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Review of Shipping Policy and Regulation

¹ Appendix 4 prepared by the Australian Maritime Safety Authority

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1 BRIEF HISTORY OF COASTAL SHIPPING

Australia's coastal shipping sector has always been impacted on by circumstances in the global industry and developments in the land based transport sector. The following provides a short description of the evolution of coastal shipping through the modern era. The contents have been gathered from a variety of sources.

The modern era of coastal shipping effectively commenced when steam ships became the norm for transporting coastal cargoes by sea, from the end of the nineteenth century. Significant progress was made in the refrigeration of cargo and in the power (thrust) of the ships; however the next century witnessed the struggle of shipping to compete with roads and rail despite improvements in techniques and technology. In the 1890s the first inland rail lines started to be built. Initially, shipping lost most passengers to rail. Later advancements in road transport added to this loss, making shipping a more inflexible and costly option. The 1890s was also a time of economic depression and major maritime strikes. Competition within the coastal shipping sector intensified, with rivalry for shipping routes and price cutting. Towards the end of the decade, firms moved towards cooperation. The shipping industry faced a threat from increasing interest by foreign shipping in coastal trade, with their lower wages and for some, foreign government subsidies. The industry responded by calls for the newly formed Commonwealth Government to provide protection to coastal shipping.

In 1899 the Australasian Steamship Owners' Federation was formed covering approximately 90 per cent of interstate tonnage. In 1902 five of its members formed the "Collins pool", a cartel to manage and deploy tonnage with profits and losses shared. Prosecutions were threatened under the *Industries Preservation Act 1906*, an enactment targeting monopolies. These prosecutions were unsuccessful but before the combined service was re-established, the First World War broke out.

In 1904, newly federated and without any national legislation yet in place on shipping, the Commonwealth Government appointed a Commission to enquire into and make recommendations regarding Australian navigation. In 1906 the Royal Commission reported on the newly drafted Navigation Bill. The majority report of the Commission identified the issue of foreign participation in the Australian coastal trade as the most important placed before them.

The *Navigation Act* was legislated in 1912 however the coastal provisions were delayed, not coming into effect until 1921 due to the intervening war. Many ships had been requisitioning for war service, approximately 45 per cent² of interstate tonnage and any British-owned vessels. The British-owned fleet automatically came under British Government control. Initially this left grain and wheat produce stranded from their Australian (coastal-traded) markets. The remaining Australian ships quickly learnt to be more efficient, carrying double the carriage of cargo by 1918.

In 1920 a Select Committee on Sea Carriage was appointed by the Government to inquire into the organisation and control of the coastal fleet as well as some international shipping matters. The Committee recommended a centrally controlled fleet and the Commonwealth Government responded in 1921 with the establishment of

² John Bach (1982), *A Maritime History of Australia*, Pan Books (Australia), Sydney, pp309-310

the Commonwealth Line of Steamers and the Navigation Act coastal provisions were implemented (except in the northwest WA where special provisions applied).

The Commonwealth Line of Steamers consisted of 43 ships until sold in 1928. The Government also controlled freight rates, with increases denied from 1916 to 1920. The ships were released from this in 1920 but only on condition that they operated as a single fleet. A formal agreement between the seven largest companies was drawn up in 1921. This cartel stayed in place for 40 years.

In 1923 the Commonwealth Government appointed a Royal Commission to report on the coastal shipping clauses of the Navigation Act and the post-war shipping. It reported in 1924 with Commissioners taking different views on the effectiveness and impact of the Act.

After the First World War, the railways again expanded, the focus being the introduction of intrastate lines. Interstate coal trade also went into decline, leading up to the 1930s depression where huge lay-ups of tonnages occurred and freight rates were substantially reduced.

The recovery of shipping in the 1930s was mainly a result of the growth of the bulk trades and new diesel powered vessels, largely serving the steelwork cities. World War II ceased this growth with the Government requisitioning the majority of coastal ships through the Shipping Control Board in 1941, not returning the vessels to owners until 1947.

In 1948 Government ships carried 45 per cent of coastal cargo, BHP carried 18 per cent (in-house) and private owners the remaining 37 per cent³.

In the 1950s the private shipping industry struggled to recover with reduced shipping capacity and increasing costs. They faced competition with Government-run ships, an ageing fleet, increasing operating costs and increasing stevedoring costs. They faced increasing competition from land transport; rail had lower cost increases and benefited from new state and federal subsidies; road transport benefited from army surplus heavy vehicles, the abolition of rationing and the desirability of door-to-door services. In 1954 state governments were prevented from regulating interstate road transport or levy excessive road charges.

After the 1949 election the Government tried to negotiate a withdrawal of their shipping operations. This was, at first, on the proviso that private operators kept the government ships operating. However with no certainty that the government would not re-enter the industry, this plan was abandoned in 1954. In 1956 the *Australian Coastal Shipping Act* and the *Australian Coastal Shipping Agreement* were passed by Government. This Agreement established the precursor to government owned Australian National Line.

In the late 1950s bulk carriers were being ordered, unitised (container) systems were being established and roll-on-roll-off vessels were increasingly being employed. Port handling became more efficient and ship building programs geared up. The shortage of ships was turning into a surplus, with financial losses from 1958 to 1960.

³ Dr Peter Heathcote and Lachlan Payne (2007), *Introduction to Shipping*, unpublished course notes, p38

The 1960s brought increasing specialisation and use of shipping for steel. In 1964 the first specialised container ship for Australian coastal trade was introduced. As ships got bigger, short haul trips declined, along with the accompanying intrastate coasters. Ports substantially changed, bringing in large cranes and other equipment to support containerisation and to further reduce labour costs.

During the latter half of the century a number of coastal shipping services were operating around Australia, growing with the expansion of the resource sector and providing services where generally they were not competing directly with surface transport, e.g. in Western Australia and the Bass Strait trade. Additional intrastate services have existed in Queensland and in South Australia to Kangaroo Island. Most intrastate services were underpinned by agreements between state governments and operators for regional development purposes.

In 1970s the Federal Government undertook an inquiry into trade on the Bass Strait as operators were making losses in transporting freight. The resulting report⁴ recommended the establishment of the Tasmanian Freight Equalisation Scheme, which commenced in 1976, providing financial assistance for a proportion of the freight rate for range of eligible goods, mainly manufactured goods, agricultural goods/supplies, minerals and resources. This Scheme still operates. Tasmanian passenger services continue to be supported by the Tasmanian Government's subsidy of TT-Line and in 1996 Federal support was given to passenger vehicles crossing the Bass Strait.

Today the competitive strength of coastal shipping lies in the carriage of heavy, non-time sensitive cargoes over long distances. Shipping operations are often integrated into broader logistical chains, with Australian shipping companies frequently using a mix of ships operating under licenses and permits. While coastal shipping volumes are increasing, the number of ships licensed under Part VI of the *Navigation Act 1912* has been decreasing. East-west carriage of general cargoes is dominated by international shipping lines, generally operating under permits. In recent years the most significant development in this market was the short-lived east-west licensed container service provided by a dedicated domestic operator, PAN shipping, in 2006. This service failed for a range of commercial reasons.

The coastal shipping industry interacts with an increasingly complex logistics industry structure. Supply chains have become more sophisticated, shippers' requirements have become more demanding and ships have become more specialized. Shippers' needs vary, and are often driven by receiving/delivering cargo from larger and more specialized manufacturing/production facilities. They are impacted upon by production schedules, storage capacities and customers' needs. Transport costs may be a major factor for low value, low profit cargo. To these factors can be added the tight time deadlines associated with the 'just in time' supply chains that are employed by a great number of businesses today, and the distances between many of our ports which involve days of sailing before a ship can arrive at a loading port.

The recent history of fiscal incentives for the shipping industry was outlined in the Independent Review of Australian Shipping⁵ as follows:

⁴ The Commission of Inquiry into Transport to and from Tasmania 1974-76 released in March 1976 (also known as the "Nimmo report" named after the Chair of the Inquiry)

⁵ Independent Review of Australian Shipping A Blueprint for Australian Shipping September 2003 p 14

Modern reform of the shipping industry effectively began in 1984 when a financial package came into force resulting from the recommendations of the Crawford Committee, established by the Fraser Government, with Ralph Hunt as Minister, which was comprised of shipowner and union representatives. Briefly, the package provided for depreciation of 20% per annum commencing in the year prior to commissioning (previously 6.25% per annum), provided that the ships achieved manning levels determined by a manning committee. The extension of investment allowance to ships in international trades (previously applicable to coastal vessels only) resulted in orders for 12 new ships. The investment allowance was, however, withdrawn after only 14 months operation.

In 1985, the industry parties organised an overseas study mission to study manpower and training developments. Following the report of the overseas study mission, Minister Morris established the Maritime Industry Development Committee (MIDC). Its report "Moving Ahead" focussed on a radical reappraisal of shipboard management and work practices. It envisaged crews of 21 on next generation Australian ships and laid the foundation for integrated ratings. The Government endorsed the MIDC report and introduced legislation to provide capital assistance with purchase of new (or newly acquired second-hand) vessels.

In 1988, a Shipping Reform Task Force (SRTF), chaired by Mr Ivan Deveson AO, was established by the Federal Government to develop a strategy for further development of the industry. The task force developed an agreed package of reforms which it anticipated would reduce the operating costs of Australian ships to that of comparable OECD ships with national crews. The Government accepted the broad thrust of SRTF and, among other things, extended the 7% Capital Grant and accelerated depreciation for additional five years, contributed up to \$24,000 per package to a one-off redundancy scheme, introduced programs to reduce crews on existing ships and established the Shipping Industry Reform Authority (SIRA) for three years to oversee the detailed development and implementation of the reform strategy.

By the end of 1992, manning reductions in Crawford vessels to MIDC levels had been completed, with average crewing levels reduced from 25.9 to 21.9 in these vessels. SIRA negotiated a further reduction in average crew size to 18 by 1994.

In September 1994, a PAYE rebate scheme for ships trading internationally was adopted by Government as part of the resolution of a dispute over the sale of ANL. It commenced in July 1995. This was based on a scheme used in a number of shipping countries and was judged the most suitable of the schemes offered to the shipping industries of Japan, France, the UK, the USA, Norway, Denmark and Germany all of which were studied at the time.

In May 1996, the Government terminated the PAYE rebate scheme, the capital grant and the accelerated depreciation provisions.

Policy changes since 1996 have seen the regulatory framework based on Part VI emerge as the key instrument of shipping policy. Australian coastal shipping has been the subject of a number of reviews over the past decade. The objects of the various reviews differed; nevertheless a number of issues were canvassed during those processes that are relevant to the current Terms of Reference. A brief outline of each review and the recommendations that followed are at Appendix 5.

2 INDUSTRY

2.1 The Australian coastal fleet

Definitions of the Australian coastal fleet vary. Some of the more widely accepted definitions include:

- All commercial vessels operating on the coast. On the basis that they need comparable skills to operate, require the same land/sea interface and are subject to similar safety regulation. This definition encompasses a variety of large and small vessels/and include tugs, offshore supply vessels, dredges, barges and offshore tourist vessels;
- Large trading vessels engaged in the coastal trade. On the basis that these vessels fulfil the coastal transport task of moving cargo/passengers around the coast. Vessels could be Australian owned/crewed or foreign owned/crewed;
- Vessels that are licensed⁶ to engage in the coastal trade. On the basis that these are the vessels that are the primary means of meeting the coastal transport task. Vessels include Australian and foreign ships;
- Vessels that are operated by Australian entities. On the basis that these vessels are controlled by Australian interests and having similar capabilities can be used in the international or coastal trades. The vessels can be registered and/or crewed in Australia or overseas; and
- Australian registered vessels operating in the coastal trades. On the basis that these are the vessels that are available to meet the coastal transport task, controlled by Australian entities and crewed by Australian seafarers.

The Australian trading fleet has been defined by BITRE (2008) as:

'Cargo vessels owned and/or operated by Australian companies to and from Australia. The fleet includes vessels that carry cargo and passengers, but does not include vessels that carry passengers only.'

This definition encompasses vessels registered overseas and manned by foreign crew authorised to operate in Australian trades under licence.

Due to the poor availability of accurate information regarding the precise number of vessels within the Australian shipping industry, in particular those vessels trading in the Australian coastal trade, this submission focuses on the Australian trading fleet and where possible uses coastal shipping data.

2.1.1 Vessel types

The employment of a vessel is dependent on the type of freight task the shipper is requesting. Specialised vessels such as Liquid Natural Gas carriers, chemical tankers, car or livestock carriers all fulfil specific tasks and lack versatility given the special construction of these vessels.

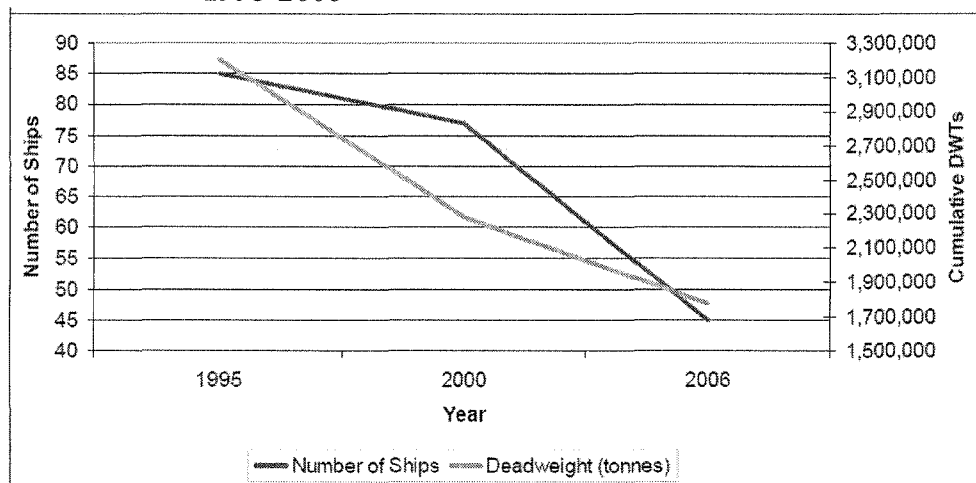
⁶ The licence system is explained in Section 3

General cargo vessels on the other hand can carry a variety of goods in various units such as containers and wheeled units making them much more versatile. For bulk cargoes the choice of a vessel is dependent upon size constraints and the suitability of the vessel for the particular bulk commodity.

2.1.2 Vessel numbers

A chart produced recently in the Meyrick Report⁷ demonstrates the decline in both the number and capacity of the Australian coastal fleet⁸ since 1995 – Figure 1. The cross over of vessel deadweight tonnes over the number of vessels indicates the shift to fewer but larger vessels.

Figure 1: The Australian Coastal Fleet – Number of Vessels and Total DWT, 1995-2006



Source: Meyrick and Associates (2007)

A breakdown of the Australian shipping fleet taken from extracts in BITRE's Australian Sea Freight Information Paper Series illustrates the actual number of vessels and their deadweight tonnes for the years 1996, 2000-01 and 2005-06. As illustrated in Table 1a below, the Australian registered trading fleet has decreased from 75 vessels in 1996 to 69 and 46 vessels for 2000-01 and 2005-06 respectively. From 2000-01 to 2005-06 the number of major trading vessels in Australia's coastal fleet and registered within Australia decreased from 35 to 33. However, the total number of vessels in Australia's major trading fleet⁹ increased from 51 to 77 vessels with a boost to the tonnage available. In the minor trades the number of other trading ships (those vessels of a deadweight tonnage above 150 dwt but below 2000dwt) has decreased. This decrease occurred within the general cargo fleet (see Figure 2 below), possibly

⁷ Meyrick & Associates *International and Domestic Shipping and Ports Study* (May 2007) page 130. This report was commissioned by the Australian Maritime Group which is comprised of officials from Commonwealth, State and Territory jurisdictions. One of the aims of the report was to examine the scope for increasing shipping's share of the domestic freight market.

⁸ As defined by Meyrick & Associates the Australian coastal fleet comprises all vessels licensed to partake in Australia's coastal trade under the Navigation Act 1912, regardless of its flag and crew nationality.

⁹ A combination of Australia's major trading vessels (vessels of 2000 dwt or more) operating within the coastal and overseas trades.

indicating the industry's preference for fewer but larger more efficient vessels operating in Australia's trades. SUBMISSION 15

Table 1a: Australian Trading Fleet 1996, 2000-01 and 2005-06

Year	Trade	Number of vessels	Deadweight tonnes (dwt)	Gross tonnage (gt)
1996				
Major Trading Fleet (> 2000dwt)				
<i>Coastal</i>				
	Australian registered	38	1 277 231	828 596
	Overseas registered	4	22 665	25 259
	Coastal Fleet	42	1 299 896	853 855
<i>Overseas</i>				
	Australian registered	23	1 968 784	1 384 892
	Overseas registered	2	27 490	22 241
	Overseas Fleet	25	1 996 274	1 407 133
	Total Major Trading Fleet	67	3 296 170	2 260 988
Other Trading Ships (>150gt <2000dwt)				
	Australian registered	14	5 404	5 564
	Overseas registered	1	1 720	1 167
	Total Other Trading Ships	15	7 124	6731
Total Australian Trading Fleet				
	Australian registered	82	3 303 294	2 267 719
	Overseas registered	7	51 865	48 667
2000-01				
Major Trading Fleet (> 2000dwt)				
<i>Coastal</i>				
	Australian registered	35	1 003 535	725 107
	Overseas registered	4	115 144	71 983
	Coastal Fleet	39	1 118 679	797 090
<i>Overseas</i>				
	Australian registered	10	933 731	796 051
	Overseas registered	2	255 899	147 411
	Overseas Fleet	12	1 189 630	943 462
	Total Major Trading Fleet	51	2 308 309	1 740 552
Other Trading Ships (>150gt <2000dwt)				
	Australian registered	24	11 798	15 556
	Overseas registered	6	3 876	8 190
	Total Other Trading Ships	30	15 674	23 746

Total Australian Trading Fleet	81	2 323 983	1 764 298
Australian registered	69	1 949 064	1 536 714
Overseas registered	12	374 919	227 584

2005-06*Major Trading Fleet (> 2000 dwt)**Coastal*

Australian registered	33	982 503	742 491
Overseas registered	11	363 275	237 098
Coastal Fleet	44	1 345 778	979 589

Overseas

Australian registered	7	575 298	599 036
Overseas registered	26	1 072 068	796 610
Overseas Fleet	33	1 696 674	1 436 111

Total Major Trading Fleet	77	2 993 144	2 375 235
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Other Trading Ships (>150gt <2000dwt)

Australian registered	6	4 911	6 468
Overseas registered	5	5 750	5 273

Total Other Trading Ships	11	10 661	11 741
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Total Australian Trading Fleet	88	3 003 805	2 386 976
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Australian registered	46	1 562 712	1 347 995
Overseas registered	42	1 441 093	1 038 981

Source: BITRE – *Australian Sea Freight* Information Paper Series

Since the release of the 2005-06 figures BITRE's methodology has been revised. Table 1b below shows the revised figures and Table 1c shows the preliminary figures of the Australian Trading Fleet for 2006-07¹⁰.

Table 1b: Summary of Australian trading fleet between 2002 and 2007

Year ¹¹	Small ships (less than 2000dwt)	Large ships (greater than 2000dwt)	Total number of ships	Deadweight tonnage	Gross registered tonnage
2002	23	94	117	3 486 534	2 534 625
2003	25	93	118	3 472 108	2 467 299
2004	26	89	115	3 746 739	2 740 545
2005	21	86	107	3 315 275	2 471 658
2006	23	82	105	3 040 657	2 369 057
2007	22	74	96	3 032 047	2 310 649

Source: BITRE *Australian Sea Freight* 2006-07 Information Paper 61

¹⁰ Please note that this information is yet to be released and may change.

¹¹ Calculated from June each year.

