

Senate Rural and Regional Affairs and Transport References Committee
Inquiry into So-Called Flag of Convenience Shipping in Australia
Questions taken on Notice by the Department of Immigration and Border Protection at the 13 June 2017 Public Hearing

QoN No	Subject	Question	Date/Page or Written	Comments
FOCS/022	Inquiry into Flag of Convenience Shipping - Input from other agencies regarding attractiveness of FOC registers	<p>CHAIR: In the ABF submission to the inquiry you identified serious concerns around the attractiveness—for want of a better word—of the FOC registers to terrorist groups and organised crime syndicates. Has there been any response from other intelligence or crime agencies on these revelations, Mr Wilden? Or anyone?</p> <p>Mr Wilden: We might take that on notice. I do not recall any, but we will take it on notice and come back to you if any other intelligence organisations have responded.</p> <p>CHAIR: You do not recall, Mr Williams?</p> <p>Mr Williams: No, I do not.</p>	13 June 2017, Page 3	Answered in Documents tabled 21 June 2017: Opening address
FOCS/023	Inquiry into Flag of Convenience Shipping - Risk Profiles and Assessment processes	<p>CHAIR: This is the one thing that I really latch onto here, being from the trucking industry; I cannot differentiate rules here. Our inquiry has heard that all fuel and other dangerous coastal cargoes—like one million tonnes of ammonia nitrate—are now carried by foreign ships. The overwhelming majority of them are FOCs. Has the Australian Border Force done anything to mitigate the vulnerabilities you have identified on ships carrying these particularly high-consequence and dangerous cargoes?</p> <p>Mr Wilden: I will make one statement and then see if my ABF colleagues want to add to it. At the last estimates hearing, there was a range of questions asked of similar substance with regard to asbestos. The commissioner, at that time, went into some detail to discuss how we have established risk profiles and assessment processes to determine the level of treatment for any ship and any cargo entering Australian waters, which goes to where it is from, its flags, its history and whether the manifest of the goods coming in is of what they contain et cetera. There is a well-established process of identifying upstream what is coming in and then a well-established process to determine the level of inspection or clearance required. I might see if my ABF colleagues will assist.</p> <p>CHAIR: Could provide that intelligence or those guidelines to the committee?</p> <p>Mr Wilden: We can provide, on notice, a bit more detail on how we do those assessments.</p> <p>CHAIR: That would be good.</p>	13 June 2017, Page 3	Answered in Documents tabled 21 June 2017: Opening address

FOCS/024	Inquiry into Flag of Convenience Shipping - Notification of interests of agency	<p>Senator O'SULLIVAN: My memory may abandon me here, but at an earlier stage we had evidence that you had been notified of the coroner's interest in wanting to subpoena that individual when he returned to this country. So you had notice that someone wanted him for the purpose of a subpoena to attend a coronial hearing. Firstly, let's just deal with that. Is that consistent with your advice?</p> <p>Mr Price: The moment we were made aware, we actually served the subpoena and facilitated that but, prior to that, I have no information that suggested we were aware that he was required or may be required to attend the coronial.</p> <p>Senator O'SULLIVAN: If that version is to be accepted, the notice to the court came from a reporter, not from the department?</p> <p>Mr Price: That is right.</p> <p>Senator O'SULLIVAN: So a reporter advises the court—are you saying that at that point the court activated a request to you to serve a subpoena on the individual?</p> <p>Mr Price: That is exactly right.</p> <p>Senator O'SULLIVAN: You consulted your records and found out where the individual concerned was. The timing of that notification from the court, if indeed it was the court that notified you—or my memory is not elaborate enough to recall whether it was an agency or the court that notified you—but that is at the heart of this. My memory, and you can clear up this infirm aspect of my memory, was that a request had been made to you—not contemporary with the court learning of where he was—and that a subpoena existed in your possession, or at least a request to notify an authority on his arrival was in your possession, and I am talking about prior to the reporter, Owen Jacques, notifying the court on the basis of his intel. Are you able to dismiss that and, if you are not, I would ask you to take it on notice to have a thorough look at when you were notified about the interests of the agency because, whilst my memory is not firm, that is what absolutely promoted my interest in this matter in the first place.</p> <p>Mr Price: I will take it on notice to be absolutely clear but, as I recall, the situation was that it did happen during the coronial, the journalist did bring to the attention of the New South Wales police that were support of the coroner that, indeed, the vessel was on the coast. They then spoke to the coroner who suspended the inquiry that day and, then we were contacted to issue the subpoena, which we did. We facilitated his coming ashore because he was actually being replaced—another master had already come on board</p>	13 June 2017, Page 4	Answered in Documents tabled 21 June 2017: Opening address
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FOCS/025	Inquiry into Flag of Convenience Shipping - Chronology of events	Mr Wilden: If I may, rather than apportion blame to the NSW Police at this point, can I offer that we come back promptly with a chronology of events, timings and actions leading up to the period we are talking about now and through that period, so we can have that clear once and for all exactly what the sequence was. I think that will help us, rather than going on the understanding of Mr Price and yourself and then what that means for the actions of the NSW Police. I think it would be inappropriate for us to make that assessment without us all being very confident of what those facts are.	13 June 2017, Page 5	Answered in Documents tabled 21 June 2017: Chronology
FOCS/026	Inquiry into Flag of Convenience Shipping - Systematic Failure of processes	CHAIR: I want you come back to the committee and prove my views, not those of my colleagues, that there is a systematic failure within our processes where the left hand and the right hand are not talking. This is a rerun of words that I hashed up with my colleagues the last time we met. I am not convinced yet there is a wonderful safety valve with ASIO, you guys, the AFP and even the Fair Work Commission—it all goes to our recommendations. I do not see that loop closing. Gentlemen, take that on notice.	13 June 2017, Page 5	Answered in Documents tabled 21 June 2017: Opening address
FOCS/027	Inquiry into Flag of Convenience Shipping - Foreign seafarers MVC refusal - last 5 years	CHAIR: We know for a fact that there are no more Australian ships servicing our nation for fuel. So, to anyone's knowledge, have any foreign seafarers been refused an MCV? Mr Wilden: We might have some information on that. Again, we can certainly provide data on how many have applied over the last couple of years, what the refusal rates are et cetera. CHAIR: Let me ask you for the last five years, say. I am asking for the last five years because I have seen this trend of more and more MCVs, more and more FOCs, less Australian seafarers and no Australian ships. So can you do that for us? Does anyone want to make any comments around that?	13 June 2017, Page 5	Answered in Documents tabled 21 June 2017: Opening address

