FOC terminology, consistent with the terms of reference for the inquiry and the overwhelming majority of submissions received.

7 UNCTAD, *Review of Maritime Transport* (2014) cited in International Chamber of Shipping, *Submission 8*, p. 2.

8 Note the Maritime Engineer's Pty Ltd submitted that 50 per cent of global shipping is currently undertaken under FOCs, *Submission 5*, p. 2; compared with the International Chamber of Shipping submission that suggested 64 per cent of the world merchant fleet is now registered under the eight largest open register flag states, with a further 1 per cent operating under other open register flags, *Submission 8*, p. 2.

9 *Submission 2*, p. 3.

10 *Submission 8*, p. 2.

11 *Submission 9*, p. 4.

The decline of Australian shipping and increasing use of FOC vessels

1.15 As an island nation, shipping is central to Australia's economy and national security. Australia is currently the fourth biggest user of ships in the world, not only as part of its international trade networks, but also its coastal shipping and domestic transport infrastructure.¹² Working alongside Australian-flagged vessels, ships sailing under the flags of other nations have an integral role in servicing Australian shipping networks, and thereby our domestic economy. As the Department of Infrastructure and Regional Development stated in 2014:

Australia is heavily dependent on shipping, with 99 per cent of international trade volumes transported by ship and Australian ports managing 10 per cent of the world's sea trade.¹³

1.16 Over the past two decades, international sea freight to and from Australia has increased around 2.5 times, with Australia's ports currently handling around \$400 billion of trade a year.¹⁴

1.17 However, over the same period, the Australian-flagged shipping sector has been reducing in size.¹⁵ In part, this shift can be attributed to the increasing use of FOC shipping, which one witness suggested had 'increased by 78 per cent since 2002' in Australian waters.¹⁶

1.18 Some evidence received by the committee suggested that this trend could compromise Australia's economic interests, the health of our labour market and skills base, as well as reducing work opportunities for young Australians in the maritime sector. In particular, the committee understands that the local shipping industry already finds it difficult to be competitive, given that FOC vessels are subject to far fewer burdens than Australian ships, including being subject to lower taxes, less stringent working condition and employment standards, and more lax safety regimes.

1.19 This situation appears to be exacerbated by the exploitation of loopholes in the temporary license provisions in Australian maritime law. These issues relating to

12 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 2.

13 Department of Infrastructure and Regional Development, *Approaches to Regulating Coastal Shipping in Australia*, Options Paper (April 2014).

14 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 2.

15 Shipping Australia Limited, *Submission 2*, p. 1; Dale Cole and Associates, *Submission 3*, pp 9-10; Company of Master Mariners, *Submission 4*, p. 6; Australian Institute of Marine and Power Engineers, *Submission 9*, p. 17; Minerals Council of Australia, *Submission 15*, p. 3; International Transport Workers' Federation – Australia, *Submission 22*, p. 6. The Maritime Union of New Zealand (MUNZ) also submitted that the New Zealand coastal shipping trade had similarly declined since the 1990s, *Submission 24*, p. 4.

16 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 2.

the outlook for the Australian employment and labour market are discussed further in chapter 2 of this report.

1.20 The committee also heard that certain aspects of FOC shipping could pose challenges for our national and fuel security, as well as for the health of our environment. The challenges posed by FOC shipping to Australia's security system are discussed at greater length in chapter 3 of this report.

1.21 Additionally, evidence that drew the committee's attention to the poor conditions experienced by some seafarers on FOC vessels, and the lack of adequate support services for them in Australian ports is also discussed in chapter 3.

Recent incidents involving FOC shipping of interest to this inquiry

1.22 Some recent events relevant to FOC shipping in Australian waters have informed the issues examined by this inquiry. In particular this report includes two case studies to illustrate concerns raised by evidence to the committee, namely:

- the use of FOC vessels by Alcoa on their Kwinana (Western Australia) to Portland (Victoria) route, which has meant the loss of a substantial number of jobs for local seafarers on the *MV Portland* (discussed at chapter 2); and
- suspicious deaths aboard the FOC vessel the *MV Sage Sagittarius* in 2012, which are currently being investigated by the New South Wales Coroner (discussed in chapter 3).

The *Ships of Shame* reports (1992, 1995)

1.23 An important context for this inquiry is previous work looking into matters relevant to FOCs, particularly the reports of the House of Representatives Standing Committee on Transport, Communications and Infrastructure (HoR Committee), most notably *Ships of Shame* (1992) and *Ships of Shame – A Sequel* (1995).

1.24 Following the loss of six international bulk carriers off the West Australian coast in close succession between January 1990 and August 1991, the HoR Committee undertook an inquiry into ship safety in Australia's territorial waters.¹⁷ The initial 1992 report set out the scope of the committee's work:

This report is about a minority of ships, bad ships, ships that endanger the lives of those who serve on them. Ships that are the source of major risks to the marine environment and marine facilities of the nations they visit. Ships on which seafarers are abused and exploited by officers and management alike. Ships that well deserve to be known as 'ships of shame'.¹⁸

1.25 Regarding FOC shipping specifically, this report stated:

17 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame: inquiry into ship safety*, Parliamentary Paper No 494 (1992), p. xv.

18 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame: inquiry into ship safety*, Parliamentary Paper No 494 (1992), p. ix.

The Committee is not opposed to FOCs or second registries as a matter of principle. If FOCs and second registries conduct their operations in accordance with international convention requirements the Committee sees no reason why they should not exist. The Committee's concern is with the unsatisfactory level of compliance of some FOCs with international conventions rather than the competitive pressure they may place on traditional flags.¹⁹

1.26 The inquiry produced two further reports: a progress report in 1994; and a final report in 1995.²⁰ The final report found that there had been some positive signs regarding the safety of mariners over the three years of the inquiry, both in Australian waters and internationally, particularly:

- the introduction of Safety Management systems with their potential to transform the sea-going culture into one which is more safety conscious and efficient;
- the development of strict criteria governing the operation of Classification Societies [non-governmental organisations that establish and maintain technical standards for ships], both at International Maritime Organization and through International Association of Classification Societies which should result in a reduction in practises such as Transfer of Class; and
- the move by [the International Maritime Organization (IMO)] in the revised Standards of Training Certification and Watchkeeping Convention towards auditing, approval and public acknowledgment of administrations demonstrably compliant with the [International Convention on Standards of Training, Certification and Watchkeeping for Seafarers].²¹

1.27 However, the 1995 report also noted there were still serious abuses occurring in the global shipping sector, most significantly:

Sub-standard ships and practises still exist; crews are still being beaten, harassed, abused and deprived of basic human rights.

19 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame: inquiry into ship safety*, Parliamentary Paper No 494 (1992), p. 52.

20 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ship safety review inquiry: progress report*, Parliamentary Paper No 420 (1994); and *Ships of Shame – A Sequel: inquiry into ship safety*, Parliamentary Paper No 479 (1995). Note that the Commonwealth responded to the final report of the committee in 1995. See 'List of Committee Reports by Subject – Ship safety' at www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_committees?url=report_register/bykeylist.asp?id=1719 (accessed 19 January 2016).

21 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame – A Sequel: inquiry into ship safety*, Parliamentary Paper No 479 (1995), p. xiii.

Flag States are still avoiding their responsibilities, cargo owners still charter and operators still run sub-standard ships.²²

Progress made since the Ships of Shame report

1.28 Much of the evidence received by the committee suggested that global and Australian shipping industry standards have improved significantly since the 1992 *Ships of Shame* report. Some examples of positive developments cited were:

- the International Safety Management Code, which provides a standard for the safe management of ships and the prevention of pollution and environmental damage;²³
- improvements to the Australian maritime regulation and compliance framework, including the Port State control system administered by the Australian Maritime Safety Authority (AMSA);²⁴
- the 2006 Maritime Labour Convention improving seafarers' rights and working conditions;²⁵
- the general global improvements to the quality of ships, training for crews and the adherence of vessels to international conventions;²⁶ and
- other improvements to the treatment and working conditions of seafarers.²⁷

1.29 The Australian Maritime Safety Authority submitted that a range of other factors had improved Commonwealth monitoring of foreign vessels and the more effective targeting of inspections:

Based on this information [provided by modern communications systems], AMSA has virtually 'real-time' maritime awareness of all ships within Australian waters. This allows far greater monitoring of ship activities than ever before and this information is used to assist in the targeting of ships for inspection based on not only historical data such as inspection history but also based on recent operational activities.

National and regional co-operative arrangements have developed significantly over the last decade. These co-operative arrangements have

22 House of Representatives Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame – A Sequel: inquiry into ship safety*, Parliamentary Paper No 479 (1995), p. xiii.

23 Shipping Australia Limited, *Submission 2*, p. 7.

24 Shipping Australia Limited, *Submission 2*, p. 1; Company of Master Mariners, *Submission 4*, p. 5; Australian Maritime Safety Authority, *Submission 11*, p. 17; Maritime Industry Australia Limited, *Submission 12*, p. 7.

25 Company of Master Mariners, *Submission 4*, p. 5; International Transport Workers' Federation – Australia, *Submission 22*, p. 95.

26 Australian Maritime Safety Authority, *Submission 11*, p. 18; Maritime Industry Australia Limited, *Submission 12*, p. 8.

27 Maritime Industry Australia Limited, *Submission 12*, p. 8.

delivered substantial communication channels with other organisations and countries that bring better information to enable refined and very responsive targeting techniques. These communication channels allow Australia to pursue matters with foreign administrations when a ship is outside Australian waters.²⁸

1.30 Despite noting these improvements, the committee received evidence concerning other areas relevant to the increasing use of FOC shipping that have either not improved, or issues that have emerged since the *Ships of Shame* reports were produced, which the Commonwealth needs to consider. These issues are discussed in the following chapters of this report.

Structure of this report

1.31 This report consists of four chapters:

- This chapter sets out administrative matters relating to the inquiry, as well as the background issues relevant to FOC shipping. It also notes some general improvements to conditions in the maritime sector since the release of the *Ships of Shame* reports in 1992-1995;
- Chapter two discusses employment issues arising from the recent increasing use of FOCs. These issues include: the loss of many Australian jobs; the decline of the local shipping sector; the damage to our national skills base; and the shrinking number of future job opportunities for young Australians in the maritime sector; and
- Chapter three discusses concerns raised to the committee about potential ways that FOC shipping could pose risks to our national and fuel security, and the environment. It also discusses the poor employment conditions, low wages and other factors that foreign crews aboard FOC vessels are subject to, as well as the lack of support for them onshore in Australian ports
- Chapter 4 sets out the committee's views and recommendations.

Chapter 2

The effects of flags of convenience on the Australian maritime sector

2.1 This chapter discusses areas of concern raised by witnesses and submitters relating to the effects of the increasing use of flag of convenience (FOC) vessels and its effects on the Australian employment and labour market, namely:

- the challenges of increases in FOC shipping for the local maritime sector, particularly the competitive advantages enjoyed by FOC vessels from the lighter tax and regulatory burdens they are subject to;
- the loss of jobs for local seafarers, the loss of employment opportunities for young Australians looking for work in the maritime sector, and the risks coming from the depletion of a skills base in Australian shipping;
- the subsequent loss of Commonwealth tax revenues from the loss of Australian jobs in shipping sector; and
- the loopholes in the temporary shipping licences provisions of Australian maritime law that encourage the use of FOC ships over Australian-owned and crewed vessels.