Table 1c: Australian Trading Fleet 2006-07

2006-07			
Major Trading Fleet (> 2000dwt)			
<i>Coastal</i>			
Australian registered	31	731 306	587 721
Overseas registered	4	91 298	60 209
Coastal Fleet	35	822 604	647 930
<i>Overseas</i>			
Australian registered	9	622 881	626 285
Overseas registered	30	1 573 233	1 013 089
Overseas Fleet	39	2 196 114	1 639 374
Total Major Trading Fleet	74	3 018 718	2 287 304
Other Trading Ships (>150gt <2000dwt)			
Australian registered	18	10 290	16 226
Overseas registered	4	5 099	8 971
Total Other Trading Ships	22	15 389	25 197
Total Australian Trading Fleet	96	3 034 107	2 312 501
Australian registered	58	1 364 477	1 230 232
Overseas registered	38	1 669 630	1 082 269

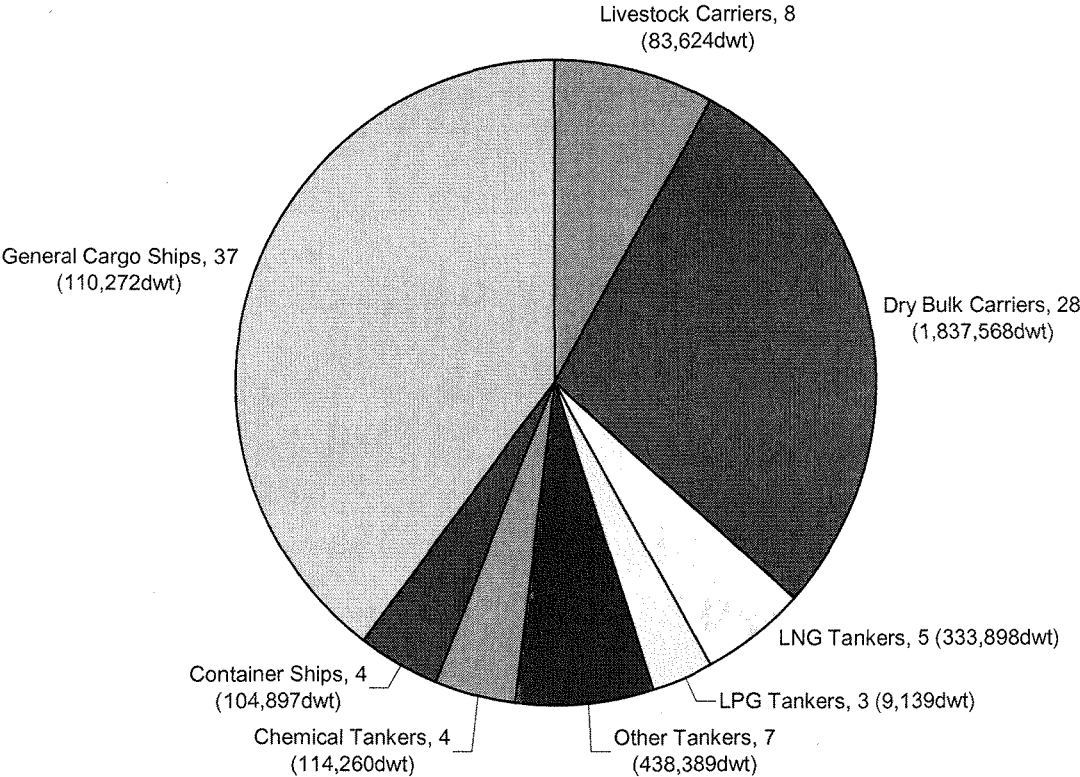
Source: BITRE – *Australian Sea Freight Information Paper Series*

2.1.3 Vessel carrying capacity

The number of vessels is the critical determinant for the number of crew employed. However, with a global shift to larger vessels a decreasing number of vessels in a national fleet does not necessarily reflect a decrease in the carrying capacity of vessels (usually measured in terms of deadweight tonnes (dwt)) of that fleet. When comparing 2006-07 figures with 2005-06 figures from BITRE, there has been a 23 per cent increase in Livestock Carrier tonnage and a 12 per cent increase in Dry Bulk Carrier tonnage. A decrease in both Container Carriers and General Cargo vessels has occurred in the same period.

Figure 2 illustrates the carrying capacity of the various types of vessels that comprise Australia's trading fleet. Of the total of 3,034,107 dwt (the total carrying capacity of the Australian fleet), 1,837,568 dwt or 60 per cent is provided by bulk carriers and 895,686 dwt or 29.5 per cent is provided by tankers. These shares are indicative of Australia's substantial trade in mineral and petroleum products between various Australian coastal markets and international markets in Asia. Australia's general cargo ships and container vessels make up the majority of other vessel numbers and include ships serving the Bass Strait and the Western Australian trade.

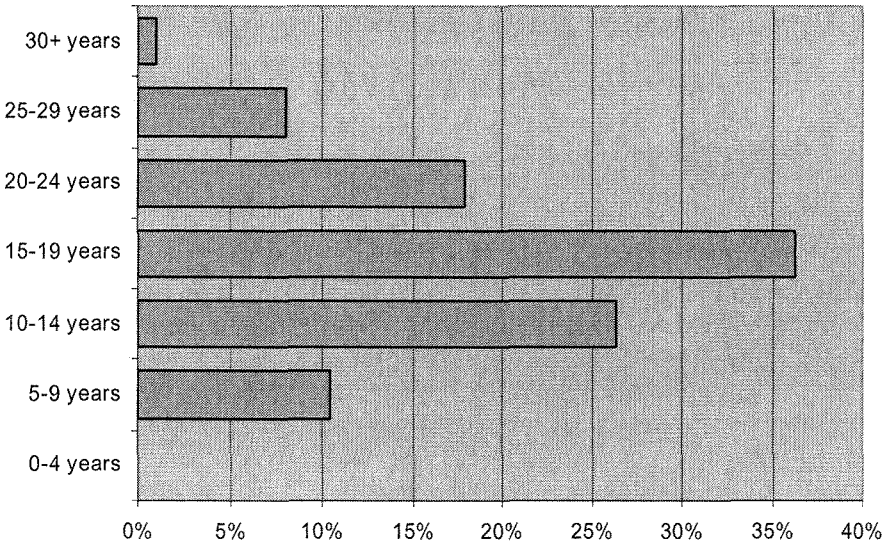
Figure 2: Number of Ships within the Australian Fleet by Ship Type 2006/07



Source: BITRE *Australian Sea Freight 2006-07* Information Paper 61 and Department of Infrastructure analysis

2.1.4 Age distribution of vessels

Figure 3: Age of Australian trading fleet 2007 (percentage of total in terms of deadweight tonnage)

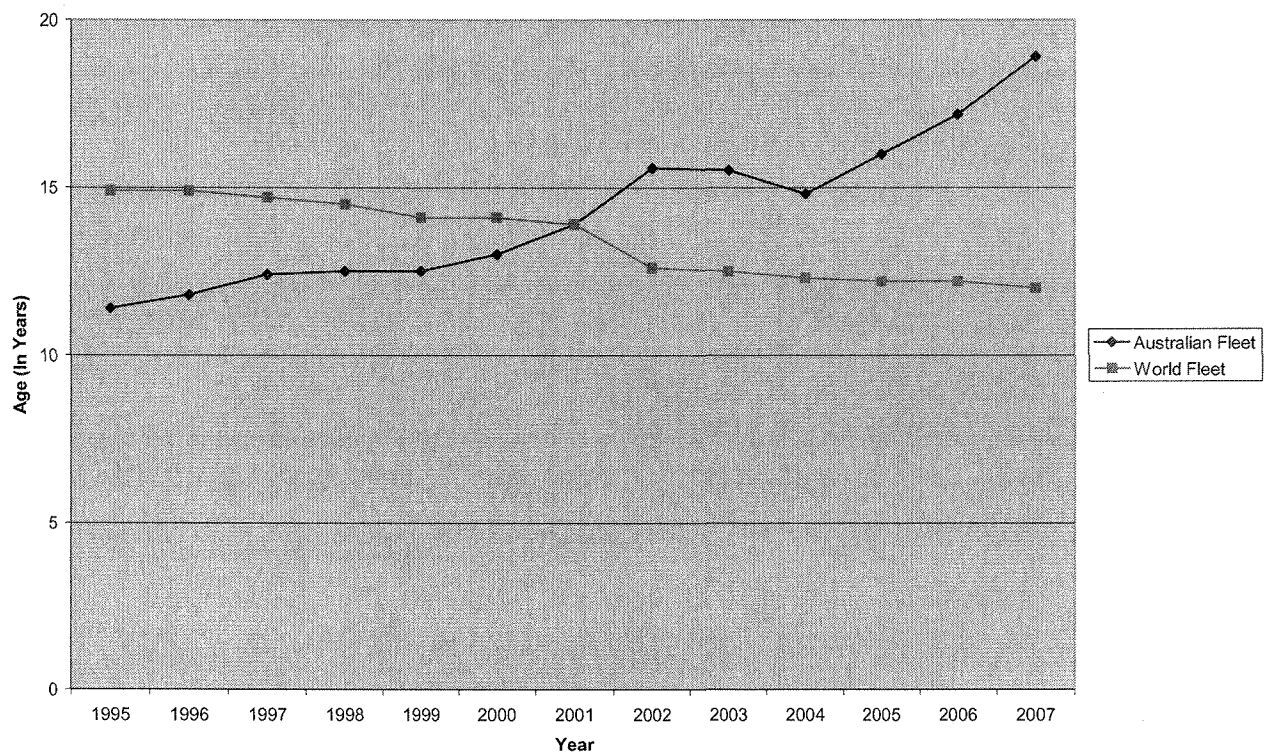


Source: BITRE analysis

BITRE analysis (see Figure 3) has found that the average age of Australia's trading fleet in 2007 was 18.9 years compared to the world fleet average of 12 years.

The average age of Australian ships increased from 9 years in 1994 to 17 years in 2006 (the economic life of ships is usually about 20 to 25 years). Figure 4 below illustrates the age of the world and Australian fleets over time, where the average age of the Australian fleet passed the world fleet and has continued to grow away from the world fleet average.

Figure 4: Comparison of the age of the world and Australian fleets over time



Source: Combined Australian Shipowners Association and BITRE data sourced from *Australian Sea Freight Information Paper Series*.

2.2 Crewing and costs

According to figures obtained from the Independent Review of Australian Shipping (2003), Australian registered and crewed ships cost about \$2-\$2.5 million more per year (depending on ship size and type) to operate than a comparable foreign crewed vessel. The Submission by the Australian Shipowners Association to this Inquiry indicates that this cost differential has increased and is now over \$3m per annum, and is dominated by higher manning costs.

The Meyrick Report (2007) found that the cost of an Australian manned and licensed vessel represents approximately 38 per cent of its total daily operating cost (excluding fuel) compared to 13 per cent for a foreign manned vessel. Other areas where Australian vessels have a cost disadvantage include the provision of crew supplies such

as food – 18 per cent, dry docking / stores / lubes – all 7 per cent, and capital (i.e. loan interest etc.) – 11 per cent. The data demonstrates that Australian vessels are at a competitive disadvantage against their international counterparts.

Australian registered ships have Australian crews and most operate predominantly in the Australian coastal trades, as their high operating costs reduce their competitiveness in international trades. Notable exceptions are the four Australian-flag gas carriers operating between the NW Shelf and Japan, where the nature of the specific trade, the high capital costs of the vessels and the global shortage of qualified seafarers for the gas trade are significant factors.

The number of crew on Australian ships are low by world standards, however Australian crewing costs are higher on many types of ships due to the impact of:

- Australian levels of wages;
- accommodation standards,
- the high cost associated with training crew members; and
- leave accrual.

As an example, Australian seafarer leave rate is almost 1 day of leave for each day at sea. This means that Australian ships need around two crews, operating on a rotating roster, for every berth on the ship. While not inconsistent with general Australian community standards (taking into account weekends, public holidays and annual leave provisions) this crew-to-berth ratio is higher than many overseas ships. Drewry Shipping Consultants (2006) state that Filipino crews accrue 6-8 days per month at sea, Ukrainian crews accrue 8 days, UK officers 16-25 days per month, while UK ratings accrue 13-15 days per month.

2.3 Major trades

Table 2: Characteristics of the Main Domestic Freight Corridors

Route:	Distance (km)	Transit Time (hrs)			
		Air	Road	Rail	Sea*
Brisbane – Sydney	1,000	1.2	15	21	26
Sydney – Melbourne	930	1.2	11	13.5	29
Melbourne– Brisbane	1,850	2	33	36	55
Melbourne– Adelaide	740	1	9	13	26
Sydney - Adelaide	1,550	1.5	20	27	50
Adelaide – Perth	2,700	2	34	45	67
Melbourne – Perth	3,400	3	43	58	84
Sydney – Perth	3,400	3	55	72	106
Brisbane – Perth	4,400	4	70	93	132

* assumes a constant vessel speed of 20 knots. Perth = Fremantle.

Source: Meyrick & Associates 2007

The domestic shipping trades and services can usefully be segmented into four broad categories used in the Meyrick report, namely:

- Bass Strait domestic trade – cargoes (container, rolling and breakbulk) shipped between Victoria and Tasmania by Australian domestically-operated ships;
- Mainland inter-state containers – east west (Brisbane/Sydney/Melbourne/Adelaide – Perth) and north south routes (Melbourne/Sydney – Brisbane) using international container ships with permits or, when available (which is no-longer the case after the withdrawal of services by PAN Shipping), Australian domestically-operated container ships;
- Remote-area and other domestic non-bulk trades – supporting remote communities and mining projects in Western Australia, Northern Territory, Northern Queensland, and the Furneaux Group of islands in the Bass Strait; and a link across the Spencer Gulf in South Australia; and
- Domestic bulk and breakbulk trades – cement (Cement Australia, Adelaide Brighton), gypsum (CSR, Rio Tinto), bauxite (Queensland Alumina), alumina (Alcoa), iron ore (BlueScope Steel), sugar (Sugar Australia), petroleum products (various oil majors), and iron and steel products (BlueScope Steel).

2.3.1 Bulk

Major domestic cargo flows are bauxite from Weipa to Gladstone (alumina refining), iron ore from Western Australia to Port Kembla, sugar from Queensland to other states, gypsum from Thevenard and Cape Cuvier to cement production centres, cement from Railton to Melbourne and NSW/SA to eastern states/Gladstone to Qld & NSW, refined petroleum products from refineries to outlying regions, and steel products (slab) from Port Kembla to Hastings (Westernport). The cargoes and shipping movements are generally part of a manufacturing supply chain involving raw materials supply and distribution of intermediate products or final products from production centres to regional storage facilities.

Of the total coastal cargo over 60 per cent is dry bulk cargo, primarily bauxite, alumina and iron ore. The coastal shipment of these commodities *intra* and *inter* state for processing is driven by domestic and international demand for Australian resources. From the table above the largest quantity of dry bulk goods was carried within Queensland, indicative of the large bauxite trade within the state.

The coastal shipment of crude oil and petroleum products made up 23 per cent of total coastal freight. The movement of crude oil and petroleum products is driven by consumer demand. Crude oil is shipped from terminals off the West Australian Coast, Port Bonython (Queensland), and Westernport (Victoria) to the major oil refineries in Fremantle, Melbourne, Geelong, Sydney/Port Botany and Brisbane. From these refinery ports petroleum products are shipped to coastal distribution ports for distribution to consumers.

2.3.2 Containers

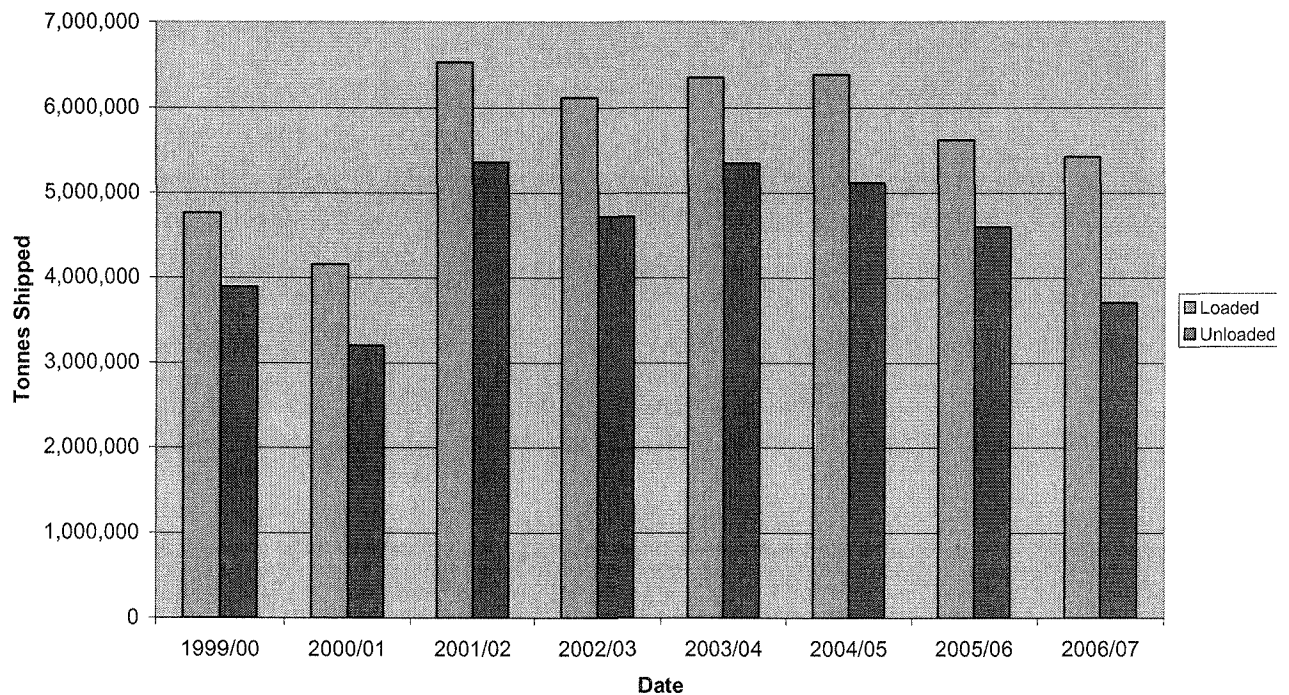
The mainland container shipping trade has three major components: the North/South (Brisbane – Sydney/Melbourne), the East/West (Perth – Adelaide/Melbourne/Sydney), and transshipment of international cargoes (including empty containers) across Australian ports.

The coastal shipping of containers faces the greatest competition from rail and road transport. According to the Meyrick Report coastal shipping is most competitive on the East-West routes because rates are almost half that of rail and delivery times are within customer requirements. The study also suggests that coastal shipping for non-bulk goods is more attractive than road transport for distances above 2,200km. Given these distances, the long-haul coastal routes such as the East-West (Brisbane/Sydney/Melbourne/Adelaide – Perth) and the North-South routes (Melbourne/Sydney – Brisbane) are the most contestable resulting in 17 per cent of all coastal freight being containerised or non-bulk cargo. The withdrawal of services by PAN Shipping in 2006 means there is currently a reliance on foreign crewed container ships (mostly operating under permit) to fulfil shippers' requirements for carriage of coastal container cargoes between the major mainland ports.

2.3.3 Bass Strait

The Bass Strait domestic shipping trade provides dedicated services linking Tasmania and the Mainland (see Figure 5 below). According to the Meyrick Report, due to the regular, reliable services the route sees approximately 5 million tonnes of goods shipped per annum, 87 per cent (by weight) of which is containerised. The remaining freight includes wheeled unitised (10 per cent) and break-bulk (3 per cent). The carriage of cargo between Tasmania and the mainland is facilitated by 4 shipping lines using Ro-Ro vessels and a dedicated cellular vessel. The Bass Strait trade has grown steadily at above 7 per cent per year since 1990 and is expected to grow at 5 per cent per year in the long term. Eligible cargoes shipped across Bass Strait receive assistance under the Australian Government's Tasmanian Freight Equalisation Scheme.

Figure 5: Tasmanian Coastal Freight (Tonnes) 1999/00 – 2006/07



Source: BITRE – *Australian Sea Freight Information Paper Series*

2.4 Remote communities

The servicing of remote communities along the Australian coast relies primarily on independent operators providing the necessary tonnage, quite often on a small multi-purpose vessel with gears or roll-on/roll-off facilities which require little port based infrastructure.

The Meyrick Report describes services to remote communities as varied, with supply and demand requirements in the region being important determinants of service.

The study briefly detailed some of the services operating along Australia's coast, the following is a summary:

- In the Northern Territory the largest operator, Perkins, provides a commercially operated service extending as far south as Brisbane.
- In Western Australia (WA) the government provides a contract to operate a WA Coastal Service. The service is operated along the West Australian coast on a 17 day schedule.
- The Furneaux Group of Islands consisting of Flinders and King Islands are serviced regularly by two shipping companies.
- Coastal shipping services in South Australia are providing significant time/cost benefits over road or rail transport by reducing a 350km distance to a 2 hour service between Adelaide and western South Australia (Port Lincoln, Whyalla etc.). Additionally, the service provides environmental benefits which would otherwise not be realised through the use of road or rail transport.
- Other remote island services are conducted as a component of passenger ferry services. Further, remote islands such as Norfolk and Lord Howe Islands are often serviced by dedicated cargo services passing along on their way to New Zealand.

2.5 Coastal shipping freight task

According to BITRE, the 2006-07 coastal freight task was 116.5 million tonnes or 13.7 per cent of all cargo moved across Australian wharves, the same proportion as 2005-06. 56.4 million tonnes of the coastal cargo was loaded onto ships and 60.1 million tonnes unloaded (see Table 3). The difference in the cargo loaded and unloaded is due to timing differences in loading and unloading cargo. The vast majority of coastal freight moved was dry bulk commodities on intra and inter state long-haul voyages.

Table: 3 Summary of Australian coastal freight, 10 years to 2006-07

<i>Financial year</i>	<i>Loaded</i>			<i>Unloaded</i>		
	<i>Interstate</i>	<i>Intrastate</i>	<i>Total</i>	<i>Interstate</i>	<i>Intrastate</i>	<i>Total</i>
			<i>Million tonnes</i>			
1997-98	34.3	18.2	52.5	34.7	19.0	53.7
1998-99	31.9	16.5	48.4	31.0	17.1	48.1
1999-00	32.7	18.6	51.3	32.4	18.4	50.7
2000-01	33.2	18.8	52.0	32.8	18.7	51.5
2001-02	32.5	19.9	52.4	33.2	19.7	52.8
2002-03	34.3	18.6	52.8	35.0	18.5	53.5
2003-04	34.8	18.4	53.2	35.5	19.6	55.1
2004-05	34.1	19.6	53.7	34.0	19.4	53.4
2005-06	34.8	20.4	55.2	34.1	21.0	55.1
2006-07	35.7	20.7	56.4	34.6	25.5	60.1

Source: BITRE 2008.

A breakdown of the distribution of coastal freight is detailed below in Table 4. This Table details the coastal freight movements, loaded and unloaded as well as the pack type. As previously noted, dry bulk is the largest cargo type to be moved with inter and intra state travel.

