



## Senate Education and Employment Legislation Committee

# **The impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders**

### Supplementary Submission of the **Australian Maritime Officers Union**

March 2016

1. This submission by the Australian Maritime Officers Union (AMOU) to the Senate Education and Employment Legislation Committee (Senate Committee) Inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders, is supplementary to the submission of the AMOU dated 1 May 2015 and received by the Senate Committee as Submission Number 18.
2. The AMOU has been encouraged to make this further submission following recent developments in the use of temporary skilled visas in the Australian maritime industry.
3. The contrast between the Federal Government's stated desire on one hand to have a skilled Australian maritime workforce and on the other hand the Federal Government's willingness to grant 457 visas for workers in our maritime industry, could not be more stark.

4. The Australian Senate recently rejected the *Shipping Legislation (Amendment) Bill 2015 (the Bill)*. The Second Reading Speech of this rejected legislation included the following:  
  
*'Australia needs people with maritime skills and experience to be tug crews, harbourmasters and pilots and to fill other jobs in the industry where firsthand knowledge of how things are done on board is essential. That is why the government has included measures to ensure ships trading predominantly in Australia have Australians undertaking the key skilled positions on board.'*<sup>1</sup>
5. The Explanatory Memorandum of this Bill details that *'Australia's coastal seagoing workforce is estimated at 1177 jobs'*<sup>2</sup>. As a rule of thumb, a quarter of a ships crew are employed as Masters/Deck Officers, a quarter as Marine Engineers and the remaining half of the crew are Deck Hands.
6. The estimate of Australia's coastal seagoing workforce was obtained from the the Australian Maritime Census January 2013 produced by the Department of Infrastructure and Transport<sup>3</sup>. It is further detailed in this Census that 1,341 of the 10,329 total seafarers in Australia's maritime industry were Masters and Deck Officers with Australian Maritime Safety Authority (AMSA) certifications. AMSA certification or equivalent is required for subclass 457 visa holder Masters and Deck Officers.
7. Using the statistical data on the subclass 457 visa programme made available via the Federal Government's [www.data.gov.au](http://www.data.gov.au) website, we can determine that at December 2015, 23 Masters were 457 visa holders and 90 Deck Officers held 457 visas.
8. From these figures we can interpolate that in December 2015 more than 8% of Masters and Deck Officers in Australia's maritime industry are employed temporarily on 457 visas
9. At Paragraph 14 of the 1 May 2015 AMOU Submission to the Senate Committee we detail our unemployed Members register. Today there are 87 Members on our register.
10. We must clarify though, that the register is underutilised by the AMOU membership and that the true number of unemployed members would be would be far in excess of the current 87 when non-members and those who do not use the database are included.
11. This demonstrates that employers are utilising 457 visas in our shipping industry not due to any skill shortages but for other reasons. None of the employers we engage with who use 457 visa holders nominate the same reason for using foreign labour. We contend that use 457 visa holders to circumvent any requirement on their behalf to invest in the extensive training required for Australian seafarers.

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<sup>1</sup> W Truss, 'Second reading speech: Shipping Legislation Amendment Bill 2015', House of Representatives, *Debates*, 25 June 2015, p. 7576

<sup>2</sup> Shipping Legislation Amendment Bill 2015, Explanatory Memorandum, Page 69

<sup>3</sup> [The Australian Maritime Census January 2013, Department of Infrastructure and Transport](#)

12. The attitude of some employers on the need for Australian content in the Australian shipping industry is best summed up by Australian Shipping Consultants Pty Ltd in their Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee Inquiry into the Provisions of the Shipping Legislation Amendment Bill 2015:

*'[It is] unlikely that Australia would find itself unable to fill the demand for the numerous land and port based positions requiring professional and experienced mariners – they would just be sourced more widely, including from the many international applicants attracted to life and work in Australia.'*<sup>4</sup>

13. This position is, of course, in directly opposed to the stated Government position above whereby *'ships trading predominantly in Australia have Australians undertaking the key skilled positions on board.'*
14. There is no skill shortage for Australian trained and qualified Masters and Deck Officers. We recommend that Ship's Master (231213) and Ship's Officer (231214) are immediately removed from the Skilled Occupation List (SOL) and the Consolidated Sponsored Occupation List (CSOL) which facilitates employers engaging temporary workers in these roles.