2.2 This chapter also includes a case study of the *MV Portland*, which was a vessel owned by Alcoa to freight cargo on a regular route between Kwinana in Western Australia and the company's smelter in Portland, Victoria. Alcoa's replacement of the *MV Portland* with FOC vessels in 2015 exemplifies the devastating effect increasing use of FOC shipping has had for many local Australian jobs.

2.3 Lastly, this chapter notes the positive example of cabotage provisions provided internationally by the US *Merchant Marine Act 1920* (the 'Jones Act'), which protects and assures the integrity of the US shipping industry.

The challenge of FOCs for Australian shipping

2.4 The committee received evidence that argued FOC operators enjoy significant tax and regulatory advantages that make it very difficult for the Australian shipping sector to be competitive. This evidence suggested that this has caused a significant loss of local jobs and employment opportunities, particularly for young Australians, as well as a potential depletion of the expertise and skills base needed for a healthy and productive Australian maritime workforce in the future.

Unfair competitive advantages enjoyed by FOCs

2.5 The Maritime Union of Australia (MUA) outlined how FOC shipping has an unfair competitive advantage, due to the lighter tax and regulatory burdens it is subject to in comparison to the local sector:

The international shipping industry... is not paying its fair share of tax and has no commitment to the security, social and environmental impact it has on Australia. This creates, basically, unfair competition. How can an Australian operator operate in an Australian industry with all the regulatory and legislative requirements [applying to] any Australian industry, including taxation, when its competitor does not? Our respectful submission would be, therefore, that flag-of-convenience and international ships are given a competitive advantage...¹

2.6 The International Transport Workers' Federation - Australia (ITF Australia) agreed with this position, and provided a comprehensive account of the competitive advantages for companies using FOC vessels:

FOCs enable shipowners to minimise their operational costs by, *inter alia*, tax avoidance, transfer pricing, trade union avoidance, recruitment of non-domiciled seafarers and/or passport holders on very low wage rates, non-payment of welfare and social security contributions for their crews, using seafarers to handle cargo, and avoidance of strictly applied safety and environmental standards. As a result, FOC registers enjoy a competitive advantage over those national registers which operate with high running costs and are subject to the laws and regulations of properly established maritime administrations in the flag state.²

2.7 Mr Dean Summers, Coordinator, International Transport Workers' Federation (ITF), gave some examples of how Australian vessels also were liable for not only higher wage costs for their crews, but also the price of more stringent security standards:

...flags of convenience are deregulated. They do not pay tax, they do all the bad things and all of their standards - safety, pollution, everything else - are a minimum standard. Australians are more expensive because [they] are better quality seafarers, they are responsible, they have security. We heard yesterday each Australian ship costs a million dollars to have a security standard imposed on that ship, so there has been some move to take that away. The differences are stark.³

Job losses from the increasing use of FOC shipping

2.8 Some evidence noted that increasing use of FOCs has resulted in a significant loss of Australian jobs over recent decades.⁴ For example, the Australian Institute of Marine and Power Engineers (AIMPE) submitted that many Australian vessels had

1 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 5.

2 *Submission 22*, p. 22.

3 *Committee Hansard*, 3 February 2016, p. 13.

4 Maritime Engineers Pty Ltd, *Submission 5*, pp 2-5; Australian Institute of Marine and Power Engineers, *Submission 9*, p. 3.

been replaced by FOC vessels fulfilling the same shipping task, but employing overseas workers:

...every time we lose an Australian ship it is because it has been displaced by a tax-free 'Flag-of-Convenience' ship... employing mostly tax-free foreign seafarers. In many cases the Australian-owned ship has been withdrawn from the Australian Flag and the same ship then re-Registered under a 'Flag-of-Convenience', but the ship continues doing exactly the same Australian Domestic/Coastal trading as it had done before, but with the Australian jobs gone.⁵

2.9 The Australian Maritime Officers Union noted how maritime job losses are affecting the current workforce, as well as potential future maritime workers:

We are constantly contacted by members, and non-members, who recently gained their qualifications who cannot secure any work. They often add that the majority of those they studied with are in similar positions.

Our older members fear for their industry. They see the short term opportunism of multinational companies exploiting our natural resources or facilitating the 99% of Australia's trade volumes through shipping without providing opportunities for young Australian workers in our never ending pursuit of lower costs and greater shareholder returns as perverse.⁶

Loss of skills, lower standards and the future capacity of Australian seafaring

2.10 The committee received evidence that argued the current seafaring job losses would translate into a serious depletion of capacity in the Australian shipping sector in the near future. For example, the MUA highlighted the importance of fostering the skills base of the current maritime workforce for our future economic health:

Coastal shipping comes and goes, but it is the only area [of the local maritime industry] in which we can build our skills. All of those ships coming into and out of Port Hedland or the Great Barrier Reef need pilots. A lot of those pilots have to be master mariners. All of those people checking the regulation and the environment have to be seagoing engineers... How are we going to regulate our economy with those maritime skills if we have not got some semblance of an industry that employs Australians.⁷

2.11 Mr Zach Kinzett, a former crew member of the *MV Portland* appearing in a private capacity, told the committee that in the maritime sector there was often an intergenerational transfer of skills, which was being threatened by job losses:

In a lot of [the] industry you tend to find that sons usually follow their mother's or father's footsteps and, with that, it breeds a generation with a

5 *Submission 9*, p. 6.

6 *Submission 20*, p. 2.

7 *Committee Hansard*, 4 December 2015, p. 6.

skill base. I am the next generation coming through. If you remove the merchant fleet of Australia you are effectively wiping out generations of skilled labour. If my kids want to have the opportunity to go to sea, there might not be an industry there.⁸

2.12 The WWF outlined some of the other ways in which FOC crews could potentially reduce the standards of shipping in Australian waters:

...[a limited] knowledge of English which results in poor communications between Australian authorities and ship masters and limited understanding of the regulatory requirements for shipping in Australian waters; no access to recent electronic charts that are regularly updated; and limited, to no experience with Australian coastal conditions thus increasing the risk of navigational areas resulting in groundings or other shipping incidents.⁹

2.13 Several witnesses also noted the very high standards of Australian training for maritime workers, which is exemplified by the Integrated Rating (IR) system. Under the IR system, Australian seafarers must have 16-weeks of college training and 36-weeks of work on a vessel before becoming fully qualified as an IR. Mr Summers, from the ITF, stated to the committee that the integrity of the IR meant:

It is well recognised that the Australian seafarers are the most highly trained and best skilled in the world. Foreign seafarers on FOC get the cheapest training available...¹⁰

2.14 Regarding the training standards of Australian seafarers, the MUA submitted:

We go far beyond... the Standards of Training, Certification and Watchkeeping for Seafarers—which is the IMO standard. We are of course much higher than that because, through the marine orders, there is a higher stringency, a higher training regard. We want to do better than the minimums. We want to excel because in our view, as a nation, we want to be better than the minimum at risk mitigation against environmental catastrophe and the consequential economic flow-on effects.¹¹

2.15 The Maritime Engineers Pty Ltd argued that already poor outcomes for the shipping labour market would be exacerbated by any loosening of the visa requirements for foreign workers:

Then there is a move to simplify the visa system for foreign seafarers to work on our coast. This again is an expedient move and shows a complete lack of confidence in offering seagoing careers for young Australians...

8 *Committee Hansard*, 3 February 2016, p. 10.

9 *Submission 14*, p. 2.

10 Mr Dean Summers, National Coordinator Australia, ITF, *Committee Hansard*, 3 February 2016, p. 11.

11 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 6.

All of these moves, the removal of cabotage, and the entry of more foreign nationals into what remains of our marine workforce should be a serious concern to the broader industry...¹²

Depletion of Australian tax revenues

2.16 Some evidence received by the committee suggested FOC shipping was one way for multinational companies to reduce their tax burden in Australia.¹³ The MUA estimated that the tax-exempt status of FOCs depletes Commonwealth revenues by around \$9 billion annually:

Australian purchases of foreign shipping services create a drain of nearly \$9 billion annually on our balance of payments [as FOC vessels do not pay Australian tax]...¹⁴

2.17 Additionally, the committee heard that the loss of Australian jobs meant a reduction of Commonwealth income tax receipts and other economic benefits from workers on Australian ships losing the jobs, and the subsequent effects on communities that depended upon shipping employment.¹⁵

Loopholes in Australian temporary shipping licences

2.18 The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act) regulates coastal trade by granting licences that authorise vessels to carry passengers or cargo between ports in Australia. It has three types of licence that can be issued for interstate voyages: general, temporary and emergency.¹⁶ Regarding temporary licences, the Department of Infrastructure and Regional Development states:

A temporary licence provides access to engage in coastal trading in Australian waters—this licence is valid for 12 months and is limited to the voyages authorised by the licence.¹⁷

2.19 The Fairwork Commission states that ships engaged in coastal shipping on temporary licences must adhere to Australian employment law and conditions (including wages) in certain circumstances:

12 Maritime Engineers Pty Ltd, *Submission 5*, p. 4.

13 Australian Institute of Marine and Power Engineers, *Submission 9*, p. 3; Australian Maritime Officers Union, *Submission 20*, p. 3; International Transport Workers' Federation - Australia, *Submission 22*, p. 22.

14 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 5.

15 Mr Zach Kinzett, Private Capacity, *Committee Hansard*, 3 February 2016, p. 10.

16 Department of Infrastructure and Regional Development, 'Coastal Trading' at https://infrastructure.gov.au/maritime/business/coastal_trading/ (accessed 3 February 2016).

17 Department of Infrastructure and Regional Development, 'Coastal Trading' at https://infrastructure.gov.au/maritime/business/coastal_trading/ (accessed 3 February 2016).

The Fair Work Act applies to ships engaged in coastal trading (including foreign-flagged ships) if they:

- are operating under a general, transitional or emergency licence, or
- are operating under a temporary licence and have:
 - made at least 2 other voyages under either a temporary licence or single voyage permit in the last 12 months, or
 - held a continuous voyage permit in the previous 15 months.

(See regulation 1.15 of the Fair Work Regulations 2009.)

The Fair Work Act applies from the day that loading begins until the day that unloading ends.¹⁸

2.20 The committee heard that these provisions are being exploited by companies using FOC ships on permanent domestic routes, and that this can exacerbate the decline of Australian-flagged shipping and the loss of local jobs in the maritime sector. In particular, the committee understands that the provision for Australian wages to be paid on the third and subsequent voyages can be bypassed by shipowners by having vessels leave Australian waters after the second voyage under a temporary licence. Alternatively, since temporary licences are transferrable between vessels, this condition can be circumvented by transferring the licence to another ship undertaking the same freight task.¹⁹

Case study: the replacement of Alcoa's *MV Portland* by FOC vessels

2.21 The recent events involving the *MV Portland* illustrate many of the themes relating to employment and FOC shipping that are drawn out in this chapter so far.