Table: 4 Coastal freight by Australian state and territory of loading or unloading and pack type, 2006–07

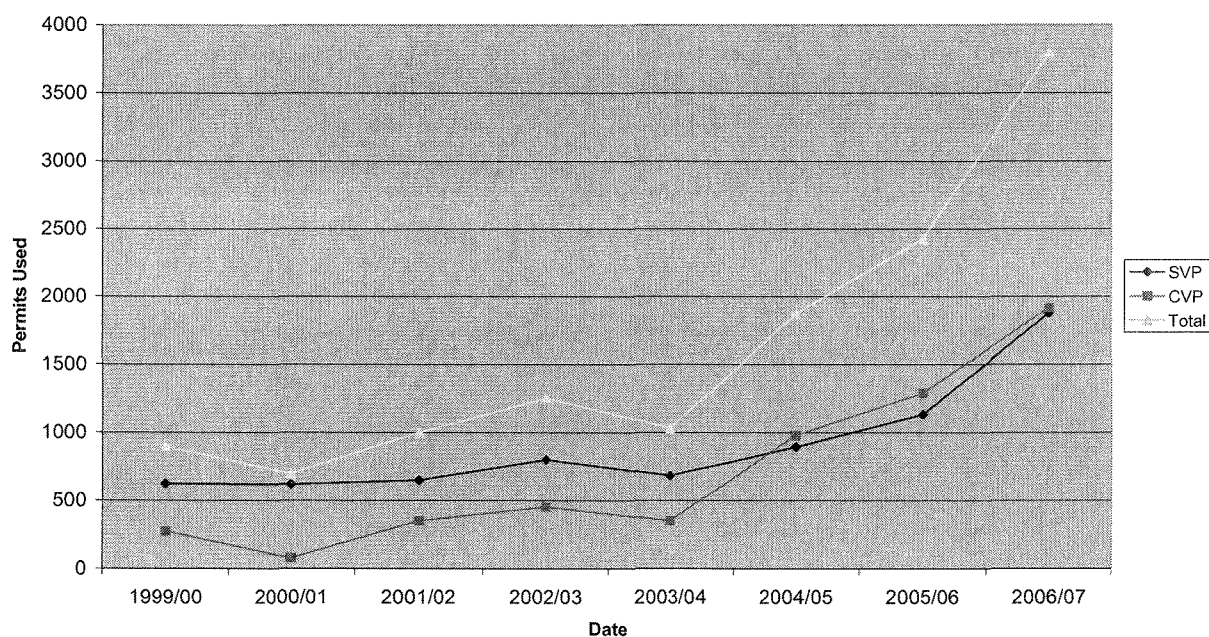
State/territory of loading	State/territory of unloading							Total
	NSW	Vic.	Qld	SA	WA	Tas.	NT	
<i>Thousand tonnes</i>								
Dry Bulk								
NSW	8.5	333.1	41.0	976.7	14.7	112.7		1 486.7
Vic.	64.7	16.0	5.2	4.9	7.5	19.5		117.9
Qld	1 879.6	838.8	14 677.4	459.2	173.0	331.2		18 359.2
SA	1 859.5	1 075.6	842.4	204.2	179.9	175.1		4 336.6
WA	4 764.6	1 330.1	71.3	58.3	500.8			6 725.1
Tas.	1 618.1	753.9	83.7	72.0		159.7		2 687.3
NT							4.9	4.9
Sub Total	10 195.0	4 347.5	15 721.0	1 775.4	876.0	798.1	4.9	33 717.9
Liquid Bulk								
NSW	68.6	246.0	398.5			28.1		651.3
Vic.	3 423.6	613.8	1 080.4	120.1	27.9	420.2		5 686.0
Qld	354.7	183.6	1 553.4		26.3			2 117.9
SA	118.7	59.8			150.2			328.8
WA	947.0	792.1	1 399.8	403.2	2 694.8	131.0	34.0	6 401.9
Tas.	7.2	204.5	9.2	18.6	70.0	3.2		312.7
NT					2.6		38.2	40.8
Sub Total	4 919.8	2 099.8	4 351.4	541.9	2 971.7	582.5	72.2	15 539.3
Container								
NSW	0.2	30.8	215.0	4.8	379.0	39.3	0.1	669.2
Vic.	18.7		107.7	108.3	292.7	1 299.8	0.0	1 827.2
Qld	0.8	1.4	22.0	0.2	94.7	0.6	25.4	145.0
SA				2.8	0.6			3.4
WA	11.9	18.6	2.7	1.7	9.6	14.8	5.6	64.9
Tas.	106.8	1 430.4	1.3		173.5	8.7		1 720.8
NT			0.0		0.6		16.5	17.1
Sub Total	138.3	1 481.3	348.7	117.7	950.7	1 363.2	47.6	4 447.5
Non-Bulk								
NSW	8.3	968.0	41.6	17.6	12.2	6.3	5.8	1 059.8
Vic.	1.8	3.6	7.0	11.3	61.3	663.8		748.7
Qld	4.0	1.7	16.5	6.5	26.6	0.0	1.4	56.8
SA	0.1	2.0	6.1	0.1	17.5			25.8
WA	2.2	0.8	2.0	7.4	42.8	0.1	4.1	59.5
Tas.	0.3	703.6				2.0		705.9
NT					2.4		21.2	23.6
Sub Total	16.7	1 679.7	73.2	42.8	162.9	672.2	32.6	2 680.1
Total	15 269.8	9 688.3	20 494.3	2 477.7	4 961.3	3 416.0	157.3	56 394.8

Note: Blank cells mean no data was recorded for this category, while cells with an entry of 0 mean that data was recorded but rounded to zero.

Source: BITRE 2008.

According to BITRE's Australian Sea freight 2006-07 paper, in 2006-07, 3,791 voyages were undertaken by foreign-flagged ships using voyage permits (see Section 3 for a discussion of the licensing and permit framework) to move cargo around the Australian coast. This represents a growth of 56.4 per cent over the previous year. Of these, 1,876 voyages used single voyage permits and 1,915 voyages used continuing voyage permits.

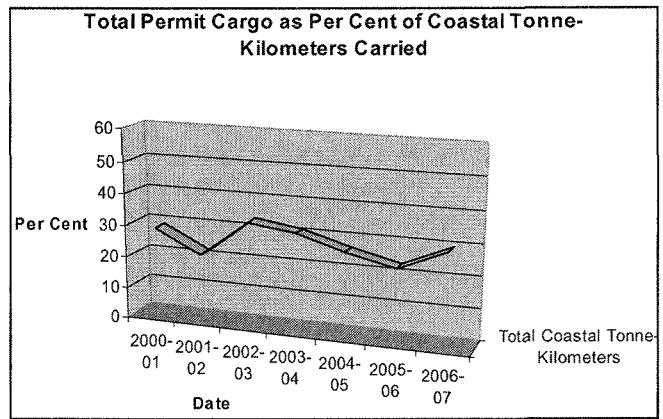
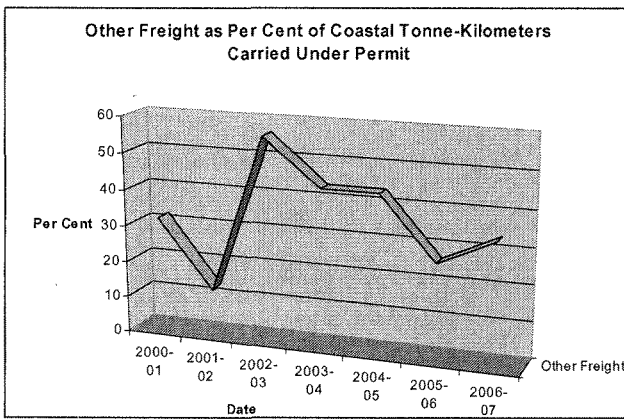
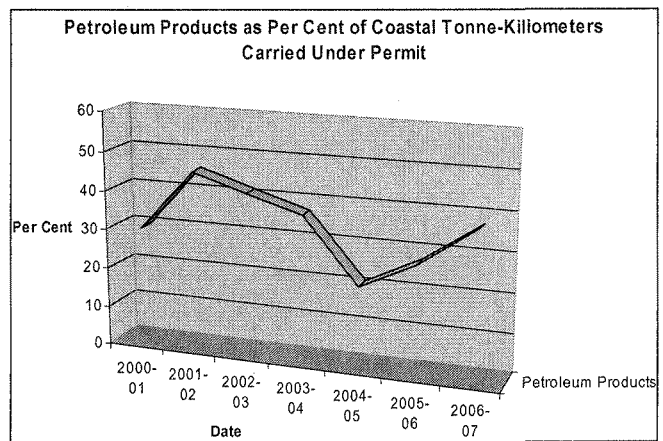
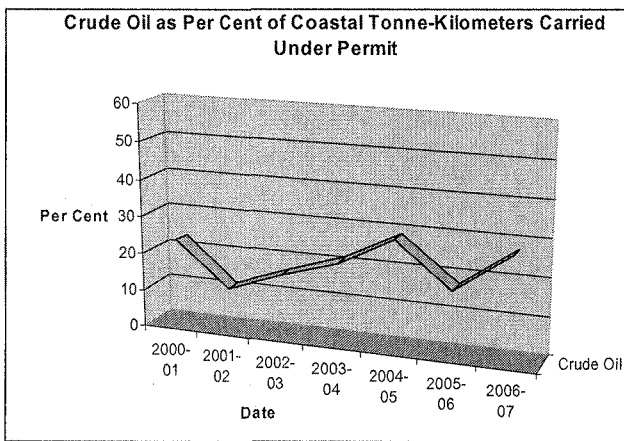
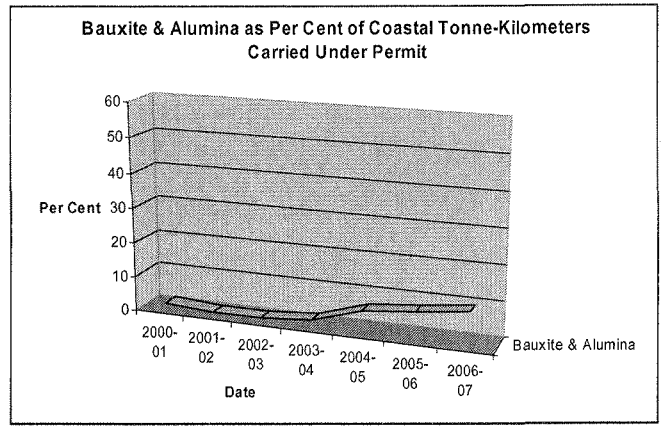
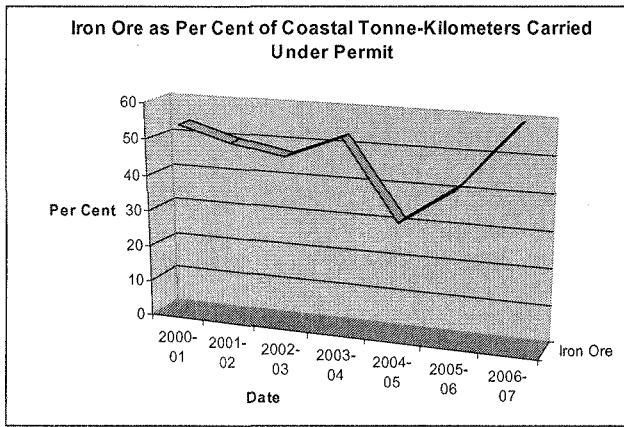
Figure 6: Permits Used 1999/00 – 2006/07



Source: Department of Infrastructure analysis 2008

The total tonnes carried under permit (SVPs and CVPs) increased by 21.7 per cent from the previous year, while the number of TEUs transported under permit grew by 50.1 per cent in 2006-07. According to BITRE (2008) coastal shipping of petroleum products, crude oil, bauxite and alumina, iron ore and other cargo (comprising containers, break-bulk cargo and general cargo) under permit have all increased. As a proportion of total coastal cargo (tonnes), permit ships carried 29.6 per cent in 2006-07. In relation to specific cargoes, permit ships carried 59.3 per cent of coastal shipments of iron ore. Figures for other categories were Petroleum Products (37.5 per cent), Other Freight (33.4 per cent), Crude Oil (27.8 per cent) and Bauxite and Alumina (9.5 per cent). A time series of each of the above mentioned cargo categories is shown in Figure 6 below illustrating the previous trade patterns for these cargoes around the Australian coast.

Figure 7: Proportion of Cargo Groups Carried as Per Cent of Coastal Tonne-Kilometres Carried Under Permit



Source: BITRE *Australian Sea Freight Information Paper Series*.

Table 5 below demonstrates changes in the total tonnage carried under permit over time.

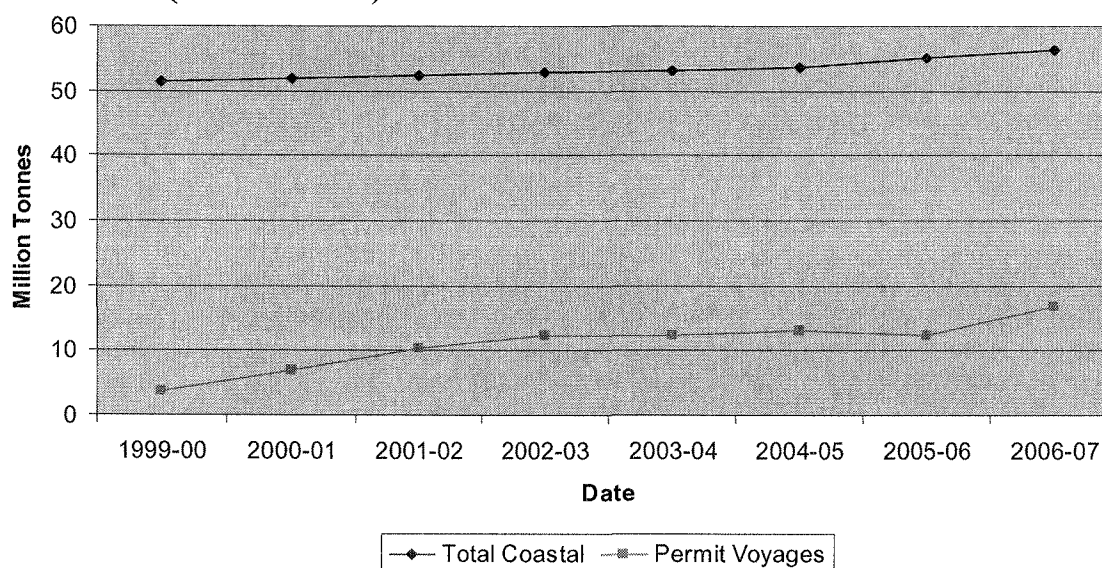
Table 5: Freight Carried Under Permit (Tonnes) 1999/00 – 2006/07

Date	SVP Carried Tonnes	CVP Carried Tonnes	Total Carried Under Permit Tonnes	Total Coastal Tonnes
1999/00	3,581,651	133,613	3,715,264	51,325,000
2000/01	6,738,345	258,265	6,996,609	52,003,000
2001/02	8,974,727	1,359,132	10,333,859	52,432,000
2002/03	10,573,004	1,729,244	12,302,249	52,825,000
2003/04	10,430,190	1,755,127	12,185,318	53,194,000
2004/05	11,030,905	2,015,719	13,046,624	53,672,000
2005/06	11,470,959	2,230,131	13,701,090	55,249,300
2006/07	14,836,938	1,836,476	16,673,414	56,384,800

Source: BITRE *Australian Sea Freight Information Paper Series* and Department of Infrastructure analysis 2008

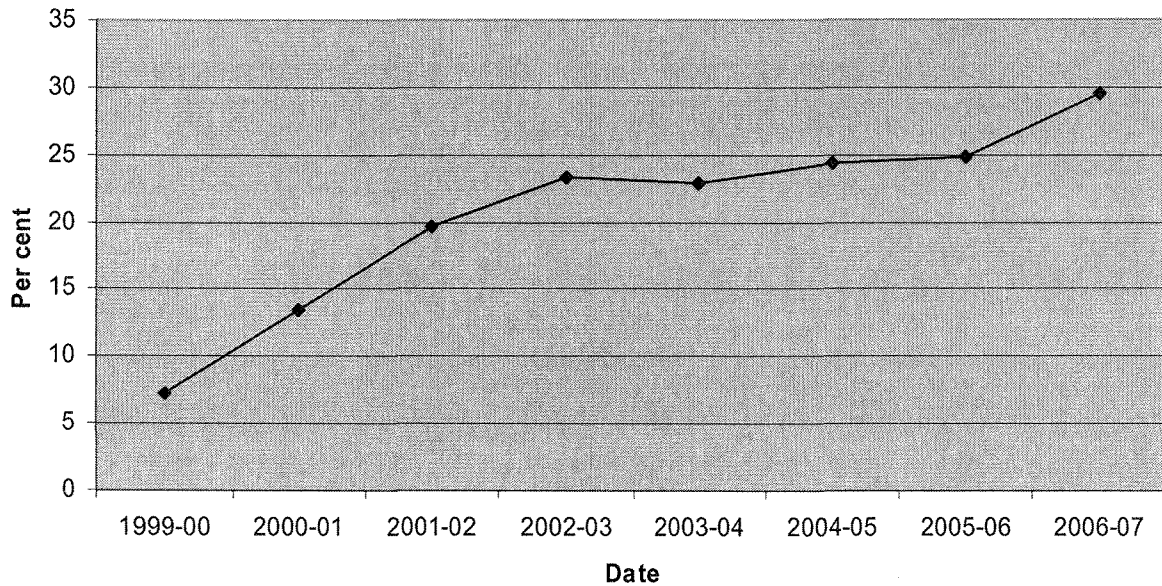
The 29.6 per cent of coastal cargo carried via permit in 2006-07 was higher than the 2005-06 figures which showed that of the 55.2 million tonnes of coastal cargo, 12.2 million tonnes (22.1 per cent) was carried via permit. Data from BITRE's *Australian Sea Freight Information Paper Series* is shown graphically in Figure 8.

Figure 8: Total Coastal Cargo and Coastal Cargo Carried Under Permit (million tonnes)



Source: Department of Infrastructure analysis 2008

Figure 9 below illustrates that as a percentage of coastal cargo, permit voyages have grown to almost 30 per cent of all coastal tonnes from previous shares of 23.3 per cent (2002-03) and 24.3 per cent (2004-05). Growth in demand across cargo groups has led to the increased demand for shipping services and an increase in the number of permits issued.

Figure 9: Permit Voyages Undertaken as per cent of Coastal Tonnes

Source: Department of Infrastructure analysis 2008

2.6 Coastal passengers carried under permit

The movement of passengers on permit voyages is less significant than cargo carried under permits, being confined to fewer ports and involving fewer vessels. In recent years permits have been issued for the carriage of between 2,000 and 3,000 passengers annually, with the majority being carried as part of cruises.

3 THE REGULATORY FRAMEWORK

Introduction

The coastal shipping economic regulatory framework comprises three elements:

- Legislation, namely Part VI (the coasting trade) of the *Navigation Act 1912*;
- Regulations, namely *Navigation (Coasting Trade) Regulations 2007* issued pursuant to Part VI; and
- Ministerial Guidelines for the application of Part VI and the Regulations which are entitled *Ministerial Guidelines for Issuing Coasting Trade Licences and Permits* (the Guidelines).

Copies of the current versions of each of these can be found in the Appendices.

Broadly, the framework is premised on the concept that preference should be given to ships licensed for the coasting trade to meet the coastal freight task. Licences are not restricted to Australian vessels but are issued on condition that crews receive Australian rates of pay. In circumstances where no licensed ship is available or is not adequate for the task and the Minister is satisfied that it is in the public interest, permits may be issued to non-licensed ships. Ships operating under permits are deemed not to be engaging in the coastal trade and therefore these vessels are not bound by the requirement to pay Australian wage rates, and are exempt from provisions of some Australian legislation which applies to licensed vessels and other domestic crewed and owned vessels.

The regulatory regime of Australia's domestic shipping trade is often described as 'cabotage.' This is not strictly accurate as cabotage is the term used in a shipping context to describe arrangements for restricting the carriage of domestic ("coastal") cargo and passengers to a country's domestic or national flag carriers. Maritime cabotage is widely practised around the world with the USA having one of the most comprehensive cabotage regimes. By contrast the Australian coastal trades are relatively open with foreign ships able to participate in Australia's domestic trade, subject to meeting specified criteria.

Application of Part VI

The application of Part VI is governed by section 7 of the Act which states:

- (1) *A ship shall be deemed to be engaged in the coasting trade, within the meaning of this Act, if it takes on board passengers or cargo at any port in a State, or a Territory, to be carried to, and landed or delivered at, any other port in the same State or Territory or in any other State or other such Territory.*

This definition is qualified by section 2 of the Act which provides that the Act does not apply to trading ships while on an intra-State voyage. That is, at the Commonwealth

level, the regulatory framework is primarily concerned with inter-state carriage of cargo or passengers.

The application of Part VI can be extended under another provision of the Act to cover intrastate coastal trades where ships would normally operate under State/Northern Territory jurisdictions. Section 8AA of the Act provides an 'opt in' provision - bringing a vessel within the ambit of the Act even when trading intrastate. A ship operator can exercise this option by applying to the Australian Maritime Safety Authority (AMSA). Currently 42 such declarations are in force. A complete list of vessels under section 8AA declaration is available at:

http://www.amsa.gov.au/Shipping_Safety/Declared_Vessels/Declared_Vessels_Section_8AA.asp

3.1.1 Coasting trade licences

Section 288 of the Act provides for a ship to be licensed to enable it to engage in the coasting (ie interstate coastal) trade. The legislation sets no restriction as to nationality of the ship or the crew - it is only necessary that the ship complies with a number of conditions, namely that:

- (1) the crew on board a licensed vessel must be paid Australian wages when engaged in the coasting trade (s.288);
- (2) the crew must have access to the ship's library for passengers if there is no library for the crew on the ship (s.288); and
- (3) the ship must not be receiving any subsidy from a foreign Government (s.287).

