

## The Navigation Amendment Bill 2011

- 1.1 On 25 May 2011, the Selection Committee referred the Navigation Amendment Bill 2011 to the House Standing Committee on Infrastructure and Communications for inquiry and advisory report.<sup>1</sup> The bill had been introduced into the House of Representatives earlier that day.
- 1.2 In proposing amendments to the *Navigation Act 1912*, the bill seeks to give effect to the conditions of the International Labour Organisation (ILO) Maritime Labour Convention (MLC) in Australia, by ensuring that the act is consistent with the provisions of the MLC. The bill also makes some minor amendments relating to vessel tracking services, to enable an extension of tracking to the southern part of the Great Barrier Reef. This amendment forms part of the Government response to the grounding of the *Shen Neng 1* in the Great Barrier Reef in April 2010.
- 1.3 The proposed ratification of the MLC was a matter considered by the Joint Standing Committee on Treaties, which invited submissions, held a public hearing, and presented its report in April 2011. After referral of the legislation to this Committee, views were invited from those organisations who had prepared submissions for the JSCOT. Details of the inquiry were made available on the Committee's website, four submissions were received, and a public hearing was conducted on 22 June 2011.
- 1.4 This report considers the purpose of the bill in the context of the Maritime Labour Convention, noting that a similar review process has been conducted by the JSCOT. The bill and the explanatory memorandum are included at Appendix A. Details of submissions received and witnesses attending the public hearing are listed at Appendices B and C respectively.
- 1.5 The Committee notes that the Parliamentary Library prepared a Bills Digest. The Committee accepts the comments on specific clauses

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1 House of Representatives, *Votes and Proceedings*, No. 40—25 May 2011, p. 551.

contained therein, noting that the digest's focus on 'some, not all, of the proposed provisions of the bill.'<sup>2</sup>

## The Maritime Labour Convention

- 1.6 The MLC is an international convention that sets minimum requirements for seafarers working on ships. It includes conditions of employment, work and rest hours, accommodation, recreational facilities, food and catering, occupational health and safety, medical care, and social security protection.<sup>3</sup> It seeks to consolidate 68 ILO instruments adopted since 1920.
- 1.7 The Committee heard that while the majority of Australian seafarers already benefit from terms and conditions that exceed the standards articulated in the MLC, ratification will ensure there is a level playing field across the shipping industry, preventing unfair competition by operators using substandard conditions.<sup>4</sup>
- 1.8 The Australian delegation to the ILO supported the adoption of the convention at the meeting of the ILO.<sup>5</sup> The delegation consisted of two government representatives, an employer representative (Australian Shipowners Association (ASA)), and an employee representative (Maritime Union of Australia (MUA)).
- 1.9 According to the Department of Infrastructure and Transport (DIT), the MLC will come into force internationally 12 months after it is ratified by 30 ILO member countries, representing a total share of at least 33 per cent of the world's gross shipping tonnage.<sup>6</sup> At its public hearing, the Committee heard that 15 eligible countries had ratified the MLC. As such, the Committee notes that although the tonnage requirement has been met, the MLC must be ratified by an additional 15 ILO member states before it comes into force.<sup>7</sup>
- 1.10 Passage of the Navigation Amendment Bill 2011 is a precursor to Australian ratification of the MLC. According to the DIT, 'the amendments to the Navigation Act contained in the bill do not go beyond

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2 Parliamentary Library, *Bills Digest No. 136, 2010-11*, p. 6.

3 Navigation Amendment Bill 2011, *Explanatory Memorandum*, p. 1.

4 Department of Infrastructure and Transport, *Submission 2*, p. 3.

5 Maritime Union of Australia, *Submission 4*, p. 1; Australian Shipowners Association, *Submission 3*, p. 1.

6 Department of Infrastructure and Transport, *Submission 2*, p. 2.

7 Ms Karen Gosling, Transcript of Evidence, 22 June 2011, p. 2.

the terms of the MLC'. The Committee understands that the MLC will be implemented as part of the flag and port State control regimes of the Australian Maritime Safety Authority (AMSA) and that if the bill is passed, 'AMSA will amend several Parts of Marine Orders to give effect to its terms.'<sup>8</sup>