2.22 The *MV Portland* was a ship built and owned by Alcoa, which routinely carried alumina from the company's Kwinana plant, in Western Australia, to its smelters in Portland, Victoria, over 27 years.²⁰ The crew of the *MV Portland* were Australians, as required by the Act's provisions for regular voyages undertaken on set domestic routes.²¹

2.23 In October 2015 the Commonwealth granted Alcoa a temporary licence allowing them to engage FOC vessels manned by foreign crews on the Kwinana-

18 Fairwork Commission, 'Maritime industry – workplace rights and entitlements' at www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/maritime-industry-workplace-rights-and-entitlements (accessed 22 February 2016).

19 Mr Ian Bray, Assistant National Secretary, MUA, *Committee Hansard*, 3 February 2016, p. 14.

20 Mr Dean Summers, National Coordinator Australia, ITF, *Committee Hansard*, 3 February 2016, p. 2.

21 Maritime Union of Australia, *MV Portland* pamphlet (February 2016), p. 4.

Portland route.²² Subsequently, Alcoa notified the crew of the *MV Portland* that they would no longer be required from 11 January 2016.²³

2.24 Some evidence received by the committee suggested that in awarding this temporary license, the Commonwealth had ignored both the requirements of Australian maritime law and its usual procedure. Mr Bray, MUA, told the committee that, since 'The law says that if there is an Australian vessel available to carry a domestic cargo, the Australian vessel is given the right to carry that cargo', he thought it was notable that:

...firstly, Alcoa in this particular case were the shipowner. They had complete control over the asset. They could have determined that that vessel run for another 12 months, two years or five years, depending on the cost of the dry dock. They were in complete control and they engineered the removal of the vessel to apply for the temporary licence....

Secondly, I have held meetings with various shipowners and operators around the country to ask whether they actually expressed an interest in an ongoing contract with Alcoa... [and found] There are a number of companies that did apply and, in particular, one that did not put one business tender in but put three business tenders in [unsuccessfully].²⁴

2.25 The ship's crew staged industrial action protesting the loss of almost 40 jobs and the use of FOC vessels to replace the permanent Kwinana-Portland run. The basis for this action was explained to the committee by Mr Kinzett:

We have been fighting Alcoa because they sacked nearly 40 Australian seafarers and removed the national-flagged ship from service without an adequate explanation and contrary to the recent decision by the Australian parliament. The company is also the long-term recipient of a subsidy from the Victorian state government that runs into tens of millions of dollars a year. It may even be \$100 million, but no-one knows, as those numbers are not made public. The work has not dried up. Alcoa intends to continue the trade in foreign-flagged ships with foreign crews, and it is supported by the Turnbull government, which wants to open up the Australian coast to cheap, nasty, risky shipping.²⁵

2.26 Following a 60-day dispute, at 1am on 13 January 2016, five members of the crew undertaking industrial action on board the vessel were forcibly removed from the ship by 30 security guards working for a private firm.²⁶ Following this, a number of

22 Maritime Union of Australia, *MV Portland* pamphlet (February 2016), p. 4.

23 Mr Ian Bray, Assistant National Secretary, MUA, *Committee Hansard*, 3 February 2016, p. 6.

24 *Committee Hansard*, 3 February 2016, p. 7.

25 *Committee Hansard*, 3 February 2016, pp 9-10.

26 Mr Zach Kinzett, Private Capacity and Mr Ian Bray, Assistant National Secretary, MUA, *Committee Hansard*, 3 February 2016, pp 9 and 24 respectively.

foreign seafarers were taken on board to crew the *MV Portland* on its voyage to Singapore, where it was later sold.²⁷

2.27 Importantly, the committee received evidence that showed that Alcoa still required ships to operate a regular voyage freighting alumina between Kwinana and Portland, but that this was now being done using FOC vessels and exploiting a loophole in Australian maritime law. Ships that have taken over Alcoa's Kwinana-Portland route have been the *Strategic Alliance*, a Singaporean-flagged ship owned by a US-based company, as well as the *Greenery Sea* and the *Asia Spirit*, which are both FOC vessels operated by foreign crews.²⁸

2.28 Mr Bray, MUA, commented on the use of these ships on a regular freight route that should be subject to the provisions of Australian maritime law:

The fact was that the jobs were not drying up; the trade was not drying up. The smelter is not closing. They still need ships. They just made a decision that they were going to use the very flag-of-convenience ships [that have just been] described to continue that trade and push our members out of work. We have currently got the cabotage rules in place and we know that the legislation was challenged last year in the lower house and then it came to the Senate and was defeated. Those cabotage provisions are there while those laws exist. The fact is that they are now being ignored.²⁹

2.29 Mr Ian Bray, Assistant National Secretary, MUA, estimated the switch to FOC vessels would save Alcoa \$6 million annually.³⁰ However, Mr Kinzett commented this cost saving also came with a significant drop in the quality of the ships undertaking the Kwinana-Portland run:

The *MV Portland* has been carrying alumina from Alcoa's Kwinana plant to its smelter in Portland for more than 27 years. This domestic trade will continue. So far all of the replacement ships used by Alcoa have been substandard for differing reasons...³¹

2.30 More specifically, the committee heard about serious concerns that the ITF and MUA had about the serious underpayment of seafarers on the ships that had replaced the *MV Portland*.³² Mr Kinzett explained that the workers who had replaced the *MV Portland* crew were paid very low wages, and thereby saved Alcoa money:

We are angry about the conduct of the United States-based miner Alcoa and the Turnbull government, which allowed the company to use a 12-month

27 Mr Zach Kinzett, Private Capacity and Mr Ian Bray, Assistant National Secretary, MUA, *Committee Hansard*, 3 February 2016, pp 9 and 24 respectively.

28 *Committee Hansard*, 3 February 2016, p. 2.

29 *Committee Hansard*, 3 February 2016, p. 6.

30 *Committee Hansard*, 3 February 2016, p. 8.

31 *Committee Hansard*, 3 February 2016, p.9.

32 Mr Dean Summers, Coordinator, ITF, *Committee Hansard*, 3 February 2016, p. 2.

temporary licence to bring in foreign vessels and foreign crews for as little as \$2 an hour.³³

2.31 Further to this, Mr Summers, ITF, told the committee that some serious irregularities and potentially corrupt practices had come to light in the ITF's examination of the financial affairs onboard the *Strategic Alliance*:

On this ship they had an accounting structure whereby the captain would pay-off government officials of at least three countries: law enforcement agencies, port officials and immigration officials. He would send those receipts back to the company in the United States and they would send back the money that he used to bribe officials. It is open bribery and it is not even challenged by the company. They said it was a mistake by one captain. Since then, we have got rid of that captain and the practice has not occurred again but it was very, very clearly an open accounting practice.³⁴

2.32 Mr Ian Bray, MUA, noted that international crews had far less training than the *MV Portland* crew. He noted this was not solely the case for seafarers on FOC vessels operating the Kwinana-Portland route, but also the foreign crew brought in to work on the *MV Portland* following the eviction of the Australian crew on 13 January 2016, and other ships:

...it is not only about the three vessels that have replaced the *Portland* and carry cargoes, and it is not only about the vessel that is replacing the *CSL Melbourne*; it is about the crew that came in in the middle of night and replaced the Australian crew on the *MV Portland*... We know that those seafarers could not have had the qualifications that were required to meet the Minimum Safe Manning Certificate on that vessel. The Minimum Safe Manning Certificate on that vessel stated quite clearly that this vessel cannot proceed to sea with fewer than five integrated ratings. We know that nowhere else in the world, other than New Zealand, issues Integrated Rating Certificates, so how did they get this qualification or this recognition?³⁵

2.33 The *MV Portland* case also illustrates the effects of FOC shipping on the contribution of Australian crews to Commonwealth tax receipts and the financial wellbeing of their local communities. Mr Kinzett, Private Capacity, told the committee that:

Ultimately, [the former crew members of the *MV Portland*] are just Australian workers in an Australian industry... We have families and mortgages, we pay tax and we contribute to local businesses....We have been replaced by exploited foreign crew and the flag of convenience ships

33 *Committee Hansard*, 3 February 2016, p. 9.

34 *Committee Hansard*, 3 February 2016, pp 2-3.

35 *Committee Hansard*, 3 February 2016, p. 2.

owned by companies that pay no tax and operate out of places such as Liberia, Mongolia and Panama.³⁶

2.34 The MUA mounted a challenge to Alcoa's actions in the *MV Portland* case through the Fair Work Commission and the Federal Court system, which were unsuccessful.³⁷

The need for more stringent cabotage provisions in Australia

2.35 Some witnesses and submissions highlighted that other nations protect their domestic shipping more thoroughly than Australia. For example, the MUA argued:

Countries that do need shipping - like the Philippines, Japan, China, the US, Australia, Indonesia, Brazil and South America - protect their domestic shipping because it is an intrinsic part of their domestic transport infrastructure. It is not a revolutionary concept; it is a process of governance and understanding... With the enormous needs and the enormous coastline and the diversity of the Australian economy, it is completely counterintuitive to remove shipping from the domestic infrastructure pattern.³⁸

2.36 The AIMPE agreed with this position:

Most other countries pass laws so that a ship may only regularly trade in that country's coastal/domestic shipping industry if the ship is Registered under that nation's flag, which makes those ships, seafarers and companies all subject to that nation's laws....including tax laws.

Australia's willingness to Permit foreign/ 'Flag of Convenience' ships to regularly trade in Australia's coastal/domestic shipping industry without requiring the ship to Register in Australia and thereby submit to Australian sovereignty is highly unusual. Amongst major shipping nations and [Organisation for Economic Co-operation and Development (OECD)] nations Australia already has a more wide-open policy than any country other than New Zealand.³⁹

2.37 The ITF Australia commented that this was particularly important for the freight of dangerous coastal cargoes such as alumina and ammonium nitrate.⁴⁰ This issue is discussed further in the following chapter of this report.

36 Mr Zach Kinzett, Private Capacity, *Committee Hansard*, 3 February 2016, p. 10.

37 Maritime Union of Australia, *MV Portland* pamphlet (February 2016), p. 4.

38 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 4.

39 *Submission 9*, p. 4.

40 Mr Dean Summers, Coordinator, ITF, *Committee Hansard*, 4 December 2015, p. 24.

Cabotage provisions provided by the US 'Jones Act'

2.38 The committee was interested in cabotage provisions under the US *Merchant Marine Act 1920* (the 'Jones Act'), as it was cited in evidence as an example of a healthy and sustainable domestic shipping industry. This was due to the protection it offers US domestic shipping, as well as the way it strengthens the US national security system and economic interests.