The Act allows a ship operating with a licence on the coast to also participate in foreign trade and in these cases it is only required that the ship meet requirements for the licence for the period when the vessel is engaged in the coasting trade.

Section 289 relates to the requirement of paying Australian wages and states:

Every seaman employed on a ship engaged in any part of the coasting trade shall, subject to any lawful deductions, be entitled to and shall be paid...wages at the current rates ruling in Australia for seaman employed in that part of the coasting trade....

For all licensed ships there must be evidence on board showing that the crew has been paid Australian wages for the period the ship was engaged in coasting trade (ss.289(2)).

Licences are issued on the condition that the ship operator meets the specified requirements. However, the Minister does have the power to cancel a licence if he/she is satisfied that there has been a breach of the conditions (ss.288(6)).

Licences may be issued for a period of up to three years but in practice are issued for up to one year. In 2007 there were 58 licensed ships operating in Australia, 16 of which

were foreign vessels (noting that the number of licensed vessels does not correspond with the number of trading vessels, as discussed in Section 2).

3.1.2 Coasting trade permits

The Act allows non-licensed vessels to carry interstate coastal cargoes in certain circumstances where they have been issued a permit. The relevant provision is Section 286 of the Act which provides that a permit may be issued to a non licensed ship to carry coastal cargoes in instances where:

- (1) no licensed ship is available to meet the needs of shippers of domestic cargoes [the availability test, ss.286(1)(a)]; or
- (2) where the service provided by licensed ships is not adequate to meet the reasonable needs of shippers [the adequacy test, ss.286(1)(b)]; and
- (3) it is in the public interest.

The Act defines 'adequacy' in relation to the needs of the shipper who have the key role in determining the adequacy of a licensed ship. The specific wording of ss.286(1)(b) refers to the needs of ports. Successive legal interpretations have clarified this provision as the needs of parties who use ports to transport their goods, meaning shippers.

Unlike licences, permits are issued at the discretion of the Minister (or his/her delegate). Subsection 281(1) of the Act states 'where it can be shown to the satisfaction of the Minister' in respect of granting permits.

A permit issued pursuant to section 286 can be either a Single Voyage Permit (SVP) for carriage of a specified cargo between designated ports at a particular time or a Continuing Voyage Permit (CVPs) for a number of successive voyages between designated ports. The recent practice is to issue a CVP with up to a three month validity allowing a ship to trade between specified ports within this period.

Many Australian shippers of bulk industrial commodities utilise the CVP regime to transport goods between ports using foreign ships. Back-to-back CVPs are also used by a number of liner operators. These operators provide scheduled services between Australia and other countries. Typically, a vessel would provide a five weekly service between Australia and a number of overseas ports and as part of that international voyage would carry some cargo between two or more Australian ports which are part of its international schedule.

For example, a liner vessel would call at eastern coast ports, Fremantle and then a number of overseas ports once a month. A liner operator may choose to apply for a CVP of three month duration to cover three 'service loops'. The Meyrick Report provides that in 2005 there were over 40,000 TEUs (twenty feet equivalent units) shipped between the eastern states and Fremantle, the majority of which were covered by permits. The majority of these are cargoes being moved from the eastern states to Western Australia with trade volume increasing.

Under subsection 286(4) of the Act the Minister has the powers to cancel a CVP if the Minister forms the view that it may no longer be in the public interest for that permit to remain in force. Section 286 specifies the process that must be followed for a permit to be revoked.

Subsection 286(2) provides that a ship using a permit shall not be deemed to be engaging in the coasting trade, that is, it is not subject to the licensing requirements for vessels operating in the coasting trade.

The vessels operating under permits are generally foreign flagged and foreign crewed, and the effect of Part VI (coupled with relevant workplace relations regulations) is that the employers and seafarers on such ships fall outside the coverage of the *Work Place Relations Act 1996* if the ship is carrying coastal cargo under a permit.

3.2 Navigation (Coasting Trade) regulations 2007

The second element of the regulatory framework is the Navigation (Coasting Trade) Regulations 2007. The Regulations are subordinate to Part VI and supplement its provisions. They provide the means, including prescribed forms, by which applications are made for licenses and permits. The Regulations specify the fees for a licence or a permit and provide the mechanism to demonstrate that crews on licensed ships have been paid Australian wages as required by section 288 of the Act.

The Regulations set the time frames for the processing of permit applications. Regulation 8 stipulates that the Minister (or the delegate) must make a decision on an urgent application before the end of the second working day after the application has been received.

The costs of permits are minor in the scale at which the shipping industry operates and are set on the basis of cost recovery for the Department. SVP applications cost \$200 (\$400 if application is made on an urgent basis), while CVP applications cost \$400. Licences costs \$22.

3.3 Ministerial guidelines - issuing coasting trade licences and permits

To supplement the provisions of Part VI and the Regulations, *Ministerial Guidelines for Issuing Coasting Trade Licences and Permits* (the Guidelines) have been issued to provide guidance for Departmental delegates of the Minister in making decisions regarding issuing licences and granting permits and to serve as a source of information for the shipping industry and other stakeholders.

These Guidelines have been updated from over time to reflect any relevant developments affecting the administration of the Act - in more recent times, Guidelines

were issued in 1990, 1998, 2004, 2006 and 2007. For example, the Guidelines issued in 1990 (by Minister Willis) included a preamble that "Government policy is that Australia's coastal trade is to be carried in Australian controlled and crewed ships whenever possible". CVPs were to be issued when "it is in the longer term interests of the Australian shipping industry". These Guidelines also required consultation with industry stakeholders on each permit application. These aspects were deleted in the Guidelines issued in 1998 (by Minister Reith).

The Guidelines are subject to regular amendments to remove uncertainties when they emerge, consistent with existing legislation. For example the Guidelines were amended in 2007 to align the provisions with the new visa requirements for ships' crew that came into force on 1 January 2008.

While the Guidelines themselves have no legal status, they are a key working document for administration of the regulatory regime and their provisions reflect the wording of the legislation, the Regulations, guidance from legal actions and advice, and current public interest considerations.

3.4 Passenger ships and cruise liners

The Ministerial Guidelines include exemptions from Part VI of the *Navigation Act 1912* for cruise liners, other than those carrying passengers between Victoria and Tasmania, in order to facilitate tourist traffic.

Cruise liners are defined as ships in excess of 5000 gross tonnes; capable of a speed of at least 15 knots; capable of carrying at least 100 passengers and utilised primarily for the carriage of passengers.

There is a requirement that if a cruise liner does not hold an exemption, the cruise liner must either be licensed or granted a permit to engage in the coastal trade.

Cruise liners carrying domestic passengers between Victoria and Tasmania must either be licensed or hold a permit, unless the passengers are carried across Bass Strait as part of a longer journey involving countries other than Australia or States other than Victoria and Tasmania.

Tourism considerations are key factors in the application of the legislation to passenger vessels. The Department consults with the agency responsible for the development of tourism in Australia to ascertain policy approaches to the cruise industry in Australia and determine the appropriate application of public interest criteria to permit applications.

3.5 Exempt trades

It is possible under the Act to exempt certain trades, as determined by the Governor-General or the Minister, from the Act's coasting trade provisions. Currently trades between the mainland and Christmas, Norfolk and Cocos islands; and trades between

these islands are exempt from coasting trade requirements in consideration that there is no regular licensed services to these islands and that communities on these islands need access to timely and competitive shipping services. The position of the islands away from the main trading routes results in limited appeal for shipping companies to meet their needs. Exemption from the licence/permit system provides greater flexibility in meeting the islands' shipping requirements.

The existing exemptions for Norfolk Island and Cocos (Keeling) Islands from the Coasting Trade provisions of the *Navigation Act 1912* were made on 1 January 1924 and 28 June 1956 respectively, and will expire on 1 April 2018. Christmas Island was granted an exemption from Part VI of the Act in 1998 by the former Minister for Workplace Relations and Small Business, the Hon Peter Reith MP, on the basis that:

1. It allowed Christmas Island Phosphates to access shipping services at competitive freight rates; and
2. It removed an anomaly whereby Christmas Island was the only Commonwealth island territory without an exemption.

This exemption is currently due to expire on 7 April 2010.

As indicated in Section 3.4, to facilitate tourist traffic the cruise liner passenger trades are also exempt from coasting trade requirements of the Act other than those between Victoria and Tasmania which is served by Australian licensed vessels. This exemption is currently due to expire on 31 December 2008.

3.6 Penalties

The Act sets pecuniary penalties for not complying with the provisions of Part VI. The penalties apply for the owner, master or the agent of the vessel in relation to the licensing process when the vessel has been receiving subsidy from a foreign Government (s.287), or when a vessel engages in the coasting trade without a license (ss.288(1)) or a permit, or when the crew of a licensed ship has not been paid Australian wages for the period the vessel was engaged in coasting trade (ss.288(4)).

The Act does not set any specific pecuniary penalty for breaching permit conditions such as failing to seek an amendment in time, or breaching the 10 per cent volume tolerance or the 3 day sailing date tolerance permitted under the Regulations.

The Department monitors performance of permit vessels with assistance of completed Statements of Cargo Actually Carried (SOCAC) provided by the operator of a permit vessel after each voyage made under a permit. Explanations are sought for breaches of permit conditions and future permits and the Department takes into account past breaches and explanations when considering permit applications.

3.7 Administration

The Department of Infrastructure, Transport, Regional Development and Local Government administers the regulatory framework for coastal shipping in accordance

with Part VI, the Regulations and the Ministerial Guidelines currently in force. The Maritime Branch within the Infrastructure and Surface Transport Policy Division is responsible for the provision of policy advice in relation to Part VI, with day-to-day administration of licenses and permits being handled by the Co-ordination Centre within the Office of Transport Security. Decisions on licences and permits are made by delegates of the Minister generally located within the Office of Transport Security.

Permit applications are assessed against the Part VI criteria of 'availability', 'adequacy' and 'public interest'. These key terms are not defined in the legislation and need to be determined on a 'case by case' basis in relation to each permit application. Consequently, in addition to Part VI and the associated Regulations, delegates use the Ministerial Guidelines and any further precedents, legal advice or guidance from the Government relevant to specific situations to effectively administer the coastal shipping regulatory framework.

A summary is provided below of the current processes used to consider applications for coasting trade permits. The system utilises a recently introduced online system (Coasting Trade OnLine, or CTOL) to facilitate processing of applications.

Permit Application process

Applications are submitted using the Coasting Trade OnLine system (CTOL). Participants log on to compile and submit an application.

Applications must include:

- o Details outlining why the granting of a permit is of public interest;
- o Dry/liquid bulk carriers and tankers must provide a declaration that the vessel is suitable to carry the cargo;
- o A Master's Bulk Report must accompany applications for dry bulk carriers. It must be accompanied by a valid Safety management Certificate and a valid Document of Compliance;
- o An Oil Companies International Marine Forum (OCIMF) SIRE or equivalent report must accompany all liquid bulk, gas, chemical, oil or petroleum applications;
- o A copy of the vessel's International Ship Security Certificate (ISSC) should accompany the applications (if a copy of the certificate is not available, the ISSC number and expiry date is sufficient);
- o The names and dates of the last foreign port visited and next foreign port to be visited;
- o If an applicant has applied for an Urgent SVP, a declaration of urgency must accompany the application and notification of when the urgency became apparent; and
- o Authorisation for appropriate payment.

Upon submission an application is vetted by a Coordination Centre team member to ensure details and attachments are correct, and that conditions of previous permits have been honoured.

Appropriate notifications and separate records are kept if the cargo is ammonium nitrate. If the cargo is listed as fertilizer, confirmation of the actual substance is sought from the applicant.

All relevant Australian Licensed Ship operators are contacted to see if a licensed vessel is available to undertake the voyage.

The vetted application is passed on to the Shift Supervisor through CTOL to be reviewed and quality assured. The Shift Supervisor also conducts a Safety and Environmental Assessment utilising the ship reporting system ShipSYS. If Incidents or Inspection Deficiencies are noted details, responses and explanations are sought through the applicant. For dry bulk, LPG, liquid bulk or petroleum cargo, the Australian Maritime Safety Authority (AMSA) is to be notified. For general cargo or passengers, AMSA does not need to be notified unless the vessel has been detained, involved in a pollution incident or the Supervisor deems the vessel to require input from AMSA (i.e. Poor safety record or require further investigation due to outstanding conditions).

If the application is all in order the Shift Supervisor passes it on through CTOL to the Delegate with the appropriate recommendation to approve the permit or not. The Delegate makes his/her decision and the application is passed back to the Coordination Centre team members through CTOL.

If the Delegate has approved the permit the team members register the decision and generate a permit. A copy of the permit is faxed to the applicant. If the permit is a CVP, a copy is faxed to the Government Notices Gazette. Notification that a permit has been issued is sent to AMSA and Customs, and if the cargo is dry bulk, then also to the Australian Quarantine Inspection Service.

If the Delegate has not approved the permit the team members register the decision and the applicant is formally notified.

SVP applications are processed within four working days after the day on which a complete application is received. Urgent Cargo SVP applications require processing by the end of the second working day after the day on which a complete application is received. CVP applications are processed within 10 working days after the day on which complete application is received. If the application is received after 5pm, it is classified as being received on the following working day. If any changes are made to an application, timeframes will be restarted.

Australian licensed operators

Relevant Australian licensed ship operators are contacted to see if a licensed vessel is available to undertake the voyage. Matters relevant to vessel availability will depend, in large part, on information provided in the permit application itself, for instance, the specified ports, nominated time for the voyage, and the intended cargo. Therefore, the inquiry is whether there is a licensed ship available for the particular voyage or voyages for which the application is made.

If a licensed vessel is available to undertake the voyage within three days either side of the proposed sailing date, they are required to state so in writing .

If a licensed vessel is available and adequate, a letter of refusal is generated instead of the permit.

Coasting Trade On-Line

CTOL was developed to streamline the coastal trading permit and licence processing. Participants can lodge applications online and monitor the status of their applications. The introduction of CTOL represented only a change to administrative practices for the submission and processing of permits and licences.

3.8 Other Relevant Legislation

There are linkages between the coastal licence/permit system and immigration, customs and workplace relations regulatory frameworks that have significant implications for the overall shape of the regulatory framework in which coastal shipping operates.

Part VI of the *Navigation Act 1912* interacts with the *Customs Act 1901* and the *Migration Act 1958* to impact on the coastal trades as follows:

- the Navigation Act limits the interstate carriage of coastal cargoes to licensed vessels (paying Australian wages) and vessels operating under permit where no licensed vessels are available;
- under the Customs Act, a vessel may be entered for home consumption if it is operating other than as part of an international voyage. Vessels operating under permit are generally not entered for home consumption; and
- the Migration Act provides for all foreign crews of either licensed or permit ships to be subject to visa requirements, and whether or not a particular type of visa is available will have implications for the ability to operate a ship as a licensed vessel with a foreign crew.

In addition to the customs and immigration issues covered in more detail below, a ship covered by the Part II of the *Navigation Act* is also covered by the *Seafarers' Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993*. The practical effect is that employers of seafarers on these ships are liable for compensation coverage and health and safety standards for crews under Australian legislation.

Foreign crew on permit ships are not subject to the provisions of the *Workplace Relations Act 1996* pursuant to Regulation 1.1 under that Act.

3.8.1 Immigration

All persons arriving in Australia by sea on commercial vessels are subject to immigration clearance. On arrival in Australia, all crew must present both a valid passport and evidence of a valid visa or entry authority to an immigration clearance officer.

The impacts of migration regulations primarily affect crews on longer stays in Australia, either on board foreign vessels which have been licensed or are operating on Continuing Voyage Permits. Crew on board vessels operating under a Single Voyage Permit would normally be regarded as similar to other foreign crews on vessels trading to Australia in the international trades.

Crew on a commercial vessel operating under a coastal trading licence issued by the Department require a Maritime Crew visa and a Long Stay Temporary Business visa for skilled workers who remain working on the vessel.

There are strict requirements for the master of the vessel to ensure all persons onboard have correct and valid travel documentation, and are the rightful holders of that documentation. In addition, the master and agent of all commercial vessels are subject to reporting requirements for immigration purposes, including pre-arrival reports, crew sign-on and sign-off, reporting in the case of desertion or a stowaway, or when medical evacuation is required.

The current interaction between the requirements of the Department of Immigration and Citizenship (DIAC) and Part VI of the *Navigation Act 1912* in relation to the issue of permits to foreign vessels operating in Australia is as follows:

- The Department advises DIAC of the issue of all CVPs and the details of the foreign ports to be visited, on the basis of the application. DIAC is also provided with lists of vessels that are licensed.
- DIAC will advise Infrastructure of any breach of the permit regarding foreign ports; and of any proposed action against a permit holder for any detected breach of the foreign ports or duration conditions.

3.8.2 Customs

Coasting trade permits are one of the factors the Australian Customs Service considers in determining whether a vessel needs to be ‘entered for home consumption’. Vessels that have been ‘entered for home consumption’ are deemed by the Navigation Act to be Australian ships and are covered by Part II of the Act.

Ships arriving at Australian ports come under the control of the Australian Customs Service (ACS). A decision to “enter the vessel for home consumption” is dictated by Customs legislation and practice based on legal precedent. Generally, a vessel that has been on an international voyage to Australia, takes on the status of an imported vessel if its international voyage is terminated or suspended. If its status is “imported”, ACS requires the owner of the vessel enter it into home consumption. Being entered for “home consumption” has the implication of making the ship and its equipment subject to a range of domestic legislation, including liability for GST and excise duties.

4 SKILLS

There is substantial anecdotal evidence that there is a skills shortage in the shipping industry. This anecdotal evidence is in accord with empirical evidence of shortages in the global industry. In Australia the decline in the number of licensed ships is frequently cited as a key reason why the maritime skills situation is deteriorating.

There are many comments by senior shipping executives operating in the global market noting that the current shortage of deck (that is navigational) and engineering officers is a major concern and that the situation is likely to worsen. There are a number of reasons put forward including a career at sea being less attractive to young people, booming economies offering employment and attractive wages in land based jobs for people with maritime qualifications.

A shortage of maritime skills impacts on the ability of the Australian maritime sector to crew ships and to fill land based jobs requiring maritime qualifications. The ability to address a shortage is in turn affected by the number of Australian crewed vessels. Maritime qualifications require sea time and fewer ships mean fewer opportunities to meet this requirement.

Analysis of the maritime skills issue is hampered by a lack of current and comprehensive data. Data on employment of seafarers is included (and cannot be separated out from) the 'transport water' category and is shown in the Table below.

An analysis undertaken in the *Maritime Skills Availability Study* by Thompson Clarke Shipping in 1999 suggested employment in the broad shipping cluster is in the order of 41,000. Those positions directly classified under shipping (including shipbuilders, seafarers, agents and stevedores) employing over 25,000 people and those classified partially (such as freight forwarders, Customs and providers of services to transport) employing approximately 13,500 people. Further, the analysis stated that there are estimated to be approximately 1,400 Masters, Deck and Engineer officers.

