

# **SUBMISSION NO. 3**

27 January 2011

Shipping Australia Ltd (SAL) is a peak shipowner association with 37 member lines and shipping agents (list attached) and with 45 corporate associate members which generally provide services to the maritime industry in Australia. Our membership would be involved with over 80% of Australia's international container trade and car trade as well as over 50% of our break bulk and bulk trade so we are vitally concerned with these Conventions.

Members of SAL are strongly supportive of the objectives of the Maritime Labour Convention. We have some initial concerns regarding the proposed implementation as detailed below.

On 22 December 2008, the then Minister for Employment and Workplace Relations, the Honourable Julia Gillard, MP wrote to a number of union representatives and business organisations including the Australian Shipowners Association. Regrettably Shipping Australia was not contacted but we did have the benefit of an informal meeting with the Department of Employment and Workplace Relations regarding Australia's approach to this Convention which was most appreciated.

In the National Interest Analysis, reference is made to the fact (paragraph 6) that failure to ratify the Convention may have significant implications for Australian flag ships trading internationally. It is noted that even if Australia does not ratify the Convention, once it enters into force, its terms will be applied to Australian ships entering the ports of states that have ratified it and Australian ships may be subject to detention in foreign ports as they would not be carrying the necessary documentation to show, prima facie, compliance with the Convention. Similarly the argument can be made that foreign flagged ships visiting Australia whose flagged states have not ratified the Convention, will be subject to possible detention and extra inspection in Australian ports which will incur considerable costs that will impact on Australia's exporters and importers. Hong Kong, for example, is not a member of the ILO. Vessels flagged in Hong Kong, for example, will not be carrying the necessary documentation to show prima facie compliance with the Convention. Other flagged states that do not ratify the Convention will be in a similar situation. These are matters of serious concern to members of SAL.

SAL is pleased that a number of major open registry countries namely Liberia, Panama, Marshall Islands and the Bahamas have already ratified the Convention.

In the Regulation Impact Statement (paragraphs 44 to 46) reference is made to the Asia Pacific Memorandum of Understanding on Port State Control (Tokyo MOU) which ensures that no more favourable treatment is given to ships entitled to fly the flag of a non-party to that instrument. It is understood that ratification of the MLC will also be condition of entry for new States to join the Tokyo MOU. It is possible that a recommendation could be developed under the Tokyo MOU to assist member States in meeting the objectives of the MLC even if they have not ratified the Convention in the short term. This could simplify port State control inspections carried out by AMSA or registered organisations in Australia.

SAL looks forward to being consulted on the development of arrangements for Registered Organisations (RO) to carry out such inspections (as set out in paragraphs 96 to 99 of the Regulation Impact Statement). The Australian Maritime Safety Authority also believes that labour and financial costs of the current port-state compliance regime where inspections are carried out on a more frequent and a more comprehensive basis would be reduced. In SAL's view, this objective needs to be closely monitored as this issue is progressed.

SAL agrees with the matters to be covered by the Navigation Act, 1912 and Marine Orders as set out under Attachment 3.

In the National Interest Analysis, category 1 treaty, the comment is made that the International Labour Office advises that in an ideal situation States should be in a position to issue document to ships immediately following ratification (paragraph 4). Therefore Australia may not have to wait 12 months after that application to issue the required documentation necessary to certify Australian-flagged ships as compliant with the Convention and it would also enable AMSA to inspect foreign flagged ships against the provisions of the Convention. It is noted that this issue is currently being explored in consultation with the Australian Government Solicitor and the Office of International Law. SAL would urge caution in enforcing such an inspection regime in that 12 month period as there could well be value in undertaking initial inspections on a trial basis that could provide information on ships visiting Australia during that period to ensure full compliance following the elapse of the 12 month period between the date of registration of Australia's instrument of ratification and the entry into force of the Convention for Australia.