2.39 Rear Admiral Robert Riley, US Navy (Retired) explained the scope of the Jones Act, particularly the protection it offers US ship operators:

...the Jones Act is cabotage. It applies in the maritime arena and it can apply in aviation and the like. It simply states that if you are going to operate a vessel, in the case of the maritime community that operates from a US port to a US port—and that can be a port up a river, a port in Alaska, a port in Puerto Rico or a port up or down our coast—that vessel will be built in the United States, crewed by US licenced and unlicenced mariners whose course curriculums have been approved by our Coast Guard who works with our school houses and it is to be owned, at least 75 per cent, by a US company.⁴¹

2.40 Rear Admiral Reilly went on to explain that approved US-owned merchant ships could be used by the government to respond to national disasters or national crises under the Jones Act:

For the Department of Defense, having our merchant maritime community, which we call the fourth arm of defence, is absolutely critical for us to respond in terms of national crises and disaster. We have called upon them time and time again. This is a capability and being that we do not need to be totally on the US government payroll. This is where we have a mixture of best business practices that include maintaining military-useful cargo ships in a reserve capacity parked at piers, in case we need them, with a reduced operating crew. It includes agreements with 60 of our only 88 Jones Act flagged US vessels, so that if we need to recall them for active service, for whatever means, we can do that.⁴²

2.41 Rear Admiral Riley commented that the Jones Act assisted the US to maintain the core competencies and expertise of its maritime workforce:

One of the reasons we support the Jones act is that by having these 175 ships maintained in the US shipyards from Hawaii to Mobile, Alabama we retain the core competencies—the welders and electricians. That is the most dangerous working environment that you can imagine and that is another area that is regulated. The same applies when you get into things like nuclear submarines.⁴³

41 *Committee Hansard*, 4 December 2015, p. 13.

42 *Committee Hansard*, 4 December 2015, p.12.

43 *Committee Hansard*, 4 December 2015, p. 15.

2.42 Also discussed was the serious security and economic risks the US would face without the protections offered by the Jones Act:

Repeal of [the Jones Act], which would allow foreign-built, foreign-operated, foreign-manned, and foreign-owned vessels to operate on American waters, would effectively transfer a core American defense industry, i.e., shipbuilding, overseas to other nations which heavily subsidize their shipyards and play by their own set of rules.

...Without the Jones Act, the U.S. Coast Guard and other government entities would face the daunting task of monitoring, regulating, and overseeing potentially tens of thousands of foreign-controlled, foreign-crewed vessels in internal U.S. commerce. As a result, America would be more vulnerable and less secure.⁴⁴

2.43 The ITF commented that the Jones Act recognised the maritime sector's essential role in US national security, whereas Australia's shipping system does not:

The Jones Act essentially says that the fourth arm of defence, the merchant seafarers - and in Australia we are dumping our seafarers and replacing them with other seafarers from international markets under FOC ships - are of a value, not just a monetary value but a value in national security. We know who they are and what they are doing at all times. It is same in Australia: they are going to know what we are doing because we are going to be sitting on the unemployment lines while other seafarers are taking our jobs.⁴⁵

2.44 The following chapter of this report discusses the implications of the increase in FOC shipping for Australia's national and fuel security systems, and the state of our environment. Furthermore, the following chapter also discusses some issues relating to seafarers aboard FOC ships, including: their low wages; poor employment and working conditions; the less stringent training and safety regimes they are subject to; and the lack of shore-based assistance for them in Australia.

44 Written statement made by Rear Admiral Robert Riley (Retired) for the committee, cited by Senator Joe Bullock in *Committee Hansard*, 4 December 2015, p. 14.

45 Mr Dean Summers, Coordinator, ITF, *Committee Hansard*, 4 December 2015, p. 21.

Chapter 3

National and fuel security, the environment and working conditions on flag of convenience vessels

3.1 The committee received evidence that raised a number of other concerns that this chapter will discuss in turn. Most seriously, some witnesses and submitters argued that the increased use of FOC shipping in Australian waters could create risks for Australia's national and fuel security, as well as to the health of the environment.

3.2 Additionally, evidence was also received about poor employment conditions aboard FOC ships, compounded by deficiencies in on-shore services for foreign workers working on FOC vessels in Australian waters. This matter is significant not only from a concern for the welfare of foreign workers, but also because of the potential for corruption and coercion, as well as how it affects safety aboard FOCs. These factors could have repercussions for the integrity of Australia's national security system, as well as its environmental health.

3.3 This chapter also briefly considers the case study of the *MV Sage Sagittarius*, which highlights some of the concerns the committee has with the way FOC vessels are overseen by the Commonwealth while they are active in Australian waters.

3.4 Lastly, this chapter also considers what mechanisms the Commonwealth has in place to oversee FOCs in Australian waters, having regard to national security, environmental and safety standards.

National security

3.5 The committee received evidence that argued the current arrangements for overseeing FOC shipping could create significant risks for our national security. Most significantly, the Department of Immigration and Border Control submitted that increased use of FOC vessels creates vulnerabilities in several ways, including masking the ownership of vessels operating in Australian waters:

Reduced transparency or secrecy surrounding complex financial and ownership arrangements are factors that can make FOC ships more attractive for use in illegal activity, including by organised crime or terrorist groups.

This means that FOC ships may be used in a range of illegal activities, including illegal exploitation of natural resources, illegal activity in protected areas, people smuggling, and facilitating prohibited imports or exports...¹

1 *Submission 21*, p. 4.

3.6 The International Transport Workers' Federation - Australia (ITF Australia) commended the Department of Immigration and Border Security's submission, and emphasised the potential security risks of FOC ships where the ownership could not be easily determined:

But, most importantly and most urgently, [our submission] goes to the impact that it has on national security and the vulnerabilities that the flag-of-convenience system provides for crime syndicates and for terrorist organisations. This is not us being a little bit excited about it... [rather] it goes to the border protection submission, where they state very clearly that the vulnerabilities created inside the flag-of-convenience system are of concern to our national security.... [W]hat we are doing with the demise of the Australian shipping is opening up our borders to seafarers, to owners and to possible criminal elements—described by the department of border security as having free entree not only into our ports but also through our ports and into our society.²

3.7 On the lack of oversight of FOC crews, several witnesses told the committee that Australian mariners were subject to world's 'best practice' background and criminal record checks, whereas many overseas workers on FOC vessels were not subject to criminal or background checks at all.³ The MUA argued this was particularly concerning as there were increasing numbers of FOC vessels carrying dangerous materials, such as ammonium nitrate, between Australian ports:

The people that are replacing us do not have [sufficient] scrutiny. Many of them come from areas of precarious governance, such as the Philippines, Ukraine, Russia and many others, and it is just not possible to apply the same stringent, onerous criminal and security background checks to those seafarers, who are effectively working fulltime...⁴

3.8 The ITF Australia shared this concern, pointing to potential risks in the increasing number of overseas workers employed the local oil and gas industry:

While every part of Australia's transport logistic chain has been strengthened and regulated in the wake of a heightened counter-terrorism environment, the opposite is true for coastal shipping. All Australian national maritime workers accept the most stringent and onerous criminal and security background checks, while the international workers that shipowners use to replace domestic crews need only apply online for a low grade visa. This in itself should sound alarm bells in our security and crime agencies, particularly in the multi-billion dollar domestic oil and gas industry, but has developed into a political lever at the expense of security.⁵

2 Mr Dean Summers, Coordinator, ITF, *Committee Hansard*, 4 December 2015, p. 21.

3 Mr Paddy Crumlin, National Secretary, MUA, *Committee Hansard*, 4 December 2015, p. 6; Mr Dean Summers, Coordinator, ITF, *Committee Hansard*, 4 December 2015, p. 21.

4 *Committee Hansard*, 4 December 2015, p. 2.

5 *Submission 22*, p. 6.

3.9 The ITF Australia drew out some of these themes at the hearing, suggesting that Australian workers were well positioned to take over sensitive roles in domestic freight shipping:

One of the most important things, though... is: if we are going to have coastal cargoes—if we have alumina from west to east or ammonium nitrate all around to the mining companies — let's do those on Australian ships. That is not a huge amount of shipping. We have professional people trained up and ready to go, and we have something else the rest of the world does not have, and that is an appetite among young people to go into this industry.⁶

3.10 Moreover, some witnesses and submitters highlighted the potential security risks posed by seafarers aboard FOC vessels being able to enter Australia without sufficient background checks or security risk assessments.⁷ For instance, Mr Paddy Crumlin, National Secretary, Maritime Union of Australia,, suggested that:

They [can] walk out the gate with an international seafarer's identification card or a passport that tells you the minimum facts. They walk out the gate and are in the community. Some of them do not come back—that is the reality, of course. They integrate themselves into the local economy... It is more difficult in the United States for seafarers to leave their vessels - and that is an issue of seafarers' rights, too; do not get me wrong. But, in Australia, when you walk through that gate there is no reason you have to come back unless you have been herded or rounded up by the Federal Police. So they walk out the gate; that is the reality.⁸

Fuel security

3.11 The committee received evidence that around 91 per cent of our national bulk fuel requirement is imported, which means Australia's fuel supply relies upon foreign ships, including those on FOC registers.⁹

3.12 Some witnesses considered that FOC shipping does not pose a significant risk to Australia's fuel security.¹⁰ For instance, ICS submitted:

Foreign ships have a positive impact on fuel security since Australia is dependent on foreign ships for the transportation of imports of crude oil and

6 Mr Dean Summers, ITF Australia, *Committee Hansard*, 4 December 2015, p. 24.

7 For example, see Australian Institute of Marine and Power Engineers, *Submission 9*, pp 10-11; International Transport Workers' Federation – Australia, *Submission 22*, pp 6, 25, 27.

8 *Committee Hansard*, 4 December 2015, p. 4.

9 Dale Cole and Associates, *Submission 3*, p. 4.

10 Shipping Australia Limited, *Submission 2*, p. 10; Company of Master Mariners, *Submission 4*, p. 2; International Chamber of Shipping, *Submission 8*, p. 4

petrochemical products, as well as the export of Australian LNG to overseas markets.¹¹

3.13 However, some witnesses raised concerns in this matter. For instance, the Australian Institute of Marine and Power Engineers (AIMPE) noted that 'Australia has failed to maintain in tanks ashore the internationally recommended liquid fuel reserves of 90 days' supply'.¹² AIMPE submitted that soon no Australian seafarers will be employed on oil tankers, which will mean:

Australia's fuel security will then be entirely dependent on 'Flag-of-Convenience' tankers with foreign crews under the sovereignty of another nation and so not amenable to Australia's laws as to SECURITY assessments by ASIO and AFP, nor Australia's other laws on TAX, Safety, OH&S, legal-rights, Immigration and so on.

This leaves Australia's economy exposed to potential disruption of imported liquid fuels not just in time of war but also at any time by Islamic Jihadists.¹³

3.14 ITF Australia submitted to the committee that there should be a level of 'Australian connection or content' in the transportation of dangerous cargoes, including refined petroleum products.¹⁴ This recommendation was based on the much safer record of Australian ships carrying fuel over recent years, which they outlined:

Not only are there much higher numbers of detentions of international tankers carrying domestic petroleum cargos than their Australian crewed and managed equivalents, an average of 12 tankers per year carrying international imports to Australia have been detained by AMSA.¹⁵

3.15 The committee notes the concerns about Australia's fuel security expressed in its 2015 inquiry into Australia's Transport Energy Resilience and Sustainability, which recommended that:

...the Australian Government undertake a comprehensive whole-of-government risk assessment of Australia's fuel supply, availability and vulnerability. The assessment should consider the vulnerabilities in Australia's fuel supply to possible disruptions resulting from military actions, acts of terrorism, natural disasters, industrial accidents and financial and other structural dislocation. Any other external or domestic circumstance that could interfere with Australia's fuel supply should also be considered.¹⁶

11 *Submission 8*, p. 4.