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<sup>4</sup> Australian Shipping Consultants Pty Ltd, Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee Inquiry into the Provisions of the Shipping Legislation Amendment Bill 2015, Submission 17, p. 6.

## Appendix 1

### **MT Destine/MT Zemira**

The MT Destine and MT Zemira are bunker barges\* working in Sydney Harbor and Port Phillip Bay respectively. Both vessels are Australian flagged.

These barges provide bunker fuel on behalf of Viva Energy Australia both vessels have operated in the respective ports for at least 8 years and with fully Australian crews. The manning agent for these vessels is ASP Ship Management.

In early November 2015 workplace rumours suggested that both barges were to be removed and replaced with new vessels, doing the same work for Viva Energy Australia, but managed and operated by Inco Ships.

In mid-November 2015 after AMOU initiated enquiries, Inco Ships confirms they will manage and operate the new barges and would be prepared to discuss the manning of these vessels with us.

Around this time the AMOU was informed by Viva Energy Australia that it had entered into a 5 year contract with Inco Ships to provide bunkering services in both ports with an additional 5 year option.

On 10 December 2015 advertisements are issued on the internet by Inco Ships for Deck and Engineer Officers in Sydney Harbor and Port Phillip Bay.

On 18 December 2015, Inco Ships lodge the Inco Ships Pty Ltd Officer Collective Agreement 2015, Shipping Services and the requisite Forms 16 and 17 with the Fair Work Commission.

It is proposed that this Agreement governs the terms and conditions of employment for the officers employed on the replacement bunker barges - . ICS Reliance and ICS Allegiance (Bahamas flagged).

The submitted Forms 16 and 17 detail that:

- the notice of employee bargaining representational rights was issued to all 24 employees proposed to be covered by the agreement on 21 October 2015;
- a draft agreement was circulated to employees on 11 November 2015;
- Inco Ships was satisfied that the terms of the proposed agreement had been adequately explained and understood by employees as, *inter alia*, ' . . . most were aware of the substantive terms for the Agreement having worked both for the company for a number of years and in the industry under comparable conditions. All have a good command of English.';
- voting for the Agreement commenced on 5 December 2015 and the Agreement was made on 8 December 2016; and,
- 13 employees acted as bargaining representatives for the 24 employees to be covered by the agreement. A majority of the bargaining representatives listed their residential addresses as Ukraine and Philippines locales.

Workplace intelligence at this time informs the AMOU that some of the Deck Officers on the replacement vessels are section 457 visa holders.

On 23 December 2015 the AMOU wrote to Immigration and Border Protection Minister Dutton seeking that he revoke his decision to grant 457 visas to Deck Officers engaged on the replacement vessels. We pointed out that Australian Deck Officers who had been doing this exact work for a number of years were willing and able to undertake the roles on the new vessels and questioned how robust Labour Market Testing had been in this circumstance.

On 27 January 2016 a reply to the letter to Minister Dutton was received from the Department of Immigration and Border Protection. The reply noted that the website of Inco Ships currently had advertisements for Deck Officers which may be of some interest to AMOU members.

On the 25 February 2016 ASP Ship Management advised that they had received notification from Viva Energy Australia of the termination of the Time Charter Party for the MT Zemira. The MT Zemira redelivery to Singapore is expected on 9 March 2016 from Melbourne.

On 2 March 2016 ASP Ship Management advised that they had received notification from Viva energy Australia of the termination of the Time Charter Party for the MT Destine. The MT Destine redelivery to Singapore is expected on 2 April 2016 from Sydney.

\*Bunker barges are essentially floating petrol stations that go along side and refuel transiting vessels.