FOCS/028	Inquiry into Flag of Convenience Shipping - Reasons for MCV refusal	<p>Mr Williams: Applicants refused MCVs?</p> <p>CHAIR: Yes, please.</p> <p>Mr Williams: I have some numbers on it. There have been a number of applicants refused MCVs. For example, this year to date there have been 13,102 refusals out of a total of 255,132 lodgements.</p> <p>CHAIR: Yes, keep going Mr Williams.</p> <p>Mr Williams: That is this year to date.</p> <p>CHAIR: What about last year? Are we seeing an increase or a decrease?</p> <p>Mr Williams: We are seeing an increase in the number of refusals. Partly, it is volume driven. Partly, it is targeting and other efforts. Previously there were 291,099—so just under 300,000—and the refusals were 3,534. So the numbers have gone up.</p> <p>CHAIR: So the refusals have gone up but the requests have come down. Is that right?</p> <p>Mr Williams: They go up and down. The lodgement rates do tend to change over time. There is no particular trend in that.</p> <p>CHAIR: You might want to take this on notice. Could you let us know why the 13,102 were refused?</p> <p>Mr Williams: We will take that on notice.</p>	13 June 2017, Page 6	Answered in Documents tabled 21 June 2017: Opening address
FOCS/029	Inquiry into Flag of Convenience Shipping - Identification of Ships	<p>CHAIR: I do not want any names; I just want to know why, if we can. The two issues you raised in your submission were transparency of identification and ownership, and insufficient flag state regulatory enforcement of standards. Is it possible for the Australian government to determine who owns every ship coming to our ports? This flows on from questioning last time.</p> <p>Mr Williams: I will double-check, but I think ownership is one of the data items that we ask for in the reporting of vessels as they come and go. Vessel identifier—</p> <p>CHAIR: Yes, because following on from our previous interaction the answer came back: we did not know; we could not tell who owns these ships.</p> <p>Mr Williams: We can tell you the Lloyd's Register number, and from that we can make inquiries as to the ownership, I would imagine. We get that routinely for all intending arrivals.</p> <p>CHAIR: You said that with the Lloyd's Register number you could tell. Do you actually check every Lloyd's Register number? Do we know for a fact who these ships are owned by?</p> <p>Mr Williams: No. I would have to take that on notice and check whether or not we are able to get the owner of the vessel from that identifier.</p> <p>CHAIR: So we might not be able to?</p>	13 June 2017, Page 6	Answered in Documents tabled 21 June 2017: Opening address

		<p>Mr Williams: I will check for you.</p> <p>CHAIR: While you are at it, do we check all the numbers? Do we actually see that these are not shysters from the Middle East who own these ships?</p> <p>Mr Wilden: Again, we will take it on notice. As a starting principle, we would not automatically check every single ship right back to ownership. We process visas and we give clearance for those individuals on the ships to come in. If we have reason for concern—it is an unknown ship, we might be seeing it for the first time et cetera—that may trigger further work from the department. But I will take on notice to find out, where we have those issues of concern, how that gets played out. But, as a starting point, I am fairly confident we would not check every ship for its ownership as it comes in—only that it is lawfully trading and it is registered, as Mr Williams noted.</p>		
FOCS/030	Inquiry into Flag of Convenience Shipping - Captain Salas DIBP alert list	<p>Mr Wilden: To perhaps try to assist, I think we are straying in and out of different lanes here about how the department does its business. I spoke earlier about preparing a chronology for the committee. As part of that chronology, we will go to these issues around at what point we were using—if you like—an alert list, which is a very formal mechanism where we have been advised we want to do things, versus intel, which is live information that we manage for anyone coming in and out. We will explain, as part of that chronology, the actions we took at each stage and what we were relying on, because I just think we might be bouncing across each other.</p> <p>CHAIR: I will make it easier for you, Mr Wilden. What about, with my fellow senators here, we give you two weeks for the questions on notice, which is normal—27 June. So you take that back. But bear in mind—and, just so you are very clear, you are going to put your chronology out to us—if Owen Jacques had not flown at his expense from the Sunshine Coast to Sydney because he was following the coronial inquest and then, at the smoko break, walked up to, I think, the prosecutor at the time and said, 'Hey, this bloke's in Gladstone or coming in today or tomorrow.' If he had not said that, Captain Salas, by your own admission, the very next or the day afterwards, would have been on the plane and gone.</p> <p>Mr Wilden: We will address that.</p>	13 June 2017, Page 12	Answered in Documents tabled 21 June 2017: Chronology
FOCS/031	Inquiry into Flag of Convenience Shipping - Captain Salas no red flag alert	<p>Senator RICE: But the evidence relating to Captain Salas was that, because that red flag alert was not there, it did not trigger that concern that this man who had been gun running—</p> <p>Mr Wilden: We will come back and walk through those for you.</p>	13 June 2017, Page 13	Answered in Documents tabled 21 June 2017: Chronology