12 Australian Institute of Marine and Power Engineers, *Submission 9*, p. 14.

13 Australian Institute of Marine and Power Engineers, *Submission 9*, p. 14.

14 International Transport Workers' Federation - Australia, *Submission 22*, p. 22.

15 International Transport Workers' Federation - Australia, *Submission 22*, p. 40.

16 Senate Regional and Rural Affairs, and Transport Committee, *Report of the Inquiry into Australia's Transport Energy Resilience and Sustainability* (2015), p. ix.

Environmental concerns

3.16 Some witnesses suggested that foreign ships do not pose a more significant risk to the environment than locally owned and operated vessels.¹⁷ For instance, Shipping Australia Limited (SAL) submitted:

From an environmental perspective, SAL accepts that the percentage of open register ships trading to Australia is far greater than locally registered ships, but disagrees with uninformed perceptions that such vessels are hence a risk to our environment. As mentioned above foreign flagged vessels are generally newer and better maintained.¹⁸

3.17 However, the committee received other evidence that outlined the potential risks that increased use of FOCs could have for Australia's natural environment and biosecurity.¹⁹ Most significantly, the Department of Immigration and Border Protection provided evidence that some FOC jurisdictions have much lower environmental and safety standards than Australia:

Some flag states require adherence to minimum required standards of shipboard practice instead of best practice. These flag states may also have poor governance and compliance regimes and fail to adhere to international maritime conventions and standards. [These factors] can contribute to a decreased or limited crew capability and diminish a ship's general seaworthiness [and] contribute to a heightened risk to the environment or other shipping, potentially leading to a compromise to biosecurity, for example through poor ballast water management or by causing marine pollution.²⁰

3.18 Rightship Pty Ltd pointed out that the standards governing environmental compliance are matters of international law, rather than what flag a vessel operates under.²¹ However, it also noted that, of the vessels detained by AMSA on environmental grounds between January 2014 and August 2015, the majority (58 per cent) sailed under FOCs.²²

3.19 ITF Australia also highlighted the more lax environmental standards of some FOC jurisdictions. It argued that the recent increase of international ships operating in Australian waters made pollution of our environment more likely, including by:

17 Shipping Australia Limited, *Submission 2*, p. 4; Company of Master Mariners, *Submission 4*, p. 2; International Chamber of Shipping, *Submission 8*, p. 4; AMSA, *Submission 11*, p. 2.

18 Shipping Australia Limited, *Submission 2*, p. 6.

19 Maritime Engineers Pty Ltd, *Submission 5*, p. 3; ITF Australia, *Submission 22*, p. 49; ITF, *Submission 24*, p. 6.

20 *Submission 21*, p. 4.

21 Under the International Convention for the Prevention of Pollution from Ships (MARPOL), see *Submission 17*, p. 6.

22 *Submission 17*, p. 6.

...the release of biocides from toxic chemicals used in anti-fouling paints of all ships, dumping of wastes including oily wastes, and the transfer of invasive alien species through ballast water. Increasing ship traffic also increases the risk of maritime accidents including oil spills.²³

3.20 The Australian Council of Mission to Seafarers outlined the broader effects of environmental accidents, as well as noting the potential cost to the Commonwealth for clean-up operations:

Health, safety and environmental risks are often linked as a single risk event in the maritime space, such as a vessel grounding. For example a ship running aground not only has physical damage to ship and to the reef but also pollution of the sea and coastline, the safety of ship and crew and those who go to assist, cost of clean-up operations, cost due to loss or delay of ship cargo on Australian industry and commerce and the emotional impacts on coastal communities, for example.²⁴

3.21 The Maritime Union of New Zealand commented that the cost of repairing environmental damage caused by foreign vessels, as well as the difficulties of recouping costs from their owners, should be 'taken into account when the 'cost savings' of FOC shipping are touted'.²⁵

3.22 Several submissions and witnesses reminded the committee of the environmental and financial cost of the *Shen Neng* running aground in Queensland on 3 April 2010, an accident caused by crew fatigue. This evidence highlighted the irreparable environmental damage this caused the Great Barrier Reef, as well as the clean-up costs of \$192 million funded by the Commonwealth.²⁶

Working conditions and standards for overseas workers

3.23 The committee also received evidence suggesting the increase in FOC shipping also raised some human and workplace rights issues for workers aboard FOC vessels, including the following matters, which will be discussed in turn:

- potential for exploitation and corruption, including minimal pay rates, poor safety conditions, and the bullying and abuse of crews;
- the lack of shore-based welfare; and
- safety issues.

23 *Submission 22*, p. 49.

24 Australian Council of Mission to Seafarers, *Submission 16*, p. 7.

25 *Submission 24*, p. 6.

26 Australian Council of Mission to Seafarers, *Submission 16*, p. 7; ITF Australia, *Submission 22*, pp 11, 68;

Exploitation of crews and bullying

3.24 The Australian Council of Mission to Seafarers told the committee that it was a minority of 'rogue ship owners' who exploited their crews:

The majority of flag state and FOC shipping companies do not abuse and exploit crews. They operate to high standards and treat their crews with respect and provide good living and working conditions.²⁷

3.25 However, witnesses and submissions did emphasise that workers on FOC vessels often face workplace bullying which is compounded by precarious and dangerous safety.²⁸

3.26 Mr Paddy Crumlin, MUA, told the committee that the seafaring trade was not particularly good at supporting its workers, who were often subject to poor conditions:

It is not an industry that is very good at that. It is a short-term industry that employs people from places like the Philippines and India. It churns those workers and, as indicated by the terrible situation on the Sage Sagittarius, this is a workforce under tremendous duress.²⁹

3.27 Mr Crumlin cited evidence from a Newcastle-based organisation that offers support services for workers in the maritime sector:

It has done 1,000 counselling services to seafarers in and out of Australian ports and reports a high degree of mental stress, depression, bullying and harassment because effectively again there is no regulation and overview and nowhere for the seafarers to go so we are forced to give whatever charitable support we can on the basis of charitable donations from elsewhere.³⁰

3.28 Mr Dean Summers, Coordinator, International Transport Workers' Federation (ITF), commented that some seafarers on FOC vessels could be very vulnerable to threats made against their families:

Seafarers are vulnerable, their families are vulnerable. The Burmese are the best example. If Burmese seafarers complain, their families get a knock on the door in the middle of the night under the military junta - hopefully, that is changing. So, it is extraordinarily different. And that is a deregulated system being imported into Australia through the shipping industry - being welcomed, being red carpeted, to come onto our coast.³¹

27 *Submission 16*, p. 3.

28 See Mr Dean Summers, Coordinator, ITF Australia, *Committee Hansard*, 4 December 2015, p. 19.

29 *Committee Hansard*, 3 February 2016, p. 3.

30 *Committee Hansard*, 3 February 2016, p. 3.

31 *Committee Hansard*, 3 February 2016, p. 13.

Low rates of pay and non-payment of wages

3.29 The ITF Australia outlined that wages aboard FOC vessels could be incredibly low and that there was no enforceable minimum wage:

It is important to understand that while the Maritime Labour Convention goes a long way to upholding human rights on board ships there is no mention of minimum wages. The ITF has a "recommended Minimum" but there is no mechanism to enforce or even to encourage bad operators to pay this rate. The best [that some seafarers] can hope for is a basic rate of about \$16 USD per day (Able Seaman, used as a benchmark).³²

3.30 The committee was told that seafarers were often not paid their full wages, even at these very low recommended rates of pay:

...last year the ITF, our worldwide inspectorate, around the world recovered US\$60 million in wages stolen off seafarers. Seafarers do not get paid very much to start with, but they had all these seafarers employment agreements and ITF agreements that say they will pay these seafarers. Through a very complex and dedicated workforce of inspectors - around 130 inspectors around the world, focusing just on policing flag-of-convenience ships - we got US\$60 million back.³³

3.31 Mr Summers, ITF, commented that there were other ways that foreign workers often had their wages reduced:

Seafarers work up to 12 months at a time without any break, but that is quite often - very often - exploited out to 15, 16, 18 months. Seafarers get paid low. If a seafarer gets paid his full whack, his full wages, he is a very, very lucky seafarer, because there is a chain of people ready to take their skim off the top of that along the way - the manning agents and what have you - and we have got documented evidence of that.³⁴

3.32 The ITF Australia noted that poor workplace protections available to many FOC crew members meant they were often reluctant to provide evidence to AMSA's investigations or safety inspections:

...the employment relationships on FOC and international ships provide a strong disincentive for crew to come forward as witnesses or to provide information to AMSA. International crew must be prepared to make immense personal sacrifices to cooperate with AMSA and Commonwealth prosecutions as doing so may pose a risk not only to their future employment, but even to the safety of themselves and their family.³⁵

32 *Submission 22*, p. 80.

33 Mr Dean Summers, ITF, *Committee Hansard*, 3 February 2016, p. 18.

34 *Committee Hansard*, 3 February 2016, p. 13.

35 *Submission 22*, p. 51.

Minimal training, and low safety and workplace standards

3.33 The implications of differing training and safety standards across jurisdictions were drawn out by some evidence received by the committee. For example, the MUA highlighted that some jurisdictions only have:

...very minimal training [for seafarers]. They do not have the same risk mitigation. They do not have the same approach that we have in this country, because we are a developed country...We have a more highly regulated approach to safety, higher community standards and higher community expectations than they have in [other jurisdictions]... Those standards in shipping could not happen under Australian regulation but do happen on those ships because we do not regulate them.³⁶

3.34 The effects of fatigue were raised by a number of witnesses and submitters who commented on the damage caused in 2010 when the ship *Shen Neng* ran aground off the Queensland coast.³⁷ One witness noted:

...the chief mate of the *Shen Neng* [which caused \$194 million damage to the Great Barrier Reef] had slept for only 2.5 hours over the previous 39 hours [before the accident] due to the demands of the vessel.³⁸

3.35 The committee also heard that Australia has much better provisions for managing fatigue than many other jurisdictions:

On FOC and international ships workers are allowed to work up to...90 hours per week in exceptional circumstances, which speaks for itself. Australian fatigue standards say that anything over 50 hours per week is problematic. Australian seafarers have a rostered system. We do work longer hours and that is compensated by a fly-in fly-out approach so that rest can be taken and you can meet the continuous nature of seafaring life whilst still having sufficient rest to be able to recuperate.³⁹

Shore-based welfare and legal assistance for overseas workers

3.36 Some concerns were raised that there was insufficient welfare and support available to seafarers on foreign ships in Australian waters, including legal assistance. For example, the Australian Council of Mission to Seafarers submitted that the lack of recurrent funding for seafarer welfare organisations meant:

36 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 5.

37 See Mr Mick Kinley, Chief Executive Officer, Australian Maritime Safety Authority, *Committee Hansard*, 4 December 2015, p. 38; Australian Council of Mission to Seafarers, *Submission 16*, p. 2; ITF Australia, *Submission 22*, p. 61.

38 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 2.

39 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 2.