Table: 6 Australian employment, transport and storage industry

August reference month	Transport and storage total employment									Total Australian employment	Transport and storage as % of total employment
	Transport					Services to transport	Storage	Transport and storage -nfd	Total		
	Road	Rail	Water	Air and space	Other						
'000	'000	'000	'000	'000	'000	'000	'000	'000	'000	%	
1972	136.3	70.3	30.9	29.1					286.0	5 609.9	5.1
1973	161.1	68.8	30.9	27.7					312.4	5 783.0	5.4
1974	158.5	69.5	30.7	33.2					313.4	5 855.2	5.4
1975	157.5	75.3	36.8	38.1					330.3	5 841.3	5.7
1976	165.2	68.9	28.7	35.6					321.1	5 897.8	5.4
1977	165.9	65.4	30.2	32.9					316.0	5 995.4	5.3
1978	160.4	73.9	31.5	39.3					328.7	6 005.4	5.5
1979	169.8	79.6	32.0	37.2					345.9	6 078.5	5.7
1980	155.5	86.9	33.4	35.8					342.9	6 281.4	5.5
1981	167.9	85.0	30.8	36.3					350.7	6 393.7	5.5
1982	171.0	93.4	29.7	49.8					375.2	6 379.3	5.9
1983	173.0	86.4	30.2	41.7					365.2	6 241.1	5.9
1984	162.5	83.0	29.4	44.4					354.1	6 576.1	5.4
1985 ^(a)	159.1	90.9	7.1	33.9	^(a) 1.0	65.3	8.6	^(a) 0.0	365.9	6 675.5	5.5
1986 ^(a)	171.8	89.9	7.8	35.9	^(a) 1.8	67.0	11.2	^(a) 0.0	385.7	6 928.9	5.6
1987	170.0	80.7	7.3	33.3	^(a) 1.0	64.5	7.8	^(a) 0.0	365.1	7 103.7	5.1
1988	171.8	74.3	6.6	35.2	^(a) 2.8	67.0	9.1	^(a) 0.0	367.2	7 362.0	5.0
1989	185.5	72.6	8.1	45.0	^(a) 1.7	70.3	11.5	^(a) 0.0	395.1	7 726.5	5.1
1990	193.4	59.7	8.5	41.0	^(a) 1.5	66.5	17.0	^(a) 0.0	387.7	7 822.4	5.0
1991	186.3	67.0	9.8	39.8	^(a) 0.2	66.0	14.5	^(a) 0.0	383.6	7 650.3	5.0
1992	185.5	52.0	6.9	36.8	^(a) 2.0	63.4	13.8	^(a) 0.0	360.7	7 636.7	4.7
1993	172.2	59.0	4.8	36.6	^(a) 0.6	63.7	16.5	^(a) 0.0	353.3	7 636.3	4.6
1994	177.0	54.0	9.1	37.4	5.6	67.8	19.2	^(a) 0.0	370.4	7 897.4	4.7
1995	185.5	48.9	9.4	41.5	5.3	73.4	15.2	^(a) 0.0	379.4	8 231.3	4.6
1996	186.4	50.2	13.0	49.3	8.1	65.3	21.0	^(a) 0.0	393.6	8 332.8	4.7
1997	196.3	47.1	9.6	47.6	6.5	67.8	15.9	^(a) 0.0	392.6	8 324.3	4.7
1998	192.9	37.3	10.2	48.1	5.4	66.6	20.0	^(a) 0.0	380.6	8 555.6	4.4
1999	207.8	34.2	10.9	46.2	4.7	84.6	25.4	^(a) 0.0	413.7	8 692.1	4.8
2000	207.2	37.4	12.4	58.1	^(a) 0.8	66.0	30.6	^(a) 2.6	415.0	8 990.3	4.6
2001	215.8	35.4	14.4	55.1	^(a) 0.6	70.4	27.1	^(a) 1.7	420.5	9 040.0	4.7
2002	205.8	34.8	10.7	47.0	^(a) 0.3	68.4	27.9	^(a) 2.6	397.5	9 223.1	4.3
2003	219.4	40.3	11.0	49.9	^(a) 0.8	71.4	27.4	^(a) 1.0	421.1	9 412.3	4.5
2004	222.0	36.6	17.5	41.8	^(a) 0.9	73.3	36.6	18.5	447.2	9 575.6	4.7
2005	216.5	37.6	10.9	51.9	^(a) 0.3	77.5	41.3	14.9	450.9	9 963.5	4.5
2006	230.0	37.4	15.3	47.7	^(a) 1.0	80.2	43.1	10.1	464.9	10 168.0	4.6
2007	232.4	40.7	18.0	48.2	^(a) 0.4	87.9	47.9	17.3	492.9	10 435.8	4.7

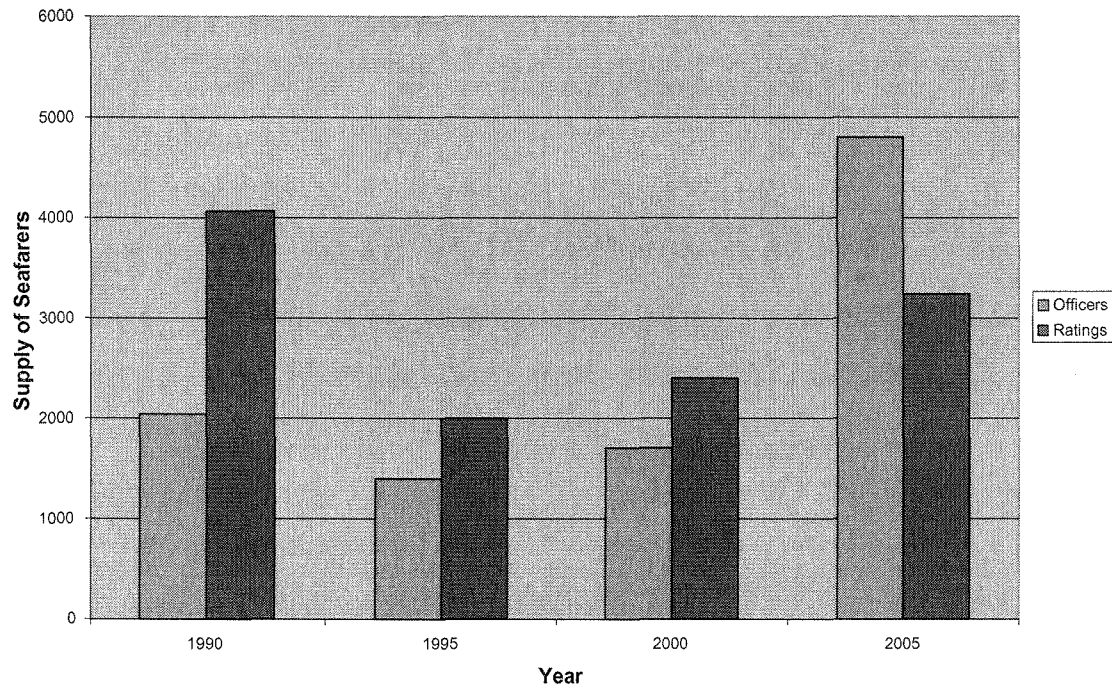
Source: BITRE – Australian Transport Statistics Yearbook 2007

4.1 Data limitations

The shortage of information relating to the Australian shipping industry and seafarers in particular has created difficulties in accurately reporting the shortage of skills within the industry. Previous studies undertaken since the release of the Maritime Skills Availability Study by Thompson Clarke Shipping have lacked the collective support necessary when analysing the industry's manpower.

The BIMCO/ISF (1990, 1995, 2000, 2005) Manpower Updates report that in the 15 years since 1990 there has been an increase in the supply of Australian seafarers, as illustrated in Figure 10. The most recent BIMCO/ISF figures show there are 4,800 officers and 3,240 ratings currently active in Australia.

Figure 10: Supply of Australian officers and ratings 1990-2005



Source: BIMCO/ISF Manpower Update 1990, 1995, 2000, 2005

The varying nature of the data collection methods and the quality of the analysis can impact upon the accuracy and consistency of information. In the shipping industry domestically and internationally these issues are prominent given the fluidity within the industry as workers move to different agencies, vessels, sectors and jobs.

4.2 Land based requirements

Many of the shore-based positions in the maritime sector benefit from sea going qualifications or require them as a prerequisite to employment – eg marine surveyors, harbour masters, ship managers, marine pilots, regulators and terminal operators. As Australia is an island nation, we will always require the following inputs to maritime transport:

- Pilotage
- Towage and salvage
- Stevedoring and related services
- Provedoring (the supply of fuel, food etc to the ship) and

- Shipping agencies.

Anecdotal evidence suggests that many sectors of the shipping industry in Australia prefer to employ people in some shore-based positions who have Australian maritime related qualifications and sea-going experience because of the breadth of their local knowledge. The importation of foreign nationals or the training of non-seafarers was suspected to give rise to an unacceptable quality loss in the delivery of shipping services.

Providing these inputs to maritime transport requires knowledge and understanding of the characteristics of maritime transport. The more closely related the employment sector is to the actual operation and safety of the ship, the greater reliance there is on shore-based staff with valid maritime related qualifications. Pilots and tug operators for example require experience in the handling of ships. These services will need to be provided in Australia even if there are no Australian ships.

Following on from overseas studies into shore based employment, most of those in shore based employment with maritime related qualifications in Australia are in those positions because the possession of these qualifications was either an essential or preferred requirement.

The Maritime Skills Availability Study indicated that of the 4,150 jobs in the Australian maritime industry then filled by those with maritime-related qualifications, over half (or some 2,460) were shore-based (such as Harbour Masters, Marine Surveyors, Pilots), while some 1,690 were seagoing officer positions.

4.3 Seagoing employment

In 1998 about 4000 people (including 200 trainees) were employed as crew on Australian trading ships and off-shore vessels. A further 1400 were employed as crew on harbour tugs or as pilots. Reductions in crew sizes coupled with a decreasing number of vessels over the past two decades have diminished the attractiveness and options of a sea-going career for Australian residents. Many of the existing seafarers are approaching retirement age. If the number of licensed vessels continues its current trend, to maintain a pool of operational maritime expertise it will be necessary either to import foreign seafarers or to provide opportunities for Australians to work on foreign-flagged ships.

AMSA's records as at January 2008 show that there are 2,491 deck officers, 1,607 marine engineer officers and 1,886 ratings holding current Australian issued certificates of competency (see Appendix 4). These include certificates of competency issued to overseas resident seafarers who have trained in Australia and sought Australian issued certificates of competency.

4.4 Global initiatives

Globally the shortage of seafarers is gaining greater attention as organisations foresee that the future of shipping is at risk of being under-manned. With less recruitment from traditional maritime nations, organisations are bracing for likely shortages in the coming years as large numbers of highly qualified and experienced seafarers retire, take up shore based positions or leave the industry entirely. International recognition of this issue has spurred various studies and initiatives to be introduced, with varying levels of success.

Organisations have taken it upon themselves to develop programs for university students in the hope that a clearly structured career path with opportunities for development could encourage greater recruitment and retention.

The introduction of tonnage tax (see Section 6.2), marketing initiatives, the development and improvement of training institutes and co-operation amongst the industry's peak organisations and associations has had varying levels of success, primarily due to issues such competition from other sectors, national security concerns, criminalisation, and standards of qualifications and training.

4.5 Domestic initiatives

Domestically, various industry stakeholders, including the Maritime Union of Australia, Australian Shipowners Association, Shipping Australia Limited and delegated State and Federal Government Departments and shipping organisations have come forward with strategies and suggestions to improve the recruitment and retention of seafarers and industry employees in general.

Nationally, some of the initiatives being undertaken have included the formation of working groups and committees, introducing new courses, programs and training initiatives and improvement of the certification requirements within the various State and Federal jurisdictions.

For instance, AMSA is aiming to create a seamless career path for Australian seafarers progressing from entry-level State/Territory qualifications for small ship operations through to the highest level qualifications meeting international standards for large ship operations. This is discussed further in Appendix 4.

AMSA also has worked with the Royal Australian Navy to facilitate the career path of former Navy seagoing officers into the commercial shipping industry by gaining AMSA issued certificates of competency compliant with international training and competency standards governing crews on larger commercial ships. While a considerable degree of correlation existed between these international requirements and the training and seagoing service in the Navy, the nature of work in the Navy meant there were some gaps between the two systems, primarily in the coverage of cargo work and ship stability. AMSA worked on a means to ensure appropriate recognition was given to Navy training and sea service in AMSA's assessment of the degree of compliance with the international standards and developed with the Navy a bridging course to cover the gaps in relation to cargo work and ship stability. From 1 July 2006, the bridging course became part of the Navy training program.

AMSA worked with the Australian Customs Service on a similar project to enable the recognition of sea service on relevant Customs' vessels towards meeting the requirements for issue of qualifications by AMSA compliant with international standards.

AMSA is represented on the Maritime Sectoral Industry Advisory Committee of the Transport and Logistics Industry Skills Council (formerly Transport and Distribution Training Australia). The Council seeks to develop high quality training packages in consultation with the relevant industries and provides professional development programs for users of the training packages in each State and Territory. The Maritime Sectoral Industry Advisory Committee provides the Council with advice on the integration of training standards and related issues across the maritime sector.

AMSA was involved in the Council's development of the Maritime Training Package, which has been approved by relevant federal, state and territory training authorities. The Package covers all aspects of the maritime industry training and represents a seamless progression from basic qualifications to international standard qualifications issued by AMSA. It provides the basis for Registered Training Organisations to deliver training, assess competencies and issue qualifications to meet a consistent standard across the maritime industry.

While the Maritime Training Package provided the competencies to be gained, it did not specify course content to achieve those competencies. Hence, AMSA has used the Model Training Courses developed by the International Maritime Organization to achieve uniformity in the standards of training and education to meet the international standards.

4.6 Education facilities

The provision of facilities capable of training and developing the skills of employees interested in or currently in the shipping industry is vital to the sustainability of the domestic shipping industry. The establishment of the Australian Maritime College in 1978 had the objective of creating a specialist institute for the education of those interested in the maritime or fishing industries. Since 1 January 2008 the AMC has been integrated into the University of Tasmania. It has retained the objective of being Australia's national institute for maritime education, training and research. A range of other education providers (such as Fremantle TAFE and Hunter Institute Newcastle) provide courses for certificates of competency and other maritime qualifications.

5 OTHER CONSIDERATIONS

5.1 Shipping's role in the national freight task

Shipping has a significant role in fulfilling the domestic freight task, notwithstanding Meyrick's comment¹² that "the vast majority of Australia's domestic task is made up of inland movements to ports, coastal towns and cities." Tables 7 and 8 show that while the amount of tonnes carried is modest (0.02 per cent in 2004-05), shipping makes a substantial contribution in meeting the total freight task measured in tonne/kms terms (24 per cent in 2004-05) – demonstrating shipping's advantages in moving large quantities of cargo over long distances.

Table 7: Total domestic freight tonnes carried ('000)

	Road	Rail	Sea	Total
2004-05	1,756,000	635,000	53,671	2,444,671
2003-04	1,696,000	168,100	53,194	2,343,894
2002-03	1,553,000	Na	52,825	1,605,825
2001-02	1,664,000	568,079	52,432	2,284,678
2000-01	1,482,000	535,095	52,003	2,069,249
1999-2000	1,399,000	508,000	50,329	1,957,477

Source: Bureau of Infrastructure, Transport and Regional Economics, Australian Transport Statistics Feb 2002-August 2007

Table 8: Total domestic freight tonne km (million)

	Road	Rail	Sea	Total
2004-05	164,394	182,990	114,381	461,765
2003-04	157,668	168,100	117,500	443,268
2002-03	152,777	Na	114,800	267,577
2001-02	140,938	156,207	110,400	407,770
2000-01	132,422	137,700	104,501	374,871
1999-2000	128,702	134,200	108,278	371,375

Source: Bureau of Infrastructure, Transport and Regional Economics, Australian Transport Statistics Feb 2002-August 2007

The Meyrick Report¹³ noted that changes in the operating characteristics of the three modes have resulted in a major shift away from rail and towards road and coastal shipping. The key factors that have contributed to this change in mode, and are likely to influence the mode choice into the future, include:

- Price (total costs of line haul, pick up and delivery charges at either end, handling and infrastructure access charges)
- Reliability of service (at key points in the transport chain)
- Availability (frequency) and flexibility of service
- Transportation time (including inland pre- and on- carriage, cargo cut-off and availability at port and any waiting at modal interchange points)

¹² Meyrick *International and Domestic Shipping and Ports Study* (May 2007) page 101

¹³ Meyrick & Associates *International and Domestic Shipping and Ports Study* (May 2007) page 106

- Suitability of mode for product (e.g. packaging, size and weight of load compared to restrictions by mode)
- Pick up and delivering times falling within preferred windows of time for transport customers

Meyrick concluded that:

Coastal shipping is most competitive with rail transport. Due to its high value and requirements for fast and reliable transport, air cargo is not contestable by sea. Road transport on shorter hauls has a significant competitive advantage over sea freight because of its much quicker transit times, flexibility of service and high level of reliability (>95%). In summary:

- *Road is, in general, more attractive than rail or coastal shipping for non-bulk freight transport for distances up to 1,500km;*
- *Rail transport is, in general, more attractive than road or coastal shipping for non-bulk freight movements over distances over 1,500km;*
- *Coastal shipping is, in general, more attractive than road for non-bulk freight movements over distances above 2,200km.*

It should be noted that distance is not the exclusive factor in deciding the attractiveness or competitiveness of different modes of transport for non-bulk freight, but it is, in general, a significant factor.

The most contestable routes for coastal shipping are the east coast to west long-haul coast routes (Adelaide, Melbourne, Sydney, Brisbane – Perth).

Long-haul inter-capital non-bulk flows are the most contestable across the three modes (road, rail and sea):

- *Container loads can be carried easily by any one of the three modes*
- *Ports and rail terminals are located close to each other providing equal accessibility to either mode (i.e. transport cost and time to rail terminal and wharf is very similar from end customer sites)*

Shipping regulatory issues have traditionally been considered separately from those affecting other surface transport modes (road and rail). The focus in recent years on issues such as competitive neutrality between road and rail has largely avoided any discussion of shipping, as governments are not required to invest in the transport corridor itself (ie, the actual sea lane). The focus for consideration of port infrastructure has typically been on the basis on rail and road connection and adequacy for Australia's export task. Initiatives including Infrastructure Australia and the development of a national transport policy framework are intended to ensure that all transport modes are taken adequately into account when considering infrastructure requirements and an integrated approach to transport planning.

5.2 Ship Safety and environment protection standards

Reflecting the global nature of the shipping industry, larger commercial ships operating in Australian waters, including the coastal trade, are regulated in line with international safety and environment standards based on international agreements. Commonwealth legislation implementing these standards is administered by AMSA, as detailed in Appendix 4 (which was prepared by AMSA).

5.3 Shipping Registration Act 1981

Part VI of the *Navigation Act 1912* does not restrict the licensing of coastal trading ships to Australian flagged vessels. This reflects the history of Part VI and the fact that until the *Shipping Registration Act 1981* (the Act), United Kingdom shipping registration laws applied in Australia. The Act adopted the British system of ship registration for the new Australian register.

The United Nations Convention on the Law of the Sea (UNCLOS) requires Australia to maintain a register in respect of all ships flying the Australian flag (except for certain exempt ships, being mainly small ships). AMSA administers the Australian Register of Ships under the Act. The Act requires that a vessel owned by an Australian entity shall be entered in the Australian register of ships. Foreign-owned ships operating under permits are not deemed to be Australian and maintain foreign registry.

The Act:

- (i) confers nationality on Australian ships and grants the right to fly the national colours;
- (ii) provides, in some situations, for the conferment of title in ships; and
- (iii) provides for the registration of mortgages.

5.4 Maritime security –regulation of foreign ships in Australia

All security regulated foreign ships (including those engaged in coastal trading activity) must comply with the provisions of the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) prior to and during their operations in Australia. The MTOFSA implements the International Ship and Port Facility Security Code (ISPS Code) annexed to the International Convention for the Safety of Life at Sea 1975 (SOLAS Convention).

A security regulated foreign ship is defined under MTOFSA as follows:

Meaning of *regulated foreign ship*

- (1) A ship is a *regulated foreign ship* if the ship:
 - (a) is a foreign ship; and
 - (b) is one of the following:
 - (i) a passenger ship;
 - (ii) a cargo ship of 500 gross tonnage or more;
 - (iii) a mobile offshore drilling unit (other than a unit that is attached to the seabed);
 - (iv) a ship of a kind prescribed in the regulations; and
 - (c) is in Australian waters; and
 - (d) is in, or is intending to proceed to, a port in Australia.
- (2) However, the following ships are not *regulated foreign ships*:
 - (a) a foreign ship regulated as an offshore facility;

- (b) a ship of a kind prescribed by the regulations.
- (3) In this Act, a *foreign ship regulated as an offshore facility* means a Floating Product, Storage and Offtake Ship or Floating Storage Unit that is:
 - (a) a foreign ship; and
 - (b) either a security regulated offshore facility or part of a security regulated offshore facility.

Every ship seeking entry to Australia is subject to a comprehensive risk assessment, regardless of the flag it flies. Ships must provide certain information about their flag, crew, cargo and security operations. Under MTOFSA, all security regulated foreign ships must provide the following information 96 hours prior to their arrival in Australia (if the voyage is shorter this reporting timeframe is adjusted accordingly):

- confirmation that a valid international ship security certificate (ISSC) is held in respect of the ship;
- name of the authority that issued the ISSC;
- date the ISSC was issued;
- the security level at which the ship is operating;
- the last 10 ports of call;
- information on whether the ship operated at a different security level, engaged in any ship to ship activity or implemented any special or additional security measures during the last 10 port calls; and
- if known, the next four ports of call for the ship.

Under MTOFSA, a security regulated foreign ship may be boarded and inspected to confirm the ship's compliance with MTOFSA and the ISPS Code and, if security circumstances warrant it, it may be subject to control directions or security directions issued under this legislation.

5.4.1 Carriage of ammonium nitrate

Australia uses large volumes of ammonium nitrate in primary production and mining. In 2007, some 336,000 tonnes of ammonium nitrate were imported into Australia on foreign ships. Foreign ships also carried approximately 16,500 tonnes of ammonium nitrate on seven separate voyages as domestic shipments under coastal trading permits.

Every ship travelling to Australia is subject to a pre-arrival risk assessment. Security measures are implemented under the *Maritime Transport and Offshore Facilities Security Act 2003* to address any identified risks.

Foreign flagged ships carrying ammonium nitrate are subject to Australia's State controlled ship inspection program and are required to comply with international safety standards including the *International Maritime Dangerous Goods Code* and the *Code for Safe Practice for Solid Bulk Cargoes*. Both codes provide a mitigation regime for the risks of transporting ammonium nitrate between ports in Australia.

5.4.2 Level of background checking of crew on foreign ships compared with MSIC checks for crew on Australian ships

The Maritime Security Identification Card (MSIC) is a background checking scheme which applies to all persons, including crew on board foreign ships, who require unsupervised access to Australian regulated maritime and offshore security zones. Non-MSIC holders seeking to access these security zones must be supervised by a person who has been background checked and displays an MSIC.

To obtain an MSIC an applicant must confirm their identity and undergo domestic criminal and intelligence checks. MSIC holders may be either Australian citizens or foreign nationals, provided they meet the application requirements of the scheme. Foreign applicants for an MSIC must also have their right to work in Australia verified by the Department of Immigration and Citizenship (DIAC).

In addition to the MSIC scheme, DIAC requires all foreign sea crew to obtain a Maritime Crew Visa (MCV) before arrival in Australia. Applicants for an MCV are checked against immigration, law enforcement and intelligence alert lists as a part of the MCV application process and again ahead of their arrival in Australia. MCVs strengthen security regimes by providing the same level of checking of foreign sea crew that applies to air passengers and crew and sea passenger arrivals in Australia.

Therefore, the security risk posed by foreign sea crew is, in part, mitigated by DIAC's MCV application process. For foreign sea crew that need to access Australia's maritime security zones (noting that foreign sea crew would not normally work in the security zones) an MSIC is required for unsupervised access, or the individual must be supervised by an MSIC holder.