## Support for the Maritime Labour Convention

- 1.11 The Committee understands that the MLC has broad support from major stakeholders. This support has been reflected in the involvement of those stakeholders in the delegation to the ILO, subsequent submissions to the JSCOT, and further in the four submissions received by this Committee. All submissions supported the passage of the bill to ensure ratification of the MLC, however Shipping Australia Limited (SAL) sought to have some issues around about the Bill clarified.
- 1.12 The ASA indicates that passage of the Bill and ratification of the MLC will improve protection for workers, benefit shipowners by addressing some areas of competitive disadvantage by levelling standards of employment, and provide certainty to stakeholders that basic social standards can be enforced. The ASA describes its commitment to ratification as 'unwavering' and urges ratification at the 'earliest possible opportunity'.<sup>9</sup>
- 1.13 The Maritime Union of Australia also strongly supports the Bill, noting it will consolidate Australian standing in the ILO, will enable Australia to demonstrate regional leadership, and will function as an important adjunct to other reforms of the Australian shipping industry.<sup>10</sup>
- 1.14 The submission prepared by the Department of Infrastructure and Transport (DIT) outlined the process of the development of the MLC, the consideration by the JSCOT (including the presentation in the House of Representatives of a National Interest Analysis and Regulation Impact Statement), and the drafting of the legislation, including consultative processes which were undertaken at each stage.
- 1.15 The Committee notes that DIT, the ASA, and MUA all support quick passage of the Bill to enable ratification of the MLC as soon as possible. They identify that late ratification would put Australian shipping as a

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8 Department of Infrastructure and Transport, *Submission 2*, p. 3.

9 Australian Shipowners Association, *Submission 3*, p. 2.

10 Maritime Union of Australia, *Submission 4*, p. 2.

disadvantage, as Australian shipping operators would not have had as much time as their competitors to ensure compliance with the MLC.

## Issues considered

- 1.16 Report 116 of the Joint Standing Committee on Treaties (JSCOT) contained a dissenting report that raised several issues which were discussed with witnesses at the Committee's public hearing.
- 1.17 The dissenting report suggested there had been minimal time for JSCOT members to review the report regarding the treaties. The Department of Infrastructure and Transport advised that the regulation impact statement had been tabled on 24 November 2010, and that JSCOT had held their hearing into the treaty on 21 March 2011.<sup>11</sup>
- 1.18 The dissenting report also suggested that there may have been insufficient consultation with state and territory governments. The Department of Infrastructure and Transport replied that the Department of Education, Employment and Workplace Relations had conducted broad consultations with the states and territories, and that they had all given in principle support to the MLC.<sup>12</sup> The Committee was advised by the Department of Education, Employment and Workplace Relations that this consultation process had commenced in 2004.<sup>13</sup>
- 1.19 The dissenting report suggested opportunities for employment groups to discuss the MLC had been limited. The Department of Infrastructure and Transport noted the ASA had been involved in the drafting of the convention for several years and had also acted as an employer delegate at the ILO conference.<sup>14</sup>
- 1.20 The dissenting report also expressed concern about the potential for opportunities for cadets to become more limited if the requirement for individual rooms onboard a ship was implemented. Currently, cadets sometimes share a berth as a way of getting employment experience on a ship. This concern was also raised by the MUA.
- 1.21 The Australian Maritime Safety Authority replied that they were actively working on the issue and were hoping to address the issue in subordinate

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11 Ms Karen Gosling, *Transcript of Evidence*, 22 June 2011, p. 3.

12 Ms Karen Gosling, *Transcript of Evidence*, 22 June 2011, p. 3.

13 Ms Louise McDonough, *Transcript of Evidence*, 22 June 2011, p. 3.

14 Ms Karen Gosling, *Transcript of Evidence*, 22 June 2011, p. 3.

legislation, and also noted that it was not always the case that a cadet shared a berth.<sup>15</sup>

## Committee comment

- 1.22 The Committee notes the concerns raised in submissions and by the dissenting report of the Joint Standing Committee on Treaties, and considers that where possible, these have been addressed subsequently by DIT. The Committee observes that much of the detailed implementation of the conditions of the MLC will occur through regulations, not the bill itself.
- 1.23 The Committee also notes evidence received at the public hearing on 22 June 2011 that there are no relevant representative bodies in Australia who have any opposition to ratification of the MLC:

I would say not just from the direct consultation we have had with the ASA, the MUA and states and territories but also through the official International Labour Affairs Committee, which we manage and comprises the head of the ACTU, the head of ACCI and a representative from the Australian Industry Group. In terms of our ILO obligations, there is really unanimous support.<sup>16</sup>

### Recommendation 1

**The Committee recommends that the House of Representatives pass the *Navigation Amendment Bill 2011*.**

Sharon Bird  
Chair

15 Mr Allan Schwartz, *Transcript of Evidence*, 22 June 2011, p. 3.

16 Ms Louise McDonough, *Transcript of Evidence*, p. 4.