Since the presentation of the 1992 report on *Ships of Shame* we contend that in general very little has changed or been improved in the provision of suitable shore based facilities for the provision of welfare services for seafarers in Australia. These services apply mostly to foreign national seafarers who make up the majority of ships' crews worldwide on flag state and FOC shipping.⁴⁰

3.37 Moreover, the ITF Australia suggested that precarious employment conditions aboard FOC ships often meant seafarers were reluctant to seek help from other organisations that could assist them:

Seafarers are typically recruited by a crewing agency for a single voyage contract for 9 months... to one year... Seafarers are effectively unemployed between voyages and then must seek a new contract in order to return to work. A bad report from a captain can make finding another contract difficult as agencies may communicate with each other. It is reported that a blacklist is circulated in the Philippines of seafarers who engage in union activity or call the ITF. The result is that 'seafarers of all ranks report that they fear for their jobs'.⁴¹

3.38 The ITF Australia noted that there are very few organisations currently providing shore-based assistance, and most of these are operating with unsustainable losses.⁴² Given this, the ITF Australia stated they were looking at ways to fund on-shore support for FOC crews, including through Commonwealth funding or industry levies:

But in the FOC system, the FOC ships do not pay their way when it comes to seafarers' welfare. Their seafarers need to get ashore and they need to have access off the ship—they need to have this...

[Additionally] I think there should be a study [into recurrent funding from the Commonwealth for shore-based welfare]. And we are talking through the Maritime Labour Convention with AMSA about the possibility of levies [on businesses and industry]...⁴³

3.39 The submission made by the ITF Australia also noted that, quite apart from it being available, overseas seafarers find it difficult to access legal assistance in Australia for several reasons, including: inability to access appropriate shore leave to seek assistance; language barriers, the difficulties associated with not having a fixed address in Australia; the logistical difficulties of attending medical assessments and court dates in Australia; and the complexities of the Australian legal system.⁴⁴

40 *Submission 16*, p. 3.

41 *Submission 22*, p. 51.

42 *Submission 22*, p. 107.

43 Mr Dean Summers, Coordinator, ITF Australia, *Committee Hansard*, 4 December 2015, p. 26.

44 *Submission 22*, pp 105-106.

3.40 Further to this, the Company of Master Mariners noted the difficulties faced by overseas workers looking for legal assistance in Australia, particularly due to the differing provisions between states and territories, and argued these differing frameworks should be harmonised.⁴⁵

Case study: the *MV Sage Sagittarius*

3.41 Some of the concerns about the increasing use of FOC shipping in Australian waters discussed in this chapter can be illustrated by events aboard the *MV Sage Sagittarius* in 2012. As these matters are currently subject to coronial inquiry, this report will limit itself to highlighting how:

- seafarers aboard FOC vessels can be exposed to cultures of exploitation, bullying and corruption, and find it difficult to access onshore support services in Australia; and
- individuals aboard FOC vessels can easily escape detection and tracking by Australian agencies, particularly individuals who may be engaging in illegal or dangerous activities.

Background

3.42 The *MV Sage Sagittarius* operates under a FOC. Although it is owned by a Japanese company, it operates under the flag of Panama and its crew is predominantly drawn from the Philippines.⁴⁶ In 2012 the vessel was engaged in shipping coal between Australian and Japan.⁴⁷ Over six weeks in 2012 two crew members, the chief cook Mr Cesar Llanto and the chief engineer Mr Hector Collado, died under suspicious circumstances.⁴⁸

3.43 Following this, after the ship had returned to Japan, Superintendent Kosaku Monji was found dead aboard the ship while he was investigating the first two deaths. The Japanese Transport Safety Bureau examined the circumstances of Mr Monji's death, and found it was the result of an accident. However, it should be noted the

45 *Submission 4, p. 4.*

46 Mario Christodoulou, Alison McClymont and Linton Besser, 'Sage Sagittarius: Letters reveal bullying and gun smuggling on vessel dubbed ship of death', *ABC online*, 1 June 2015 at www.abc.net.au/news/2015-06-01/letters-reveal-bullying-gun-smuggling-on-ship-of-death/6510516 (accessed 1 December 2015).

47 Mario Christodoulou, Alison McClymont and Linton Besser, 'Sage Sagittarius: Letters reveal bullying and gun smuggling on vessel dubbed ship of death', *ABC online*, 1 June 2015 at www.abc.net.au/news/2015-06-01/letters-reveal-bullying-gun-smuggling-on-ship-of-death/6510516 (accessed 1 December 2015).

48 'Sage Sagittarius: Senate Inquiry to examine flags of convenience shipping after suspicious deaths', *ABC Online*, 18 June 2015 at www.abc.net.au/news/2015-06-18/senate-inquiry-to-examine-flag-of-convenience-shipping/6557214 (accessed 1 December 2015).

Japanese investigators were not aware of the two earlier fatalities while they were looking into Mr Monji's death.⁴⁹

3.44 It has been alleged that the captain of the ship, Mr Venancio Salas Jr, was a perpetrator of bullying, had been violent towards some crew members, and operated a business selling handguns to crew members.⁵⁰

A culture of bullying and intimidation, and difficulties in accessing onshore support

3.45 There have been allegations that a culture of bullying was rife among crew members, with little support available to victims both aboard the vessel and ashore.

3.46 Mr Dean Summers, ITF, described a culture of bullying aboard the ship, as well as outlining how the efforts of a crew member to seek onshore support had potentially led to the first death aboard the *MV Sage Sagittarius*:

The events on that vessel are now a matter of fact through a coronial inquest. The first fatality on board that vessel was a man overboard, and we now know from the inquest that that man was the chief cook who had told the captain a few days before that if he did not stop harassing, bullying and hitting the messmen he would go to Dean Summers of the ITF in his next port in Newcastle, only days away. That evening, the chief cook went missing over the side and was reported man overboard. His body was never recovered...

...[Following the decision for the AFP to investigate this death] ...On [the ship's] way through the heads of Newcastle, the chief engineer was coshed on the back of the head and fell some 12 metres in the engine room to his death. This also is a matter of fact through the inquiry. It is still ongoing, but those facts have already been established.⁵¹

3.47 Mr Paddy Crumlin, MUA, drew out the implications of the case further. Importantly, as well as bullying and the reluctance of crews to seek onshore support, he also highlighted the Commonwealth's lack of oversight of individuals aboard FOC vessels:

If you look at the *Sage Sagittarius*, there was all sorts of criminality involved there. Maybe those people wanted a better deal for their labour and that is the reason that some of these things happened to them. People go missing at sea all the time. The Australian Federal Police would not even have investigated the *Sage Sagittarius* if it were not for the ITF consistently drawing it to their attention... We could have murder, mayhem, bullying

49 'Sage Sagittarius: Senate Inquiry to examine flags of convenience shipping after suspicious deaths', *ABC Online*, 18 June 2015 at www.abc.net.au/news/2015-06-18/senate-inquiry-to-examine-flag-of-convenience-shipping/6557214 (accessed 1 December 2015).

50 'Sage Sagittarius: Senate Inquiry to examine flags of convenience shipping after suspicious deaths', *ABC Online*, 18 June 2015 at www.abc.net.au/news/2015-06-18/senate-inquiry-to-examine-flag-of-convenience-shipping/6557214 (accessed 1 December 2015).

51 Mr Dean Summers, Coordinator, ITF Australia, *Committee Hansard*, 4 December 2015, p. 19.

and sexual assault [aboard FOC vessels] - and we do have it - in our ports every day and we would know nothing about it because there is no screening, filtering or overview.⁵²

The lack of oversight on FOC vessels and crews in Australian waters

3.48 The committee received evidence about the *MV Sage Sagittarius* illustrating that Commonwealth and state government agencies have insufficient oversight of FOC vessels and crews operating in Australian waters. The committee was particularly interested in the potential for insufficient oversight of individuals who may be engaged in suspicious or illegal activity.

3.49 The committee received evidence showing that the captain of the *MV Sage Sagittarius* continued to be employed on FOC vessels working in Australian waters following the events of September 2012. This is despite his admission that he operated a business selling handguns to his crew in his evidence to the NSW Coronial inquest.⁵³

3.50 Mr Summers, ITF, outlined this situation to the committee, commenting that at the time of the deaths aboard the ship in late-2012, the Captain and two of his crew were on a 'watch list' for the Department of Immigration and Border Protection:

As we went through the inquiry, layers and layers of all the ills of the FOC system were exposed. The master on board that ship, who we know was very close to the Filipino military, rocketed from deck boy to captain in a very few years, had a little sideline of selling semiautomatic handguns. Everybody on that ship had to buy a semiautomatic handgun because that was the captain's side business. The captain and two of his cohorts were on a watch list by Australian Immigration and Border Protection, at the time Immigration, with a tick against their name. We only found out this information through the coronial inquest and we still cannot find out what a watch list means.⁵⁴

3.51 Mr Benjamin Evans, Assistant Secretary, Strategy Branch, Department of Immigration and Border Protection, provided evidence around what a 'watch list' is:

A watch list is a list of foreign nationals about whom we might have a concern. I say 'might have a concern' rather than 'definitely have a concern'. It could be that a person has come to attention for being involved in the use in the past of a fraudulent passport. It could be that we believe they might have a criminal record. It could be that they have previously come to the attention of a law enforcement partner overseas... The purpose of the watch list is to allow us to make a decision as to whether we will issue a person a

52 *Committee Hansard*, 4 December 2015, p. 7.

53 Claire Aird, 'Sage Sagittarius inquest: Captain sold guns on board coal ship where three died, court hears', ABC Online, 29 May 2015 at www.abc.net.au/news/2015-05-29/inquest-seafarers-death-captain-instructed-complaint-destroyed/6506390 (accessed 15 April 2016).

54 *Committee Hansard*, 4 December 2015, p. 20.

visa in the first place. It may be that, for the reasons a person is on a watch list, we will say that we might issue a visa anyway, but we are aware of that person.⁵⁵

3.52 The committee understands that Mr Salas and the two relevant crew members were working in Australia on maritime crew visas at the time of the deaths aboard the *MV Sage Sagittarius*, and that Mr Salas was given a subsequent visa to work on the *MV Kyrpos Sea* working between Gladstone and Weipa during 2015 and early 2016.⁵⁶ Despite Mr Salas holding this visa, as well being listed on a Commonwealth agency's 'watch list', it appears to the committee that, at crucial times, his presence in Australian waters was not picked up, processed or shared appropriately by Commonwealth and state agencies.

3.53 The committee reached this conclusion in part through the evidence of Mr Owen Jacques, Online News Editor and Investigative Journalist, Australian Regional Media, who told the committee that, while covering the story in early-2016, he had determined Mr Salas was working on an FOC vessel in Australian waters using publically available websites and personal contacts in the maritime sector.⁵⁷ Mr Jacques was surprised to find there was not more awareness that Mr Salas was working in Australian waters, in spite of the fact he was a person of interest in the NSW Coronial Inquest:

In February this year, I published a report that the former captain of the *Sage Sagittarius* had returned to Australian waters, and that happened to coincide with a coronial inquest occurring in New South Wales... [While attending a hearing of the inquest in Sydney, during a morning break in proceedings] I approached the counsel assisting and simply said that I had published this information and asked: was he aware that Captain Venancio Salas was back in Australian waters? He indicated to me that he was not aware of that, and he said that they would look into it. That was essentially the extent of the conversation I had with the counsel assisting, but I learned later that the captain had been—I am not sure whether it was that afternoon or the following day that he caught up with him—subpoenaed and then brought down to face the inquest.⁵⁸

3.54 As mentioned above, these events are currently being investigated by the NSW Coroner. The committee will remain interested in following the findings of this investigation.