5.4.3 Security implications for foreign flagged vessels

Australia has been at a medium level of counter-terrorism alert since September 2001 and Al-Qa'ida has publicly named Australia as a desirable target.

Terrorist activities are greatly assisted by insider knowledge. Trusted insiders could be used to facilitate or perpetrate an attack against coastal shipping, including sabotage or use of a ship as a weapon by members of a ships crew. Maritime Crew Visas strengthen security regimes by providing details of foreign crew to Australian authorities in advance of their arrival, which can be used to run security checks. This provides a blanket level of additional security checking that is not required for all Australian members of coastal shipping crews. Australian crew members onboard foreign flagged vessels do not require an MSIC – and the associated background check – unless they have a job that requires them to work unescorted within Maritime or Ship Security Zones, and as Australian citizens do not require a Maritime Crew Visa.

For both foreign and Australian crews the risk of trusted insiders assisting terrorist groups cannot be fully mitigated. While small-scale action could be facilitated by individual operatives within a crew, large scale activity, such as taking control of the ship for a terrorist purpose, would require broader crew support, including senior members, which would take considerably more coordination and planning, and would have a higher chance of detection or disruption. Regardless of the flag state of a vessel

or the nationality of its crew, it is important that operators consider the potential threat from trusted insiders as part of their security planning.

A more detailed perspective on the threats and risk context around the commercial shipping environment could be provided to the Committee on the understanding that the material is classified and would need to be considered accordingly.

5.5 Jurisdiction: national maritime regulatory reform

Part VI is subject to the jurisdiction provisions of the Navigation Act 1912, which means that generally its coverage is confined to ships undertaking interstate voyages. In 1999 the Council of Australian Governments (COAG) agreed to alter the jurisdictional basis for safety regulation of Australian trading ships from determination based on the current voyage pattern to determination based on the size of the ship (length/gross tonnage). This agreement has not been implemented due to a number of issues identified by state/territory ministers, particularly in relation to workers compensation issues.

The review of the Act in 2000 supported these changes. It also concluded that non-trading vessels of this size have comparable safety and environmental risks to similar sized trading vessels and suggested extending the safety and environmental protection regime to these vessels to make for a more consistent and easily understood division of responsibility between jurisdictions. Attempts at that time by the Australian Government to alter the jurisdiction for safety regulation of trading ships from a voyage to a tonnage basis lapsed due to lack of support in the Senate.

The issue of uniform implementation of maritime regulation between the States and Territories has significant implications for the jurisdictional coverage of the Commonwealth *Navigation Act 1912*. Changing the coverage of the *Navigation Act* would alter the division of jurisdiction for maritime safety regulation between the Commonwealth and the states, and would also affect economic regulation under Part VI. Part VI does not apply to intrastate voyages unless a ship operator obtains a Part 8AA declaration from AMSA. Some states (for example Queensland) currently operate a separate permit system for intrastate voyages.

COAG agreed on 26 March 2008 to an implementation plan for the Business Regulation and Competition Working Group (BRCWG) that included a request that Australian Transport Council (ATC) consider and report back to the BRCWG on implementation of a single national approach to maritime safety for commercial vessels. The implementation plan indicates that ATC will decide on a preferred approach in November 2008, with agreement on the details in March 2009.

6 OVERSEAS POLICIES

The approach to shipping and particularly coastal shipping varies widely from country to country, reflecting the specific view of a country regarding the role of shipping in the national economy. The following synopsis summarises how a number of developed countries have approached the issue of cabotage and fiscal policy in relation to shipping.

6.1 Cabotage

A stocktake of cabotage policies reveals wide variations with the USA system firmly entrenched at one end of the spectrum with a closed domestic shipping market to UK and Norway on the other end of the spectrum with open and unrestricted domestic shipping markets. To facilitate comparison of Australian system to other developed countries, the cabotage practices of a number of countries are provided below:

6.1.1 USA

Under Chapters 24 and 27 of the US *Merchant Marine Act of 1920* (known as the Jones Act) coasting trade is protected for US flag vessels. Pursuant to the provisions of the Jones Act it is not permissible to transport cargo between two US ports unless the ship transporting the cargo is built and registered in the USA, owned by US citizens and manned by a US crew.

6.1.2 EU

The EU has a single European shipping market in which ships belonging to any EU country have unrestricted access to the domestic shipping market of any other EU member country. This comparatively relaxed cabotage regime has developed since 1985 following the release of the Cockfield Report that proclaimed a vision of a Single European Market in maritime transport services. The EU Council Regulation 3577/92 is the principal provision in the regulations that effectively opened up individual European shipping markets. Article 1 of Regulation 3577/92 provides:

As from January 1, 1993, freedom to provide maritime transport services within a Member State (maritime cabotage) shall apply to community shipowners who have their ships registered in, and flying the flag of, a Member State, provided that these ships comply with all conditions for carrying out cabotage in that Member State.

Some EU countries such as the UK and Norway have no restrictions whatsoever and ships of any nationality can participate in the coasting trade of these countries.

6.1.3 Canada

Canada always has had some sort of restriction on foreign ships to participate in Canada's coasting trade. Historically Canada's cabotage regime favoured British ships but the coastal cargo is reserved for Canadian flagged ship. The current relevant legislation is the *Coasting Trade Act* which came into force in 1992 and now only ships which are Canadian registered and have paid all applicable duties have unrestricted access to Canada's coasting trade.

6.1.4 Japan

In Japan generally only Japanese flag ships can carry cargo and passengers between Japanese ports. However, reportedly Japan has allowed limited access to ships of some other countries through bilateral arrangement and on reciprocal basis.

6.1.5 New Zealand

Compared to Australia New Zealand has a comparatively relaxed cabotage regime. The relevant New Zealand legislation is the *Maritime Transport Act 1994* and in New Zealand no ship is permitted to carry coastal cargo other than a New Zealand flag ship, or a foreign ship that has either loaded or unloaded international cargo or passengers at

a port New Zealand port, or will do so before departing from a New Zealand port. In New Zealand there is no Ministerial discretion with this provision although the Minister may allow 'any other ship' to carry coastal cargo should it be necessary.

6.2 Tonnage Tax or other fiscal regimes

Nations use fiscal tools to influence investments in and performance of specific sectors within the economy. Industry stakeholders in Australia have been canvassing a fiscal regime based on the tonnage of ships, which is a model adopted by a number of countries that are focused on growth in their shipping industry. Tonnage tax is an alternative method of taxation by which shipping companies may calculate their shipping related profits for corporation tax purposes. The profits are calculated by reference to the tonnage of the ships used in a company's shipping trade and hence the title. Essentially, the "tonnage" profits replace the accounting profits of the shipping company for tax purposes.

Following is a summary of fiscal policies related to shipping of a number of developed countries:

6.2.1 UK

A UK shipping company may opt between the 'ordinary' corporation tax regime and the tonnage tax regime which has a duration of ten years once elected. Tonnage tax companies pay tax based on the net tonnage of the ship rather than profits earned from ship operations. The UK tonnage tax system gives a low effective tax rate on shipping profits of qualifying companies.

6.2.2 Belgium

Belgian companies or Belgian branches of foreign companies active in the maritime sector can opt for a special tonnage tax regime which allows tax to be assessed on a lump sum, based on the net tonnage of the ship. A company needs to file a request to participate in the tonnage tax regime which lasts for a period of ten years.

6.2.3 Germany

A German shipping company may opt between the general tax system and the tonnage system, and the choice is binding for a period of at least ten years. The German tonnage tax regime provides a low effective tax rate on income of qualifying shipping businesses.

6.2.4 Greece

The Greek tonnage tax regime exempts individual and corporate ship owners on income tax liabilities on the profits from operation of Greek registered vessels. Greek law also exempts shareholders of Greek companies, and subject to certain conditions, foreign ship owning companies from taxation on dividend or capital gains.

6.2.5 Norway

Norway has a tonnage tax regime that is optional. Norwegian tonnage regime has no fixed period attached to a ships choice of the system. There is no tax under the Norwegian system on the income from shipping activity so long as the vessel remains under the tonnage tax regime.

6.2.6 Denmark

Denmark introduced a tonnage tax regime in 2000 and consequently there is a fixed profit tax for shipping business determined on the basis of net tonnage. The tonnage tax regime is optional and provides a low effective tax rate on income of qualifying shipping companies.

6.2.7 USA

A corporation engaged in shipping operations is subject to the generally applicable US corporate tax system but the recently enacted Job Creations Act 2004 has a provision for a new tax system which is based on a ship's tonnage. Eligible ship operators now can opt to come under the tonnage tax regime. To be eligible for the US tonnage tax regime, a corporation must be operating one or more US flag ships of at least 10000 deadweight tonnes exclusively in the USA's foreign trade. When in this system the top corporate tax rate of 35% is applied to the notional income of a ship based on its net tonnage.

7 APPENDICES

- Appendix 1: Part VI (The coasting trade) *Navigation Act 1912*
- Appendix 2: Navigation (Coasting Trade) Regulations 2007
- Appendix 3: Current Ministerial Guidelines
- Appendix 4: Ship safety and environmental protection standards
- Appendix 5: Recent Reports

APPENDIX 1: Part VI – (Coasting Trade) *Navigation Act 1912*

Part VI—The coasting trade

284 Application of Part

This Part shall, except where otherwise expressed, apply to all ships, including ships to which Part II does not apply.

286 Permits to unlicensed ships

- (1) Where it can be shown to the satisfaction of the Minister, in regard to the coasting trade with any port or between any ports in the Commonwealth or in the Territories:
 - (a) that no licensed ship is available for the service; or
 - (b) that the service as carried out by a licensed ship or ships is inadequate to the needs of such port or ports;
 and the Minister is satisfied that it is desirable in the public interest that unlicensed ships be allowed to engage in that trade, the Minister may grant permits to unlicensed ships to do so, either unconditionally or subject to such conditions as he or she thinks fit to impose.
- (2) The carriage, by the ship named in a permit issued under this section, of passengers or cargo to or from any port, or between any ports, specified in the permit shall not be deemed engaging in the coasting trade.
- (3) A permit issued under this section may be for a single voyage only, or may be a continuing permit.
- (4) If:
 - (a) a continuing permit is in force in respect of a particular unlicensed ship; and
 - (b) at any time, the Minister forms the view that it may be no longer desirable in the public interest for that permit to remain in force:
 the Minister may, by notice in writing:
 - (c) inform the permit holder that he or she is of that view; and
 - (d) invite the permit holder to show cause, within 7 days of receipt of that notice, why the permit should not be cancelled.
- (5) A notice under subsection (4) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (5A) If, after having regard to any representations made by or on behalf of the permit holder and to any other relevant matter, the Minister is satisfied that it continues to be desirable in the public interest for the continuing permit to remain in force, the Minister must inform the permit holder that he or she is so satisfied.
- (5B) If, after having regard to any representations made by or on behalf of the permit holder and to any other relevant matter, the Minister is satisfied that it is no longer desirable in the public interest for the continuing permit to remain in force, the Minister must:
 - (a) cancel the permit with effect from a specified day at least 14 days after the Minister becomes so satisfied; and

- (b) notify the permit holder of the fact of the cancellation and its date of effect and of the reasons for the cancellation.
- (5C) The Minister must, within 14 days of making a decision under subsection (1) to grant a continuing permit or a decision under subsection (5B) to cancel such a permit, notify in the *Gazette*:
- (a) in the case of a decision to grant a permit—the issue of the permit and particulars of the permit issued; or
 - (b) in the case of a decision to cancel a permit—the cancellation of the permit, particulars of the permit cancelled and the date from which the cancellation takes effect.
- (6) Where it is shown to the satisfaction of the Minister that the tourist traffic between any ports in the Commonwealth or in the Territories is being injured or retarded, and the Minister is satisfied that it is desirable that unlicensed ships be allowed to engage in the trade, the Minister may, by notice published in the *Gazette*, grant permission to unlicensed ships of such size and speed as are specified in the notice to engage in the carriage of passengers between those ports subject to such conditions (if any) and for such period as are set out in the notice.
- (7) The carriage of passengers between those ports, by a ship of the description specified in any such notice and under the conditions (if any), and during the period, set out in the notice, shall not be deemed engaging in the coasting trade.
- (8) In this section:
- permit holder** in relation to a continuing permit granted under this section in respect of an unlicensed ship, means the master, owner, charterer or agent to whom the permit was granted.

287 Ships in receipt of subsidies

- (1) The master, owner and agent of a ship commit an offence if:
- (a) any one or more of the master, owner and agent engage in conduct; and
 - (b) the ship:
 - (i) is receiving, directly or indirectly, any subsidy or bonus from the Government of a country other than Australia; or
 - (ii) is to receive such a subsidy or bonus under an arrangement; or
 - (iii) has received such a subsidy or bonus in the 12 months immediately preceding the conduct; and
 - (c) the conduct results in the ship engaging in the coasting trade.
- Penalty: \$5,000.
- (1A) An offence under subsection (1) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Any payment for services *bona fide* rendered in the carriage of mails, passengers, or goods, at rates based solely on the actual commercial value of these services, shall not be taken to be a subsidy within the meaning of this section.

288 Licensing of ships to engage in coasting trade

- (1) Subject to this Act, where a ship that is not licensed to do so engages in the coasting trade, the master, owner and agent of the ship are each guilty of an indictable offence punishable on conviction by a fine not exceeding \$5,000.
- (2) Licences to ships to engage in the coasting trade shall be for such period, not exceeding 3 years, as is prescribed, and may be granted as prescribed.

- (3) Every licence shall be issued subject to compliance on the part of the ship, its master, owner, and agent, during such time as it is engaged in the coasting trade, with the following conditions:
- (a) That the seamen employed on the ship shall be paid wages in accordance with this Part;
 - (c) That where a library is provided for the use of passengers, every seaman shall—where no library for their special use is provided—be entitled to obtain books therefrom under the same conditions as may regulate the issue of such books to the passengers.
- (4) Where a condition referred to in paragraph (3)(a) is not complied with, the owner of the ship is guilty of an offence punishable on conviction by a fine not exceeding \$5,000.
- (5) Before granting any licence, the Minister may require security to be given to his or her satisfaction by the master, owner, charterer or agent for compliance with the conditions of the licence and the requirements of this Part.
- (6) In addition to, or in lieu of, any penalty otherwise provided, the Minister may cancel any licence if he or she is satisfied that a breach of any of the above conditions has been committed.
- (7) No licence shall be cancelled unless an opportunity has been given to the master, owner, or agent of the ship to show cause against cancellation.
- (8) An offence under subsection (1) or (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

289 Payment of Australian rates of wages

- (1) Every seaman employed on a ship engaged in any part of the coasting trade shall, subject to any lawful deductions, be entitled to and shall be paid, for the period during which the ship is so engaged, wages at the current rates ruling in Australia for seamen employed in that part of the coasting trade, and may sue for and recover those wages.
- (2) In the case of ships trading to places beyond Australia, the wages to which a seaman is entitled under this section shall be paid before the departure of the ship from Australia, and the master of such a ship shall produce to the officer of Customs to whom application is made for a clearance under the Customs Act for an international voyage from a port in Australia evidence to the satisfaction of that officer of such payment, and the officer of Customs may refuse to grant the clearance, and the ship may be detained, until such evidence is produced to him or her.

290 Indorsement of rate of wages on agreement

- (1) If the seamen employed on any ship were not engaged in Australia, the master shall, before the ship engages in the coasting trade, make and sign an indorsement or memorandum on the agreement specifying the wages to be paid to the seamen whilst the ship engages in the coasting trade, and that indorsement or memorandum shall have effect as an agreement under section 46 between the master and those seamen.
- (2) Where under the original agreement a seaman is entitled to be paid at a higher rate of wages than the rate ruling in Australia for seamen in a corresponding rating, nothing in this section shall affect the seaman's right to such higher rate during the engagement of the ship in the coasting trade.

291 Seamen's rights not affected by agreement

- (1) No provision in any agreement, whether made in or out of Australia, shall be taken to limit or prejudice the rights of any seaman under this Part.
- (2) Where, by reason of a seaman's being entitled to a higher rate of wages while the ship on which the seaman serves is engaged in the coasting trade:
 - (a) any deduction is made from his or her wages earned out of Australia; or
 - (b) the seaman is paid a lesser rate of wages outside Australia than is usual in voyages of a similar nature;it shall be deemed that the seaman is not paid wages in accordance with this Part while the ship is so engaged in the coasting trade.

292 Evidence of rates of wages

An Australian Pay and Classification Scale (or *APCS*) or a transitional award within the meaning of the *Workplace Relations Act 1996* which is binding on or applicable to seamen employed in any part of the coasting trade is prima facie evidence of the rates of wages in Australia for those seamen.

293 Responsibility of master, owner and agent for compliance with Act

The master, owners, and agents of any ship engaging in the coasting trade, shall be jointly and severally responsible for compliance with this Part by or in respect of the ship.

293A Power to suspend provisions as to coasting trade

- (1) The Governor-General may, if at any time he or she considers it expedient in the public interest to do so, by Proclamation suspend, for such time as is specified in the Proclamation, the operation of any of the foregoing provisions of this Part, as regards any ship or class of ships, and either unconditionally or subject to such conditions (if any) as he or she thinks fit to impose.
- (2) A Proclamation issued in pursuance of subsection (1) may provide for suspension for the period specified in the Proclamation, or may provide for suspension until the issue of a Proclamation revoking the prior Proclamation.

APPENDIX 2: Navigation (Coasting Trade) Regulations 2007

**Navigation (Coasting Trade)
Regulations 2007¹**

Select Legislative Instrument 2007 No. 15

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Navigation Act 1912*.

Dated 15 February 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

DE-ANNE MARGARET KELLY
Parliamentary Secretary to the Minister for Transport and Regional Services

Part 1 Introductory

1 **Name of Regulations**

These Regulations are the *Navigation (Coasting Trade) Regulations 2007*.

2 **Commencement**

These Regulations commence on the day after they are registered.

3 **Repeal**

The *Navigation (Coasting Trade) Regulations 1937* are repealed.

4 **Definitions**

- (1) In these regulations:

Act means the *Navigation Act 1912*.

urgent application means an application made under subregulation 8 (2).

- (2) In these Regulations, a reference to a form, by number, is a reference to the form so numbered in Schedule 1.

Part 2 **Permits for unlicensed ships**

5 **Applications for permits for unlicensed ships to carry cargo or passengers**

- (1) The owner, charterer, master or agent of a ship that is not licensed to engage in the coasting trade may:
- (a) apply to the Minister for the grant of a permit under section 286 of the Act for the ship to carry cargo or passengers; or
 - (b) at any time before the grant of a permit mentioned in paragraph (1) (a), apply to the Minister for an amendment of his or her application for the permit; or

-
- (c) apply to the Minister for an amendment of a permit granted for the ship under section 286 of the Act.
 - (2) An application for a permit for a single voyage for carrying passengers must be in accordance with Form 1.
 - (3) An application for a permit for a single voyage for carrying cargo must be in accordance with Form 2.
 - (4) An application for a continuing permit for carrying passengers must be in accordance with Form 3.
 - (5) An application for a continuing permit for carrying cargo must be in accordance with Form 4.

6 Form of permits

- (1) A permit granted by the Minister under section 286 of the Act for a single voyage must be in accordance with Form 5.
- (2) A continuing permit granted by the Minister under section 286 of the Act must be in accordance with Form 6.

7 Refusal to grant a permit

If the Minister decides to refuse to grant a permit, or amend a permit, the Minister must give the applicant written notice of:

- (a) the decision; and
- (b) the reasons for the decision.

8 Urgent applications for permits

- (1) This regulation applies in relation to a person applying, under regulation 5, for a permit, or an amendment of a permit, for a single voyage for carrying cargo.
- (2) The applicant may make an urgent application, by including in his or her application:
 - (a) a written request for the Minister to make a decision on the application before the end of the second working day after the working day on which the Department receives the application; and
 - (b) a written statement of reasons for the request; and
 - (c) a declaration, signed by the applicant, that the applicant believes that the statement is true and correct.

- (3) The Minister must make a decision on an urgent application before the end of the second working day after the working day on which the Department receives the application.
- (4) In this regulation:
working day means a period that begins at 9 am and ends at 5 pm on a day on which the Department is open for business in the Australian Capital Territory.

9 Fees for permit applications

- (1) The fee for an application mentioned in subregulation 5 (1) for a permit for a single voyage for carrying passengers is \$22.
- (2) The fee for an application mentioned in subregulation 5 (1) for a permit for a single voyage for carrying cargo is:
 - (a) if paragraph (b) does not apply — \$200; and
 - (b) if the application is an urgent application — \$400.
- (3) The fee for an application mentioned in subregulation 5 (1) for a continuing permit is \$400.

Part 3 Licences to engage in coasting trade

10 Applications for licences to engage in the coasting trade

- (1) The master, owner, charterer, or agent of a ship may apply to the Minister for the grant of a licence for the ship to engage in the coasting trade.
- (2) An application mentioned in subregulation (1) must be in accordance with Form 7.

11 Applications for renewal of licences

- (1) Subregulation (2) applies if a licence to engage in the coasting trade has been granted to the master, owner, charterer, or agent of a ship.
- (2) Before the licence ceases to have effect, the holder of the licence may apply to the Minister for a renewal of the licence.
- (3) An application for a renewal of a licence must be in accordance with Form 8.

12 Fees for licence applications

The fee for an application under regulation 10 or 11 is \$22.