## **Conclusion**

SAL fully supports the Australian Government's early ratification of this Convention but has some initial concerns in terms of its implementation. It is our view that a good level of communication and close consultation with the industry will smooth out any hurdles to the implementation of the Convention. It is our hope that there will be broad acceptance of this Convention by all of IMO members as the effectiveness will be considerably enhanced if there is a comprehensive international approach to this issue.

## **Resolution MEPC186 (59) which amends annex 1 of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL)**

Shipping Australia has always been strongly supportive of international Conventions being adopted by as many countries as possible. Similarly SAL supports the adoption by Australia of this MEPC resolution and has no specific comments on the detail.

I would be pleased to elaborate on any aspects of this submission if so required by the Committee. I can be contacted on 03 9266 9903 or mobile 0414 958 247.

Kind regards

Llew Russell AM  
Chief Executive Officer



## SHIPPING AUSTRALIA LIMITED

### MEMBERS –January 2011

AAL Shipping  
ANL Container Line Pty Ltd  
APL Lines (Australia)  
Asiaworld Shipping Services Pty Ltd  
CMA CGM  
Evergreen Marine Australia Pty Ltd  
Five Star Shipping & Agency Co Pty Ltd  
Goodman Fielder  
Gulf Agency Company (Australia) Pty Ltd  
Hamburg Sud Australia Pty Ltd  
Hapag-Lloyd (Australia) Pty Ltd  
Hetherington Kingsbury Shipping Agency  
Inchcape Shipping Services  
Indian Ocean Shipping Agencies  
“K” Line (Australia) Pty Limited  
LBH Australia Pty Ltd  
Maersk Australia Pty Ltd  
McArthur Shipping & Agency Company  
Mediterranean Shipping Company (Aust) Pty Limited  
MISC Agencies (Australia) Pty Ltd  
Mitsui OSK Lines (Australia) Pty Ltd  
NYK Line (Australia) Pty Ltd  
OOCL (Australia) Pty Ltd  
Pacific Asia Express Pty Ltd  
PB Towage  
RCL (Australia) Pty Ltd  
Royal Caribbean Cruise Lines  
Seaway Agencies Pty Ltd  
Svitzer Australia Pty Ltd  
The China Navigation Company Pte Ltd  
Wallenius Wilhelmsen Logistics  
Wilhelmsen Ships Service

### Contributing members

China Shipping Container Liner Co. Ltd  
Hanjin Shipping  
Hyundai Merchant Marine  
Neptune Shipping Line Pty Ltd  
Pacific Forum Line (NZ) Ltd

### Corporate associate members

AGS World Transport  
Associated Marine Insurers  
Australian Amalgamated Terminals  
Australian Maritime College  
Australian Shipping Consultants Pty Ltd  
Brisbane Marine Pilots  
Chalmers Industries Pty Ltd  
CLSA Australia  
Colin Biggers & Paisley  
Coogans & Co  
Darwin Port Corporation  
DP World  
Feliba Pty Ltd  
Field & Associates Pty Ltd  
Flinders Ports South Australia  
Fremantle Ports Authority  
GHD Meyrick  
Holman Fenwick & Willan  
Hutchison Ports Australia  
HWL Ebsworth Lawyers  
MacPherson + Kelly Lawyers  
Macquarie Telecom  
Middletons  
Newcastle Port Corporation  
Newcastle Stevedores  
Norton White

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## **Corporate associate members (cont.)**

NSW Maritime

OMC International Pty Ltd

Patrick Containers

Peter McQueen Pty Limited

POAGS Pty Ltd

Port Kembla Gateway Pty Ltd

Port Kembla Port Corporation

Port of Brisbane Pty Ltd

Port of Melbourne Corporation

Port Phillip Sea Pilots Pty Ltd

Queensland Rail

Sea Transport Solutions

Sydney Ports Corporation

Thomas Miller (Aust) Pty Ltd

Thompson Clarke Shipping Pty Ltd

Torres Industries Pty Ltd

Tradegate Australia Limited

Visy Logistics Pty Ltd

Viterra (ABB Grain)

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