55 *Committee Hansard*, 4 December 2015, p. 28.

56 *Committee Hansard*, 16 March 2016, pp 1, 3-4.

57 See Mr Owen Jacques, *Committee Hansard*, 16 March 2016, pp 2-3.

58 *Committee Hansard*, 16 March 2016, p. 1.

Oversight of FOCs by the Australian government

3.55 The committee received evidence from several Commonwealth agencies about their oversight of FOC vessels, having regard to national security and the safety and environmental standards of vessels.

National security matters

3.56 Dr Benjamin Evans, Department of Immigration and Border Protection, told the committee that his department's concern was limited to illegal activities, rather than concerns over crew welfare or conditions:

The reason we are concerned about the way in which flag states behave is because of the way in which our powers are separated. Once a vessel is in an Australian port we have the power to board it, to search it, to question the crew and to look at their passports, because it is in an Australian port. If a ship is on the high seas and we have suspicion it is engaged in an illegal activity, such as unregulated fishing, to board that ship to determine whether it has engaged in an unregulated activity, we need the permission of the flag state to do that. That is under the international law of the sea.

So the arrangement is that we, the department, through Maritime Border Command, have to make contact with the flag state and seek permission to board the ship. If the flag state is uncooperative or unresponsive a lot of the times it is not possible for us to board the ship at sea to determine whether there have been any activities of concern going on. So our concern around flag states, because of the remit of the department and our interests, goes less to matters of safety and payment of crew. All of those things are important, but the government has decided that other departments deal with that.⁵⁹

3.57 Regarding the identity of FOC seafarers, Dr Evans told the committee that the Commonwealth's ability to oversee their identity and conduct risk assessments was robust:

My view is that the maritime crew visa is as robust as the rest of our visa system. Our entire visa system does rely on information that is provided by the applicant for the visa. However, some of the information that that applicant provides they do not control—for example, a passport. You do not get to choose the information that is on your passport; governments issue passports. But, as I have said a couple of times—and I believe it is an important point, so if you would indulge me to repeat myself—we use other sources of information; we do not rely solely on what the applicant tells us. There are watch lists that relate to documents as opposed to people. Around the world, law enforcement and border agencies put the details of fraudulent documents into a system that is internationally available or into systems that we share with each other so that, when we get an application,

59 *Committee Hansard*, 4 December 2015, p. 28.

we can check the document and the details of the person against external sources.⁶⁰

The Department of Infrastructure and Regional Development

3.58 Ms Sachi Wimmer, Executive Director, Office of Transport Security (OTS), Department of Infrastructure and Regional Development, described the concerns and responsibilities of the OTS:

Because our legislation deals with the physical security, we do not assess, for instance, each individual crew member. That is very much for Border Force to do. They deal with issues like that on board. Our regime is preventative security. It is about ship security zones. It is about whether people can have an MSIC or an ASIC. It really does not deal with the issues that they have raised there.⁶¹

3.59 More specifically, Ms Wimmer told the committee:

The thing that we are concerned about is: are they actually implementing the ship security plan that they should have? Their flag state requires them to have it and the international ship security certificate requires them to have a security plan, which is an international requirement. That is as far as our interest goes. We are also, because of our legislation's purpose, very focused on security; criminality is not part of our remit.⁶²

3.60 Ms Wimmer also outlined how the Department of Immigration and Border Security shares relevant information with the OTS:

The way it works is that [the Department of Immigration and Border Protection] collect information on vessels arriving in Australian ports, or anticipated to arrive in Australian ports. Ninety-six hours before a vessel arrives in an Australian port, information needs to be collected and it is collected by the ABF. That includes things like the international ship security certificate, they have to list their last 10 ports of call and they need to outline any additional security measures that they had implemented at those last 10 ports of call. That is collected by the Australian Border Force, and in fact you can see their forms on their internet site. They pass some of that information to us, as they are required to help us assess how we respond, if we need to respond at all, which is very rarely.⁶³

The Australian Maritime Safety Authority

3.61 The Australian Maritime Safety Authority (AMSA) is responsible for 'Ensuring safe vessel operations, combatting marine pollution, and rescuing people in

60 *Committee Hansard*, 4 December 2015, p. 35.

61 *Committee Hansard*, 23 February 2016, p. 21.

62 *Committee Hansard*, 23 February 2016, p. 20.

63 *Committee Hansard*, 23 February 2016, p. 20.

distress' in Australian waters.⁶⁴ The submission made by SAL argued that AMSA is effective in overseeing FOC ships working in Australian waters:

The Australian Port State control system, administered and applied by the Australian Maritime Safety Authority is effective in enforcing ship safety and crew welfare provisions of international conventions. It provides an effective safeguard to detect deter and if necessary detain or banish non-compliant ships from Australian waters, irrespective of flag.⁶⁵

3.62 Other evidence received by the committee suggested that there is no way for the Commonwealth to ensure that FOC vessels meet the same safety standards as Australian-owned ships. For example, AIMPE submitted that AMSA can only exercise its powers:

...whilst the [FOC] ship is actually within the bounds of an Australian port, and AMSA's powers are the much more narrow/limited 'Port-State' Inspection powers [rather than more stringent powers for inspection of Australian vessels]. Consequently whilst many people think that AMSA inspects Australian ships and [FOC] ships to the same standard this is incorrect: AMSA does NOT have the legal jurisdiction to examine and test a [FOC] ship with the same powers that AMSA can examine and test an Australian ship.⁶⁶

3.63 Regarding the monitoring of fatigue aboard FOC ships, AMSA conceded that the current system was clumsy and that more work was needed by international organisations to address it:

On the issue of fatigue with shipping, we are actually leading a lot of work at the International Maritime Organization's Sub-Committee on Human Element, Training and Watchkeeping with having the IMO guidelines revised and having them put into more of a fatigue risk-management basis.

At the moment, we have a very crude fatigue management. It is just about hours of work or hours of rest. Fatigue is far more complex than that, so we are pushing that work.⁶⁷

3.64 The MUA noted that it was difficult for AMSA to inspect cargo handling gear, because relevant laws differed across Australian jurisdictions:

A lot of ports that these ships go to have not got their own cargo-handling gear. So they will go into Western Australia and it will come under the Western Australian code, and then they will go to South Australia and it will come under the South Australian code. They go to Melbourne and around the coast, and all of them have different [inspection regimes]... It is a danger to not only those seafarers but also, particularly, the Australian

64 AMSA, *Annual Report 2014-15*, p. ii.

65 *Submission 2*, p. 1.

66 *Submission 9*, p. 11.

67 Mr Michael Kinley, CEO, AMSA, *Committee Hansard*, 4 December 2015, p. 46.

stevedoring workers using those ships, as I said, registered in Liberia. They have to go up there and make sure that they are fit for purpose and safe and that they do not kill themselves or someone else in them. Yet for each of those state regulators there is the plethora of regulation, and no-one seems to care.⁶⁸

3.65 The following chapter outlines the committee's views and recommendations.

68 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 8.

Chapter 4

Committee view and recommendations

4.1 As an island nation, shipping is central to Australia's economic health and the maintenance of a robust national security system. The committee considers that a healthy domestic shipping sector, of locally-owned vessels crewed by Australians, should be an essential part of our national transport infrastructure.

4.2 The committee recognises that ships sailing under the flags of other nations will inevitably play a significant role in Australia's economy, particularly in respect of international trade. However, compelling evidence presented to the inquiry suggested there are evolving challenges to the Australian maritime sector from the increasing use of flag of convenience (FOC) shipping.

4.3 In particular, it is clear that our domestic maritime sector is finding it increasingly difficult to compete with shipping operations that pay very little tax – both in Australia and elsewhere, have fewer regulatory and compliance burdens, and that are able to pay their seafarers far below Australian wages, sometimes less than \$2-an-hour.

4.4 This should be of great concern to the Commonwealth. Any further decline in the local maritime sector will create a substantial loss of jobs for Australian workers, and will deplete capacity and skills in our future maritime sector. It could also threaten the safety of this nation, not only by creating vulnerabilities in our national and fuel security systems, but also by threatening the health of our marine environment.

4.5 This inquiry highlighted two case studies that illustrate how the increasing use of FOC vessels in Australian waters is profoundly affecting the local shipping industry.

4.6 The committee received compelling evidence about sacking of the Australian crew of Alcoa's *MV Portland* vessel in early 2016, and their replacement by foreign workers. These local seafarers, who pay Australian taxes, and support their families and local communities, were replaced by lesser-skilled workers being paid less than \$2-an-hour on FOC vessels. The Kwinana to Portland route serviced by the *MV Portland* is a permanent run for Alcoa, yet it is now being undertaken by FOC ships on temporary licenses. This is evidence of the poor outcomes of FOCs for Australian workers, as well as the insufficient oversight of the temporary license provisions for FOC vessels by the Australian Commonwealth.

4.7 Secondly, evidence received by the committee regarding the *MV Sage Sagittarius* showed insufficient Commonwealth oversight of workers on maritime visas working on FOC vessels. The committee was very concerned about the apparent lack of monitoring of foreign seafarers working in Australian waters, and the repeated entry of a person who had admitted to underhand behaviour, including bullying, coercion and gun running. This lack of oversight could indicate certain vulnerabilities in Australia's security system that are ripe for exploitation by individuals working on FOC vessels in the future.

4.8 Moreover, the cases of both the *MV Portland* and the *MV Sage Sagittarius* demonstrated that, despite progress in the international shipping sector since the *Ships of Shame* reports in the early 1990s, there are still many improvements in seafarer's conditions yet to be made.

4.9 Given these examples and other evidence received, the committee considers that the Commonwealth should give more serious consideration to the centrality of Australian shipping to the health of our national economy and security systems, as well as to our environment, by undertaking a full review of our maritime sector.

4.10 In this review, it should apply an evidence-based, rather than ideological approach to assessing the wisdom of allowing the total destruction of the Australian shipping sector. The committee calls on the Commonwealth to comprehensively consider ways that it can work to strengthen the local maritime sector. In particular, the Commonwealth should look at legislating to encourage the use of Australian-flagged ships crewed by Australian workers for our coastal trade, building on the 2012 reforms that look to revitalise the local shipping industry.

4.11 The committee considers that this inquiry has raised significant concerns around FOC shipping for the Commonwealth, which warrant continued investigation in the future. For this reason, it has decided to table this report as an interim report, hoping that this committee will be able to take up some unresolved aspects of this inquiry in the next session of Parliament.

Recommendation 1

4.12 The committee recommends that the Commonwealth undertake a review of the Australian maritime sector, with a view to building on the 2012 reforms aimed at growing the Australian-flagged shipping industry in the future.

Recommendation 2

4.13 The committee recommends that this review include a comprehensive whole-of-government assessment of the potential security risks posed by flag of convenience vessels and foreign crews.

Recommendation 3

4.14 The committee recommends that this review include consideration of ways to harmonise the operations of the Australian shipping sector across jurisdictions through COAG to reduce red tape for vessel and port operators, including cargo handling provisions.