13 Grant of licences and renewals

- (1) The Minister may grant a licence, or a renewal of a licence, permitting a ship for which an application is made to engage in the coasting trade, if:
 - (a) the application is:
 - (i) for a licence — in accordance with Form 7; or
 - (ii) for renewal of a licence — in accordance with Form 8; and
 - (b) the fee for the application has been paid.
- (2) A licence must:
 - (a) be in accordance with Form 9; and
 - (b) be granted for a period ending at the end of June next following the date of the grant.
- (3) A renewal of a licence may be granted from time to time for a period of up to 1 year.
- (4) If the Minister decides to grant a licence, or a renewal of a licence, the Minister must give the applicant 2 copies of the licence or renewal, one marked 'Ship's copy' and the other marked 'Master's copy'.

14 Refusal to grant licences or renewals

If the Minister decides to refuse to grant a licence, or a renewal of a licence, the Minister must give the applicant written notice of:

- (a) the decision; and
- (b) the reasons for the decision.

15 Dealing with licences

- (1) The applicant for a licence, or a renewal of a licence, granted under regulation 13 must display the copy of the licence or renewal marked 'Ship's copy' in a conspicuous place on the ship that is accessible to all persons on board.
- (2) The master of the ship must take all reasonable steps to keep the copy so displayed while the ship is engaged in the coasting trade.

Penalty: 1 penalty unit.

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- (3) The master must keep the copy of the licence, or renewal of a licence, marked 'Master's Copy', and show it to an officer of the Australian Customs Service, if requested by such an officer:
- (a) if the ship is entering Australia from an overseas voyage — at the port where the ship is entering Australia; and
 - (b) if the ship is leaving Australia for an overseas voyage — at the port from which the ship is leaving Australia.

Penalty: 1 penalty unit.

- (4) A person must not engage in conduct that results in the defacement or destruction of a current 'Ship's Copy' of a licence.

Penalty: 1 penalty unit.

16 Evidence of payment of wages at Australian rates

- (1) Before the Australian Customs Service grants a clearance under the *Customs Act 1901* to a licensed ship for an overseas voyage from a port in Australia, the master of the ship must show an officer of the Australian Customs Service:
- (a) a statement showing the period for which the ship has been engaged in the coasting trade; and
 - (b) an acknowledgement by the officers and seamen of the ship, for that period, that the wages payable to them under section 289 of the Act for the period have been paid to them in full.
- (2) In subregulation (1), *licensed ship* means a ship that is licensed to engage in the coasting trade.
- (3) A statement mentioned in paragraph (1) (a) must be in accordance with Form 10.
- (4) An acknowledgement mentioned in paragraph (1) (b) must be in accordance with Form 11.
- (5) Subregulation (1) does not apply to, or in relation to:
- (a) a ship registered in Australia; or
 - (b) a ship that is operated by:
 - (i) a person who is a resident of, or has his or her principal place of business in, Australia; or
 - (ii) a firm that has its principal place of business in Australia; or
 - (iii) a company that is incorporated, or has its principal place of business, in Australia.

Note 1 A person may make an application to the Minister under these Regulations by addressing the application to:

Coasting Trade Administration
Operations Centre
Office of Transport Security
Department of Transport and Regional Services
111 Alinga Street CANBERRA ACT 2601 (GPO Box 594 ACT 2601)
Fax: (02) 6274 6089
Email: svp@dotars.gov.au

Note 2 If a person is proposing to make an application to the Minister, before making the application, the person should obtain a Payment Reference Number in order to pay the fee for the application by electronic transfer before, or at the same time as, the application is made. Payment Reference Numbers may be obtained by telephoning the Department on 1300 307 288.

Schedule 1 Forms

(regulation 4)

Form 1 Application for permit for carrying passengers — single voyage

(regulation 5)

Navigation Act 1912

APPLICATION FOR PERMIT FOR CARRYING PASSENGERS — SINGLE VOYAGE

To the Minister,

I, [*name of applicant*]....., submit this application and the application fee (or evidence of its payment) for a permit for a single voyage to carry passengers from [*name of port(s)*]to [*name of port(s)*]....., commencing on or about [*date*]/...../..... Details about the ship and the voyage are set out below, including the number of passengers for whom firm bookings have been made.

Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	
Name of agent:		

Details about voyage for carrying passengers

Name of port	Date of visit	Number of passengers	
		To embark	To disembark

Details about foreign ports

Name of last foreign port visited before voyage:	Date of visit:/...../.....
Name of first foreign port to be visited after voyage:	Date of visit:/...../.....

I declare that the ship will have a current International Ship Security Certificate for the whole of the voyage.

Signature of applicant:
.....

Date:
...../...../.....

Form 2 Application for permit for carrying cargo — single voyage

(regulation 5)

Navigation Act 1912

APPLICATION FOR PERMIT FOR CARRYING CARGO — SINGLE VOYAGE

To the Minister,

I, *[name of applicant]*....., submit this application and the application fee (or evidence of its payment) for a permit for a single voyage to carry cargo from *[name of port(s)]* to *[name of port(s)]*....., commencing on or about *[date]*...../...../.....
 Details about the ship, the voyage and the cargo are set out below.

Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	
Name of agent:		

Details about voyage for carrying cargo

Description of cargo	Tonnage/TEU	Port and date for loading	Port and date for discharge

Attach additional pages if necessary

Part 3 — Details about foreign ports

Name of last foreign port visited before proposed voyage:	Date of visit:/...../.....
Name of first foreign port to be visited after proposed voyage:	Date of visit:/...../.....

I declare that the ship will have a current International Ship Security Certificate for the whole of the voyage.

Signature of applicant:
.....

Date:
...../...../.....

Form 3 Application for permit for carrying passengers — continuing
 (regulation 5)

Navigation Act 1912

APPLICATION FOR PERMIT FOR CARRYING PASSENGERS — CONTINUING

To the Minister,

I, [*name of applicant*]....., submit this application and the application fee (or evidence of its payment) for a continuing permit to carry passengers between the ports specified in Part 2 of this application, commencing on [*date*]...../...../..... Details about the ship and each voyage are set out below, including the number of passengers for whom firm bookings are available.

Part 1 — Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	
Name of agent:		

Part 2 — Details about each voyage for carrying passengers

Port	Date of visit	Number of passengers	
		To embark	To disembark

Attach additional pages if necessary

Details about foreign ports

Name of last foreign port visited before proposed voyages:	Date of visit:/...../.....
Name of a foreign port to be visited during proposed voyages:	Date of visit:/...../.....
Name of the first foreign port to be visited after proposed voyages:	Date of visit:/...../.....

I declare that the ship will have a current International Ship Security Certificate for the whole of each voyage.

Signature of applicant:

.....

Date:

...../...../.....

Form 4 Application for permit for carrying cargo — continuing

(regulation 5)

Navigation Act 1912

APPLICATION FOR PERMIT FOR CARRYING CARGO — CONTINUING

To the Minister,

I, [*name of applicant*]....., submit this application and the application fee (or evidence of its payment) for a continuing permit to carry cargo between the ports specified in Part 2 of this application from [*date*]...../...../..... Details about the ship, the cargo and each voyage are set out below.

Part 1 — Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	
Name of agent:		

Part 2 — Details about each voyage for carrying cargo

Description of cargo	Tonnage/TEU	Port and date for loading	Port and date for discharge

Attach additional pages if necessary

Part 3 — Details about foreign ports

Name of last foreign port visited before proposed voyages:	Date of visit:/...../.....
Name of a foreign port to be visited during proposed voyages:	Date of visit:/...../.....
Name of the first foreign port to be visited after proposed voyages:	Date of visit:/...../.....

I declare that the ship will have a current International Ship Security Certificate for the whole of each voyage.

Signature of applicant:
.....

Date:
...../...../.....

Form 5 Permit for unlicensed ship — single voyage

(regulation 6)

No:

Navigation Act 1912

PERMIT FOR UNLICENSED SHIP — SINGLE VOYAGE

I, [name of delegate]....., in exercise of the power delegated to me by the Minister under section 9 of the *Navigation Act 1912*, grant, under section 286 of the Act, permission for the ship specified in this permit to carry passengers or cargo or both as specified below on the voyage from [name of port(s)] to [name of port(s)]....., commencing on or about [date]...../...../....., subject to any conditions set out on this permit.

Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	

Details about passengers and cargo that may be carried on the voyage

<i>Cargo</i> Description of cargo:..... Tonnage/TEU:.....	<i>Passengers</i> No. of passengers:
---	---

Permit conditions

[Empty box for permit conditions]

Signature of delegate:
.....

Date:
[official stamp]

Form 6 Permit for unlicensed ship — continuing
(regulation 6)

No:

Navigation Act 1912

PERMIT FOR UNLICENSED SHIP — CONTINUING

I, [*name of delegate*]....., in exercise of the power delegated to me by the Minister under section 9 of the *Navigation Act 1912*, grant, under section 286 of the Act, permission for the ship specified in this permit to carry passengers or cargo or both between the ports specified, subject to any conditions set out on this permit.

This permit remains in force from [*date*]...../...../.... to [*date*]...../...../.....

Details about ship

Name of ship:	Port of registry:	
IMO No. of ship:	Name of owner:	

Names of ports for which permit issued

--

Permit conditions

--

Signature of delegate:
.....

Date:
[official stamp]

**Form 7 Application for a licence to engage in the
coasting trade**

(regulation 10)

Navigation Act 1912

**APPLICATION FOR A LICENCE TO ENGAGE IN THE COASTING
TRADE**

To the Minister,

I, [full name of applicant].....of
[address]....., the (registered owner or charterer, or
managing director, secretary or agent of the registered owner or charterer, or
master) of the [name of ship]....., declare that I am authorised
to apply for a licence for the ship to engage in the coasting trade and submit this
application and the application fee (or evidence of its payment) for the licence.
Details about the ship are set out below.

I undertake to ensure that when the ship is engaged in the coasting trade all
requirements of the *Navigation Act 1912* and the Regulations made under that
Act will be complied with, and that, in particular, the officers and seamen of the
ship will be paid wages in accordance with Part VI of the Act.

Note Registered owners and Masters of ships should also be aware of the provisions of
the *Maritime Transport and Offshore Facilities Security Act 2003* that apply to them.

Details about ship

Name of ship:	Port of registry or home port:
IMO No. of ship:	

Signature of applicant:
.....

Date:
...../...../.....

**Form 8 Application for renewal of a licence to
engage in the coasting trade**
(regulation 11)

Navigation Act 1912

**APPLICATION FOR A RENEWAL OF A LICENCE TO ENGAGE IN
THE COASTING TRADE**

To the Minister,

I, [full name of applicant].....of
[address]....., the (registered owner *or* charterer, *or*
managing director, secretary *or* agent of the registered owner *or* charterer, *or*
master) of the [name of ship]....., declare that I am authorised
to apply for the Licence to engage in the coasting trade, No.(which was
issued for the ship on [date]...../...../.....), a copy of the 'Master's copy' of
which is attached, to be renewed for a further period of 12 months. I submit this
application and the application fee (or evidence of its payment) for the renewal.
Details about the ship are set out below.

Details about ship

Name of ship:	Port of registry or home port:
IMO No. of ship:	

Signature of applicant:

.....

Date:

...../...../.....

Form 9 Licence to engage in the coasting trade
(regulation 13)

No:

Navigation Act 1912

LICENCE TO ENGAGE IN THE COASTING TRADE

I, [*name of delegate*]....., in exercise of the power delegated to me by the Minister under section 9 of the *Navigation Act 1912*, grant, under section 288 of the Act, permission for the ship specified in this licence to engage in the coasting trade, subject to the master, owner and agent of the ship complying, in relation to the ship, with the provisions of the Act and Regulations made under the Act, and in particular complying with the requirement to pay the officers and seamen of the ship for the period during which the ship is engaged in the coasting trade wages in accordance with Part VI of the Act.

This licence remains in force from [*date*]...../...../..... until the end of 30 June [*year*].....

Details about ship

Name of ship:	Port of registry:
IMO No. of ship:	Name of owner:

Signature of delegate:

.....

Date:

[*official stamp*]

Form 10 Statement of period of engagement in the coasting trade
(regulation 16)

Navigation Act 1912

STATEMENT OF PERIOD OF ENGAGEMENT IN THE COASTING TRADE

(For ships leaving Australia for an overseas voyage)

I, [full name]....., the master of the ship specified in this statement, for which Licence to engage in the coasting trade, No., was issued on [date]...../...../....., and which is intended to leave Australia for an overseas voyage:

- (a) declare that the period for which the ship has been engaged in the coasting trade, during the present voyage, is as set out in this statement; and
- (b) declare that the officers and seamen of the ship for that period have been paid for the period in accordance with section 289 of the *Navigation Act 1912*; and
- (c) produce an acknowledgment by those persons that the wages payable to them under that section, for that period, have been paid to them in full.

Details about ship

Name of ship:	Port of registry:
IMO No:	Name of owner:

Period of engagement in the coasting trade

Date of commencement:/...../.....
Date of termination:/...../.....
Period of engagement: months.....days.....	

Signature of master: Date:

Form 11 Acknowledgment of receipt of wages at Australian rates

(regulation 16)

Navigation Act 1912

ACKNOWLEDGMENT OF RECEIPT OF WAGES AT AUSTRALIAN RATES

(For ships leaving Australia for an overseas voyage)

We, the officers and seamen of the ship specified in this statement, acknowledge:

- (a) that the period for which the ship has been engaged in the coasting trade, during the present voyage, is as set out in this statement; and
- (b) that, as the officers and seamen of the ship for that period, each of us has been paid the wages payable to us for the period in accordance with section 289 of the *Navigation Act 1912*; and
- (c) that the rate at which each of us has been paid for the period is specified in the table below (being the current rate of wages payable to an officer or seaman working in Australia according to the rating applicable to the position of the person).

Details about ship

Name of ship:	Port of registry:
IMO No:	Name of owner:

Period of engagement in the coasting trade

Date of commencement:/...../.....
Date of termination:/...../.....
Period of engagement: months..... days	

Details about wages paid

Name	Rating	Wages per month \$	Signature of officer or seaman

Attach additional pages if necessary

Signature of master:

Date:

.....
(countersigned)

...../...../.....

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.

APPENDIX 3: Current Ministerial Guidelines

Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping

- Purpose
- The Coasting Trade
- Exemptions from the Coasting Trade
- Licencing of Vessels to Engage in the Coasting Trade
- Single and Continuing Voyage Permits
 - Availability Considerations
 - Adequacy of Licenced Services
 - Public Interest Considerations
 - Safety and Environmental Considerations
 - Security Considerations
- Permits Generally
 - Statement of Cargo Actually Carried
 - Fees
 - Public Release of Permit Data
 - Production of Permits
- Single Voyage Permits
 - Amendments
 - Timing and Application Fees
- Continuing Voyage Permits
 - Availability and Adequacy
 - Timing and Application Fees
- Revision of Guidelines
- Contacts

Purpose

1. These Guidelines provide guidance for staff of the Department of Infrastructure, Transport, Regional Development and Local Government in administering the coasting trade provisions of the *Navigation Act 1912* ("the Act") and the Navigation (Coasting Trade) Regulations (the Regulations), and in issuing Australian coasting trade licences and permits.
2. The delegate of the Minister may, in particular cases and after due consideration of issues of public interest and natural justice, depart from the Guidelines where it is judged reasonable to do so, provided that the requirements of the Act and the Regulations are adhered to.
3. The Guidelines are made available as information for the shipping industry and do not constitute legal advice. Persons requiring advice in respect of the Act or the Regulations are advised to consult their own legal advisers.

The Coasting Trade

4. The Act defines the coasting trade (ie carriage of domestic cargoes and passengers) and details the requirements for engaging in that trade.
5. Under the Act a ship is deemed to be engaged in the coasting trade if it takes on board cargo or passengers at any port in a State or a Territory, to be carried to or delivered at a port in the same or another State or Territory, and delivers that cargo or those passengers in that State or Territory.
6. Part VI of the Act (The Coasting Trade) applies to trading ships only if on inter-State or overseas voyages, defined in s6 of the Act, but does not apply to trading ships on intra-State voyages (unless such ships have been declared under s8AA of the Act). The loading of coastal cargo covered by Part VI of the Act cannot commence unless a licence or permit has been issued.
7. However, A permit is required for an unlicensed ship to carry intra-State cargo if the ship carries that cargo while on an inter-State or international voyage (or has been declared under s8AA).
8. Passengers on through tickets to/from overseas and international cargo on through bills of lading are not considered to be part of the coasting trade.
9. To facilitate tourist traffic, cruise liner passenger trades are exempt from the coasting trade requirements of the Act, other than those between Victoria and Tasmania.
10. Unlicensed cruise liners carrying domestic passengers between Victoria and Tasmania require a permit (note this does not include passengers who are carried across Bass Strait as part of a longer journey involving countries other than Australia or States other than Victoria and Tasmania).
11. Cruise liners are ships in excess of 5000 gross registered tonnes, capable of a speed of at least 15 knots, capable of carrying at least 100 passengers and utilised primarily for the carriage of passengers.
12. The Act provides for substantial penalties for ships engaging in the coasting trade without a licence or a permit.
13. The term "passengers" does not include rescued persons, stowaways, persons engaged in the business of the ship, children under 1 year of age, or persons on board in an official capacity (see section 6 of the Navigation Act).
14. Where a ship carries Australian coastal cargo or passengers without an exemption (see paragraph 16), a coasting trade license or permit, then the master, owner and agent of the ship each commits an indictable offence (currently a fine on conviction, not exceeding \$5,500 for a natural person and \$27,500 for a body corporate).
15. Offshore anchorage points or loading facilities outside State or Territory Coastal Waters (ie beyond the 3nm limit from the territorial sea baseline (TSB)) are not ports "within a State or Territory" for the purposes of Part VI of the Navigation Act. A permit is not required to carry cargo or passengers to or from such points or facilities to a port in a State or Territory.

Exemptions from the Coasting Trade

16. The Act provides for certain trades to be exempt from the requirement that a ship must be licensed or have a permit to engage in them. Exemptions are provided either by Ministerial Direction or through an Instrument signed by the Governor General.
17. Ships engaged in trades between the mainland and the following Commonwealth territories, or in trades between those territories, have such exemptions:
 - Christmas Island
 - Norfolk Island
 - Cocos (Keeling) Islands
18. Also exempt are passenger cruise liners operating in coastal passenger trades other than those between Victoria and Tasmania.

Licensing Vessels to engage in the Coasting Trade

19. Under the Act, licensed ships receive preference in the carriage of inter-State cargo, in that a permit may only be issued if no suitable licensed ship is available or the service provided by licensed ships is inadequate.
20. Licences are issued, pursuant to section 288 of the Act, on condition that:
 - seafarers employed on the ship are paid at least Australian wage rates; and
 - if applicable, the crew has access to the passengers' library.
21. Licences are issued for a 12 month period (or part thereof) ending 30 June and are renewable annually.
22. Licensed ships are not restricted to specific trades. A licensed ship may engage in the coasting trade at any time without a permit.
23. Licences are not restricted to Australian flagged, owned or crewed vessels.
24. The master, owner and agent of a licensed ship engaging in the coasting trade commits an offence if the ship is receiving, or has been receiving during the past 12 months, or is to receive, a subsidy or bonus from a foreign government. Due to the operation of the *Crimes Act 1914*, the maximum penalty for this strict liability offence is a fine of \$5,500 for a natural person and \$27,500 for a body corporate.
25. All foreign nationals engaged as crew on licensed vessels must comply fully with Australia's immigration regime.
26. All foreign vessels must comply fully with Australian Customs regulations.
(See Internet sites at www.immi.gov.au/sea and www.customs.gov.au respectively.)
27. Licence applicants are required to make an undertaking to pay Australian rates of wages in accordance with Part VI of the *Navigation Act 1912*.
28. A Coasting Trade Licence cannot be cancelled by the Minister other than for breach of the conditions of the licence, but may be surrendered by the holder.

Single and Continuing Voyage Permits

29. Permits, either a single voyage permit (SVP) or a continuing voyage permit (CVP), may be issued, pursuant to section 286 of the Act, to unlicensed vessels to engage in a coastal trade between ports where:
 - a) no licensed ship is available for the service; or
 - b) that the service as carried out by the licensed ships is inadequate; and the Minister is satisfied that it is in the public interest to do so.
30. When considering the application, the matters relevant to vessel availability will depend, in large part, on information provided in the permit application itself, for instance, the specified ports, nominated time for the voyage, and the intended cargo. Therefore, the inquiry is whether there is a licensed ship available for the particular voyage or voyages for which the application is made.
31. When considering an application the following should also be taken into account.

Availability Considerations

32. All relevant licensed ship operators are to be contacted by the Department to determine the availability and suitability of licensed ships for the voyage or voyages identified in the application;
33. In considering the availability of licensed ships, the particular shipping requirements specified in the application are given due consideration.
34. Delivery requirements are important factors in determining availability and whether the cargo can be delivered in a timely, sound and uncontaminated condition;
35. Availability is determined on a case by case basis and should include consideration of whether a licensed ship can meet supply, production or service obligations specified in the application that could not be met by using licensed ships.
36. A licensed ship may be considered unavailable if the operator cannot guarantee that it will be presented to ship cargo according to a schedule that meets the reasonable needs of the shipper. As a general rule, the Department will consider a licensed ship available if it can carry the cargo within a window of 3 clear days either side of the sailing date stipulated in the application. Licensed ships may also be considered unavailable if they have contractual arrangements that give other shippers priority at short notice.

Adequacy of Licensed Services

37. A licensed ship is considered inadequate when it is not suitable to perform the task. Suitability may be determined on the basis of the delivery requirements of the shipper, the carrier's ability to supply necessary equipment (eg containers or bolsters), technical characteristics of the ship in question and capacity of the ship to transport cargo safely.
38. Shippers' delivery requirements are the primary determinants of whether the service provided by licensed vessels is adequate and, in

particular, whether the cargo can be delivered in a timely, sound and uncontaminated condition. For example, cargo may be required to be containerised, or delivered in bulk, or transported in food grade holds, or be available at the unloading port on a particular date.