Recommendation 4

4.15 The committee recommends that this review include widespread consultation with the Australian shipping industry to ensure that its findings are relevant and directed to shared objectives for the future of the local maritime sector.

Recommendation 5

4.16 The committee recommends that the Commonwealth immediately tighten the provisions for temporary licenses in Australian maritime law, to flag of

convenience vessels being used on permanent coastal freight routes if they fail to pay Australian award wages to their crew.

Recommendation 6

4.17 The committee recommends that the Commonwealth adopt a broader and more rigorous approach to the risk assessment and oversight of seafarers working in Australian waters on maritime visas, and better share this information across relevant Commonwealth and jurisdictional agencies.

Recommendation 7

4.18 The committee recommends that the Australian Government continue to work with international agencies, including the International Labour Organisation (ILO), to improve the working conditions, safety standards, and rates of remuneration for seafarers working in international shipping.

Recommendation 8

4.19 The committee recommends that the Australian government look for ways to support the Maritime Labour Convention (MLC) to make flag of convenience shipping more accountable to international law and, when in Australian waters, to our national regulations.

Recommendation 9

4.20 The committee recommends that the Commonwealth consider ways to improve the early intervention and counselling resources available to crews on international vessels, including those operating on flag of convenience registers.

Senator Glenn Sterle

Chair

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.

Senator the Hon Bill Heffernan
Deputy Chair

Senator John Williams
Senator for New South Wales

Australian Greens Additional Comments

1.1 The report is an excellent summary of the risks that Flags of Convenience (FOC) shipping poses to national security, fuel security, minimum employment law standards and our marine environment. The Greens support all the recommendations of the Chair's report.

1.2 It is pertinent that the majority (58 per cent) of the vessels detained by the Australian Maritime Safety Authority (AMSA) on environmental grounds between January 2014 and August 2015 sailed under FOCs. We fully endorse the position taken by the Maritime Union of Australia of the importance of a highly skilled and well trained maritime workforce, noting that Australian seafarers:

...go far beyond... the Standards of Training, Certification and Watchkeeping for Seafarers—which is the IMO standard... We want to do better than the minimums... because in our view, as a nation, we want to be better than the minimum at risk mitigation against environmental catastrophe and the consequential economic flow-on effects.¹

1.3 This is in contrast to many FOC ships where the flag states may have poor governance and compliance regimes and fail to adhere to international maritime conventions and standards. These factors can compromise biosecurity, for example through poor ballast water management or by causing marine pollution.

1.4 We support the contention of the International Transport Workers Federation - Australia that the recent increase of international ships operating in Australian waters makes pollution of our environment more likely, including by:

...the release of biocides from toxic chemicals used in anti-fouling paints of all ships, dumping of wastes including oily wastes, and the transfer of invasive alien species through ballast water. Increasing ship traffic also increases the risk of maritime accidents including oil spills.²

1.5 We also endorse the views of the Australian Council of Mission to Seafarers and the Maritime Union of New Zealand, who outlined the broader effects of environmental accidents, as well as noting the potential cost to the Commonwealth for clean-up operations.³ This includes physical damage to reefs; pollution of the sea and coastline; the safety of ship and crew and those who go to assist; the emotional impacts on coastal communities; the cost of clean-up operations, costs due to loss or delay of ship cargo on Australian industry and commerce; and the difficulties of recouping these costs from their owners.

1 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 4 December 2015, p. 6.

2 International Transport Workers' Federation – Australia, *Submission 22*, p. 49.

3 Australian Council of Mission to Seafarers Inc., *Submission 16*; Maritime Union of New Zealand, *Submission 24*.

1.6 These risks were exemplified in the environmental and financial cost of the *Shen Neng* running aground in Queensland on 3 April 2010, an accident caused by crew fatigue. This grounding caused irreparable damage to the Great Barrier Reef, and clean-up costs of \$192 million which were funded by the Commonwealth.

Recommendation 1

1.7 That the review of the Australian maritime sector specifically include a review of risks to the marine environment of flags of convenience shipping and specifically include consideration of how shipping can be more responsive to Australian environmental laws

Senator Janet Rice

Australian Greens Senator for Victoria

Appendix 1

Submissions received

Submission Number	Submitter
1	New Zealand Ministry of Transport
2	Shipping Australia Limited
3	Dale Cole and Associates Pty Ltd
4	Company of Master Mariners
5	Maritime Engineers Pty Ltd
6	Navy League of Australia
7	Department of Infrastructure and Regional Development
8	International Chamber of Shipping
9	Australian Institute of Marine and Power Engineers
10	Merchant Navy Association
11	Australian Maritime Safety Authority
12	Maritime Industry Australia Limited
13	AI Group
14	WWF Australia
15	Minerals Council of Australia
16	Australian Council of Mission to Seafarers Inc.
17	RightShip Pty Ltd
18	Captain Richard Howe
19	Maritime Union of Australia
20	Australian Maritime Officers Union
21	Department of Immigration and Border Protection
22	International Transport Workers' Federation - Australia
23	Apostleship of the Sea
24	Maritime Union of New Zealand
25	International Transport Workers' Federation

Additional information received

- Received on 18 January 2016, from the Department of Immigration and Border Protection. Answers to Questions taken on Notice on 4 December 2015;
- Received on 27 January 2016, from the Department of Infrastructure and Regional Development. Answers to Questions taken on Notice on 4 December 2015;
- Received on 18 February 2016, from the *MV Portland* crew. Additional information, *MV Portland* booklet;
- Received on 18 February 2016, from the Office of Transport Security, Department of Infrastructure and Regional Development. Additional information, correspondence regarding the security status of the *MV Portland*;
- Received on 9 March 2016, from the Australian Maritime Safety Authority. Answers to Questions taken on Notice on 23 February 2016;
- Received on 24 March 2016, from the Department of Infrastructure and Regional Development. Answers to Questions taken on Notice on 16 March 2016;
- Received on 29 March 2016, from the Australian Maritime Safety Authority. Answers to Questions taken on Notice on 23 February 2016;
- Received on 29 March 2016, from the Department of Immigration and Border Protection. Answers to Questions taken on Notice on 16 March 2016.

Tabled documents

- Tabled by the Maritime Union of Australia on 3 February 2016 in Canberra. 'Alcoa World Alumina Agrees to Plead Guilty to Foreign Bribery and Pay \$223 Million in Fines and Forfeiture';
- Tabled by the *MV Portland* crew on 3 February 2016 in Canberra. Articles published in the Portland Observer;
- Tabled by the Australian Maritime Safety Authority on 23 February 2016 in Canberra. Government of India certificate of competency as rating forming part of engine-room watch;
- Tabled by the Australian Maritime Safety Authority on 23 February 2016 in Canberra. Australia Minimum Safe Manning Document.

Appendix 2

Public hearings and witnesses

Friday, 4 December 2015, Canberra, ACT

- CRUMLIN, Mr Pdraig, National Secretary, Maritime Union of Australia
- EVANS, Dr Benjamin, Assistant Secretary, Strategy Branch, Department of Immigration and Border Protection
- KINLEY, Mr Mick, Chief Executive Officer, Australian Maritime Safety Authority
- REILLY Jr, Rear Admiral Robert Dunham (Retired), US Navy; Consultant, International Transport Workers' Federation Australia
- STUART, Ms Therese, Acting General Manager, Maritime Identity and Surface Security Branch, Office of Transport Security, Department of Infrastructure and Regional Development
- SUMMERS, Mr Dean, Coordinator, International Transport Workers' Federation
- SUTTON, Mr Michael, Acting Executive Director, Surface Transport Policy Division, Department of Infrastructure and Regional Development
- ZIELKE, Ms Judith, Executive Director, Surface Transport Policy Division, Department of Infrastructure and Regional Development

Wednesday, 3 February 2016, Canberra, ACT

- BRAY, Mr Ian, Assistant National Secretary, Maritime Union of Australia
- CONAGHAN, Mr Liam, Private capacity
- EATON, Mr Dale, Private capacity
- HOPKINS, Mr Warren, Private capacity
- KINZETT, Mr Zachariah, Private capacity
- KOLPIN, Mr Brett, Private capacity
- PAWSON, Mr Michael Francis, Private capacity
- SUMMERS, Mr Dean, National Coordinator Australia, International Transport Workers' Federation

Tuesday, 23 February 2016, Canberra, ACT

- FARMER, Mr Richard, General Manager, Maritime, Identity and Surface Security Branch, Office of Transport Security, Department of Infrastructure and Regional Development
- KINLEY, Mr Mick, Chief Executive Officer, Australian Maritime Safety Authority
- PROSSER, Mr Gary, Deputy Chief Executive Officer, Australian Maritime Safety Authority

- SCHWARTZ, Mr Allan, General Manager, Ship Safety, Australian Maritime Safety Authority
- WIMMER, Ms Sachi, Executive Director, Office of Transport Security, Department of Infrastructure and Regional Development

Wednesday, 16 March 2016, Canberra, ACT

- ALEXANDER, Mr Stephen, Deputy Commander, Maritime Border Command, Australian Border Force, Department of Immigration and Border Protection
- ANDERSON, Ms Jody, Branch Manager, Participation and International Branch, Workplace Relations Policy Group, Department of Employment
- CHANDLER, Mr Andrew, Assistant Secretary, Trade and Customs, Department of Immigration and Border Protection
- GIBBON, Mr John, Assistant Secretary, Traveller, Department of Immigration and Border Protection
- JACQUES, Mr Owen Gregory, Online News Editor and Investigative Journalist, Australian Regional Media
- MEYER, Mr Adam, Acting First Assistant Secretary, Intelligence Division, Department of Immigration and Border Protection
- MOREHEAD, Dr Alison, Group Manager, Workplace Relations Policy Group, Department of Employment
- PRICE, Mr Terry, Regional Commander Queensland, Strategic Border Command, Australian Border Force, Department of Immigration and Border Protection
- WERNER, Ms Stephanie, General Manager Maritime and Shipping Branch, Department of Infrastructure and Regional Development
- WILLIAMS, Mr Jim, First Assistant Secretary, Visa and Citizenship Management, Department of Immigration and Border Protection
- ZIELKE, Ms Judith, Deputy Secretary, Department of Infrastructure and Regional Development

Wednesday, 30 March 2016, Canberra, ACT

- FARMER, Mr Richard, General Manager, Maritime, Identity and Surface Security, Office of Transport Security, Department of Infrastructure and Regional Development
- KINLEY, Mr Mick, Chief Executive Officer, Australian Maritime Safety Authority
- MEYER, Mr Adam, Assistant Secretary, Intelligence Production (People) Branch, Department of Immigration and Border Protection
- PRICE, Mr Terry, Regional Commander, Queensland, Department of Immigration and Border Protection
- WERNER, Ms Stephanie Johanna, General Manager, Maritime and Shipping Branch, Department of Infrastructure and Regional Development
- WILLIAMS, Mr Jim, First Assistant Secretary, Visa and Citizenship Management, Department of Immigration and Border Protection

- WIMMER, Ms Sachi, Executive Director, Office of Transport Security, Department of Infrastructure and Regional Development
- ZIELKE, Ms Judith, Deputy Secretary, Department of Infrastructure and Regional Development