39. To be considered adequate, carriage must be available to the shipper on reasonable commercial terms.

Public Interest Considerations

40. Permits may only be issued where licensed tonnage is not available or is inadequate, and it is in the public interest. The public interest is assessed for each permit application on the merits of the case.
41. The Minister (or the Minister's delegate) may grant permits either unconditionally or subject to such conditions as he or she thinks fit to impose in the public interest. Permits may be refused to vessels that have breached conditions for any previous permit.
42. Assessment of the public interest includes having regard to a requirement for maintenance of supplies, production or service that could not be met by the use of licensed ships, and whether the unlicensed vessel involved would pose an additional risk to Australia's marine environment.

Safety and Environmental Considerations

43. Other matters which the delegate may take into consideration for a permit application include a ship's safety and environmental record.
44. It will not be in the public interest to allow vessels with poor safety or environmental protection standards to carry coastal cargo under permit. Permits will therefore be issued on condition that the ships named in the permit comply with the standards of safety and marine environment protection of international conventions to which Australia is a party. Ships issued with permits will be liable for inspection by the Australian Maritime Safety Authority under its port State control program.
45. Tankers: An independent inspection report based on the Oil Companies International Marine Forum (OCIMF) SIRE 2 inspection standards must accompany an application for an oil, chemical or LPG tanker. The inspection report remains valid for a period of 6 months from inspection. Also required for tankers is a declaration from the charterer stating that the ship is in a satisfactory condition to undertake the intended shipment.
46. Dry Bulk Carriers: A completed Bulk Cargo Inspection Report (a proforma is available on the Department's Internet site: www.infrastructure.gov.au) must accompany permit applications for dry bulk carriers, together with a copy of a current Safety Management Certificate (ISM) and Document of Compliance issued by the vessel's classification society. Also required for dry bulk carriers is a written statement by the applicant declaring that it is satisfied the vessel is suitable for the intended voyage.

Security Considerations

47. Ships applying for a coasting trade permit will be required to have an International Ship Security Certificate or interim certificate.

Permits Generally

48. Permits are processed during office hours (9am to 5pm, Monday to Friday) excepting public holidays and the annual shutdown of the Department between Boxing Day and New Year's Day. Applicants should plan their applications accordingly. Permit applications received after 5pm on any working day will be deemed to have been received on the following working day
49. Permits will not be issued or amended retrospectively where the loading of coastal cargo or the carriage of that cargo has already commenced. Applicants should apply for amendments well in advance. Carriage by unlicensed vessels of coastal cargo or passengers not covered by a permit may result in a prosecution against the master, owner or agent.
50. Under section 389 of the Navigation Act it is an offence for persons to make false declarations, false statements or false representations or give false evidence on oath, in connexion with an application or proceeding under the Act. These offences are punishable by a fine not exceeding \$5000 or imprisonment for a period not exceeding 2 years, or both.
52. Successive permits may be issued provided that the ship has left the Australian coast on a regular basis (at least once in any 3 month period). For Continuing Voyage Permits (CVPs), this may be either during the period covered by a permit or between successive permits. Applicants should supply the name and date of the last foreign port called, and the first foreign port called after the currency of a permit, and (for CVPs) the name and date of at least one of any foreign ports to be called during the currency of a permit.
53. Ships proposing to carry dry bulk coastal cargo under a coasting trade permit must notify the Australian Quarantine and Inspection Service (AQIS) and provide details of the cargo and ports involved.
54. Permit holders are expected to be aware of and comply with any requirement under legislation to report to AMSA and/or the Australian Transport safety Bureau (ATSB) any accident or incident involving the ship or its crew while operating under the terms of a permit.
55. An applicant for a permit for a vessel must indicate at the time of application whether the ship holds a valid International Ship Security Certificate or interim certificate.

Statement of Cargo Actually Carried

56. Applicants to whom a permit is issued must complete a Statement of Cargo Actually Carried for each voyage made under the permit. The return of these Statements to the Department, within 14 days of the sailing date under either a continuing or single voyage permit, is a

condition attached to the issue of each permit. Persons to whom a permit has been issued are required to adhere to this condition. Failure to do so may delay the issue of any further permits sought until the deficiency is rectified.

Fees

57. Fees are to accompany applications. Contact svp@infrastructure.gov.au or 1300 307 761 to obtain an Agent Number to identify permit fee payments. Frequent users of SVPs can arrange to pay periodically, sums to the Commonwealth which will be held and be used to pay application fees.

Public Release of Permit Data

58. Details of applications will be provided to relevant licensed ship operators, at the time of application, to enable the Department to assess the availability and suitability of licensed tonnage. CVPs are notified in the Government Gazette after issue. Statistics of permits issued are on the Department's *Waterline* website at www.bitre.gov.au.

Production of Permits

59. It is a condition of issue of permits that permit holders must produce the permit to the Australian Customs Services at each port of loading and discharge prior to commencing loading or discharge of cargo carried under permit.

Single Voyage Permits (SVPs)

60. Permits may only be issued where licensed vessels are not available or are inadequate and the issue of the permit is in the public interest. SVPs exist for circumstances where there is a one-off unavailability of suitable licensed ships. An SVP is issued for a particular vessel to carry a nominated cargo or number of passengers between particular ports, loading and sailing on or about specified days.

Amendments

61. SVPs are issued for a stated type and volume of cargo or passengers, with a stated volume tolerance of plus or minus 10% and a sailing date tolerance of, generally, 3 clear days either side of the nominated sailing date. The holder of an SVP must seek an amendment, before loading, if the amount or type of cargo or passengers to be carried, or the actual sailing date, change so as to fall outside these tolerances.

Timing and Application Fees

62. The Department will endeavour to issue normal SVPs by 5pm on the 4th working day following the day on which the application is received.

Applicants should note that applications in respect of single-hulled tankers over 15 years old may involve extra processing time for the Department to obtain an assessment of the independent inspection report.

63. Permit fees are prescribed by Regulation. The application fee for a normal (non-urgent) cargo SVP, non-urgent amendment of an SVP application, or non-urgent amendment of an issued SVP, currently is \$200. The prescribed fee for a passenger SVP application is \$22. Separate applications are required for passengers (use form CT-1) and for cargo (use form CT-2). The application fee is \$400 for an urgent cargo SVP or an urgent amendment to an application or permit (one for issued by 5pm on the working day following the day on which the application is received).
64. Where an applicant seeks an Urgent SVP, it must also provide a statement that clearly demonstrates to the Department why the permit is required on an urgent basis. The statement must address the particular circumstances of the shipment(s) involved, for example, when the need for an urgent permit became obvious. To avoid delays, applicants should provide as much detail as possible about the reasons for urgency of the application when applying for an urgent permit.
65. The applicant for an urgent SVP must also sign a declaration to the effect that the information in the statement above is true to the best of the applicant's belief.

Continuing Voyage Permits (CVPs)

66. A CVP may be issued where there is insufficient or inadequate shipping capacity available from suitable licensed vessels over an extended period.
67. Prerequisites for a CVP are the same as for a SVP, namely that licensed vessels are unavailable or inadequate to meet the needs of a shipper and the Minister is satisfied it is in the public interest to allow an unlicensed ship to engage in that trade. The public interest is assessed for each application and the criteria are the same as for SVPs, including satisfactory permit-related inspection reports and shipper declarations for tanker and bulk carrier permits.
68. CVPs may be issued for periods of up to 3 months.
69. To carry cargo between ports other than as specified in a CVP, the holder of a CVP should apply for an SVP.
70. All CVP holders are advised to comply fully with the requirements of Australia's customs, quarantine and immigration regimes (for more information see Internet sites at www.immi.gov.au/sea, www.daff.gov.au/aqis and www.customs.gov.au respectively). Failure to do so will be considered in assessing whether the issue of any further permit would be in the public interest.

Availability and Adequacy

71. The question of whether licensed ships are available and adequate is addressed on a case by case basis. Applicants must specify in their

- application the voyages proposed under the permit, including the intended volume and type of cargo, the port rotation, and the intended loading and sailing dates for each voyage.
72. Operators of licensed ships are consulted on whether any suitable licensed ships are available to carry the specified cargoes on any or all of the voyages listed in the application.
 73. Applicants must supply a schedule listing all proposed voyages under the permit, showing cargo types and expected volumes, and dates of loading, sailing and discharge at the nominated ports to be covered by the permit. In addition, applicants must specify: the name and date called of the last foreign port to be visited prior to the commencement of the permit period; the first foreign port to be visited after the end of the permit period; and one of any foreign ports to be visited during the currency of the permit.
 74. Where a licensed ship is available to carry the specified cargoes for some of the voyages specified in a CVP application, the permit is issued on condition that it will only be used when a licensed ship is not available. A condition of issue of the permit is that the permit holder then is responsible for ascertaining the availability of licensed ships prior to each voyage and providing documentary proof of this, such as a signed declaration to that effect, to the Department within 7 days of that voyage commencing.
 75. Alternatively, the Department may offer the applicant the opportunity to amend its application (at no charge) to exclude voyages/ports/cargoes for which licensed vessels are available. In this case, as a condition of issue of the permit, the permit holder must then notify the Department of Infrastructure, Transport, Regional Development and Local Government in writing as soon as possible and certainly prior to the vessel commencing to load, when there is a material change proposed in any of the details of the voyages specified in the CVP application. The Department then will re-check the availability of licensed ships.

Timing and Application Fees

76. The Department will endeavour to issue CVP by 5pm on the 10th working day after the day on which the application is received. There is no provision for urgent issue of CVPs.
77. The application fee prescribed by Regulation for a CVP is currently \$400.
78. At present, no fee is chargeable for amending a CVP or amending an application for a CVP.

Revision of Guidelines

79. These Guidelines may be revised from time to time at the Minister's discretion. Persons using the Guidelines should ensure they are using the latest version available on the Department's website www.infrastructure.gov.au.

Contacts

80. For further information on the Coasting Trade permits and licences please contact the Operations Centre on 1300 307 761.

APPENDIX 4:**SHIP SAFETY AND ENVIRONMENT PROTECTION STANDARDS¹⁴****International regulation of ship safety and environment standards**

Australia's powers to regulate shipping, including ships in the coastal trade, are subject to the provisions of the United Nations' Convention on the Law of the Sea 1982 (UNCLOS), which provides the framework for more detailed technical conventions and agreements promulgated by competent international organisations. These include the International Maritime Organization (IMO), which is responsible for ship safety and environment protection standards, and the International Labour Organization (ILO), which promulgates ship standards in relation to crew health and safety.

Australia has ratified most of the major international maritime conventions and therefore is obliged under UNCLOS and the conventions to give them effect in national legislation. It also is obliged to have administrative arrangements and provide the basis for enforcement of these laws, including impartial investigation and enforcement processes, where relevant. The major IMO and ILO conventions, to which Australia is a party, are listed in Attachment A.

Mandatory IMO instruments

The IMO's major mandatory safety and environment protection conventions are summarised below:

- The International Convention for the Safety of Life at Sea (SOLAS Convention) generally applies to cargo ships of 500 gross tonnes or more and to all passenger ships engaged on international voyages. It includes detailed requirements in relation to stability, machinery, fire protection and fire equipment, life saving appliances, radio equipment including satellite distress communication systems, and carriage of particular cargoes including dangerous goods. It also includes general requirements for ship construction, machinery and electrical equipment. It refers to a number of codes concerning specific areas of safety, some of which are mandatory. It requires a flag State (ie the country where a ship is registered) to ensure that the ships registered under its flag comply with convention standards and prescribes a number of certificates to be issued by flag States confirming that ships meet these requirements. It also allows for the inspection of ships in the ports of contracting States (port States) to verify that each carries the required Certificates and to ensure that the ship's condition complies with the data on the Certificate.
- The International Convention on Load Lines requires ships to which the convention applies to have been surveyed, marked and provided with an

¹⁴ Appendix prepared by the Australian Maritime Safety Authority

International Load Line Certificate confirming the limitations on the draught to which a ship may be loaded. The Convention includes detailed regulations for determining load lines, the form of load line marks and their positioning on the side of a ship and for maintaining the external weathertight and watertight integrity of the ship. It provides for port States to inspect ships visiting their ports to ascertain if the ship is overloaded, its load lines are marked correctly, there has been no material alteration to the ship since its marking, and the ship's condition complies with its Load Line Certificate.

- The International Convention on Tonnage Measurement of Ships establishes uniform principles to calculate tonnage of ships engaged on international voyages. It requires that each ship is issued with an International Tonnage Certificate attesting to the assessment of its gross and net tonnages in accordance with the principles contained in the Convention. It also allows for the port States to inspect ships visiting their ports to verify that each carries an International Tonnage Certificate and to ensure that the ship's characteristics comply with the data on the Certificate.
- The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) establishes agreed international standards of training, certification and watchkeeping for seafarers. A flag State party to the convention is required to certify that its seafarers meet the convention's requirements for service at sea, including minimum age, medical fitness, training, qualifications and examinations. A flag State party also is required to lodge with the IMO detailed advice of the national training and certification measures adopted to comply with the convention's requirements. All certificates of competency are required to be endorsed by the issuing flag State as complying with the convention standards. A flag State may not issue a certificate of competency in recognition of another flag State's certificate and can only issue a certificate of recognition. The IMO requires a written undertaking to be concluded between flag State parties to the convention that allows recognition of certificates of competency. The convention refers to the STCW Code, which provides for technical regulations for its implementation, including procedures for exercise of port State control allowing intervention where crew deficiencies are deemed to endanger life, property or the environment.
- The International Convention for the Prevention of Pollution of the Sea by Ships (the MARPOL Convention) covers all forms of marine pollution from ships (except sea dumping) through six Annexes:
 - Annex I, *Prevention of Pollution by Oil*, generally applies to oil tankers over 150 gross tonnes and other vessels over 400 gross tonnes and prescribes criteria for the discharge of oil and oily waste. It requires ships carrying oil to be fitted with approved equipment for retaining oily wastes on board for discharge at shore facilities. Oil tankers are required to have separate ballast tanks of a capacity to preclude carrying ballast water in oil cargo tanks. They also are required to meet certain structural and stability criteria to resist damage from collision or stranding. Areas of special environmental

significance are recognised where no discharges of any type are permitted, for instance, the Great Barrier Reef region in Australia.

- Annex II, *Control of Pollution by Noxious Liquid Substances*, applies to all ships carrying substances in bulk, for instance chemical tankers, and provides criteria for their discharge and measures to control pollution. It lists 250 substances that are required to be discharged only to onshore facilities unless certain concentrations and conditions are met and then not within 12 nautical miles of land. It makes compulsory the Bulk Chemical Code, which specifies carriage requirements for chemicals in bulk.
- Annex III, *Prevention of Pollution by Harmful Substances in Packaged Forms* applies to all vessels carrying harmful substances in packaged forms, such as freight containers or drums. It requires specific packaging and stowage requirements to be met for such substances and compliance with other standards detailed in the International Maritime Dangerous Goods Code. Discharge of harmful substances covered by Annex III is totally prohibited in any area except in a situation where the safety of the ship or a threat to life is involved;
- Annex IV, *Prevention of Pollution by Sewage*, applies to ships of 400 gross tonnes and above, or less than 400 gross tonnes but certified to carry more than 15 persons. It prohibits ships from discharging sewage waste, including from the carriage of live animals, and retention on board in holding facilities. These facilities are to be surveyed periodically and certificated.
- Annex V, *Prevention of Pollution by Garbage*, applies to all vessels, although additional obligations such as the requirement to carry a Garbage Record Book applies only to vessels over 400 gross tonnes. It allows controlled discharge on the high seas of some forms of garbage, including glass, metals, timber and food wastes. It completely bans dumping into the sea of all forms of plastic. Otherwise garbage has to be retained on board for disposal by approved methods.
- Annex VI, *Prevention of Air Pollution from Ships*, applies to all commercial vessels and sets limits to the level of sulphur oxide and nitrogen oxide emissions from ships' exhausts and prohibits deliberate emission of ozone depleting substances. This involves use of fuel oil with restricted sulphur content or fitting of ships with an exhaust gas cleaning system. Provision is made for survey and certification of ships in relation to air pollution prevention equipment and emission standards also are set for shipboard incinerators.

Flag State responsibilities

UNCLOS requires a flag State (the country where a ship is registered) to implement and enforce internationally agreed standards for their flag ships. The IMO's SOLAS, MARPOL and Load Line Conventions specify standards for ship design, construction,

operation and maintenance. Flag State signatories are required to ensure their flag ships are issued with certificates to confirm that they meet the conventions' requirements. Flag States are required to have a system of inspection and survey of their flag ships to ensure that the required standards are met before their certification. This can be undertaken by officers of the flag State administration, nominated marine surveyors or organisations recognised by the flag State administration, such as recognised classification societies.

Role of international classification societies

Before the development of the major maritime international conventions, classification societies already had established classification rules providing a set of comprehensive standards for ships' hull structures and essential shipboard machinery systems. These represented an independent means of assessing the soundness of each ship to determine the level of risk and the appropriate insurance premium involved with insuring the ship and its cargo.

Classification societies publish detailed rules for hull structural design and essential shipboard machinery systems that have worldwide application in the approval of plans, testing of materials and survey and inspection during the construction of ships. The SOLAS and Load Line Conventions do not contain detailed requirements for these items. The classification societies also lay down requirements for the periodic surveys of a ship's hull, machinery and equipment with which compliance is a condition of maintaining a ship's classification status.

The classification rules complement and amplify the standards stipulated in international conventions which allow flag States to recognise nominated classification societies as organisations that inspect and survey their flag ships to verify that their construction and ongoing standard meets convention requirements.

A classification society also may be authorised by the flag State to issue statutory certificates on its behalf confirming its flag ships' compliance with these standards. While a flag State administration may delegate these statutory functions to classification societies, it retains full responsibility under the conventions for ensuring its flag ships compliance with convention requirements as implemented in its national laws. IMO resolutions provide guidance on the manner of discharging these responsibilities by classification societies on behalf of flag States.

Port State powers

UNCLOS and certain international maritime conventions allow for a port State (the country where a foreign flag ship is in port) to monitor compliance with international standards by foreign flag ships visiting its ports. A port State has a general right to exercise jurisdiction over foreign ships when they are voluntarily in its ports, irrespective of whether the right is recognised in specific international conventions, by virtue of its sovereignty over internal waters.

The major international maritime conventions also recognise the right of port States to institute inspections of foreign ships when voluntarily visiting their ports. The

conventions allow ship inspections to verify that the ship's safety, pollution prevention, load line and tonnage certificates are valid and that the ship's condition conforms with the certificates, the crew hold appropriate certificates of competency, the number and certification of crew is in conformity with safe manning standards and watchkeeping requirements, the ship's safety management system is functioning properly and the ship is not overloaded.

The relevant international conventions also allow a port State to detain ships in port that are found to have major deficiencies in their safety and environment standards that may present a threat to life, property or the environment and provide for such detentions to be notified to the relevant flag State and to the IMO.

Commonwealth legislation regulating ship safety and environment standards

There is a range of Commonwealth legislation that has application to the coastal shipping trade, which is listed at Attachment B.

Legislation relating to ship safety and environment protection is administered by the Australian Maritime Safety Authority (AMSA) which has primary responsibility for discharging Australia's flag State and port State responsibilities under relevant international conventions. An outline of AMSA's responsibilities and funding is at Attachment C.

The main enactments giving effect to the major international ship safety and environment protection conventions are the *Navigation Act 1912* and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

The *Navigation Act 1912* primarily governs Australian trading ships engaged in international and interstate trade and certain operations of foreign flag ships in Australian waters. The Act gives effect in national law to the IMO's ship safety conventions and the ship construction and equipment aspects of the MARPOL Convention. It also implements certain ILO maritime conventions relating to ship standards (eg accommodation) and crew health and safety. The *Navigation Act 1912* covers ship construction standards, survey, safety, minimum crewing, seafarer qualifications, welfare and discharge of seafarers, cargo handling and stowage, and passengers.

The *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* gives effect to Australia's obligations under the MARPOL Convention in relation to the ship operational aspects of pollution prevention, including prohibitions on the discharge of oil, keeping of the ship's oil and garbage record books and the use of port reception facilities for wastes.

Marine Orders

Both the *Navigation Act 1912* in Section 425 and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* in Section 32 provide for AMSA to make subordinate legislation in the form of Marine Orders. In most cases, these implement the details of technical and operational standards under international conventions and contemporary safety management systems.

Marine Orders are disallowable instruments and are registered under the *Legislative Instruments Act 2003*.

The current Marine Orders in force as at 31 March 2008 and the international standards that each seeks to implement are listed at Attachment D.

Part II of the *Navigation Act 1912*

Part II of the *Navigation Act 1912* generally contains provisions implementing certain flag State responsibilities in relation to Australian registered vessels. Section 10 of the *Navigation Act 1912* provides that Part II of the Act applies to a ship registered in Australia, or has Australian residents as the majority of crew or is operated by an Australian company.

This section also provides that ships not registered in Australia but engaged in the coasting trade (ie a ship which is licensed under section 288 of the Act) also are covered by Part II of the Act. However this does not apply to unlicensed ships carrying coastal cargo under a coasting trade permit as Section 286(7) of the Act provides that these ships are not deemed as engaging in the coasting trade. Hence, the application provision in Section 10 of the Act means that ships operating under coasting trade permits are not subject to Part II of the Act but ships with a coasting trade licence are subject to Part II.

In addition to the application of Part II in Section 10, Section 8AA provides that an owner of a trading ship can apply to AMSA for a declaration that the *Navigation Act 1912* applies to the ship even when the ship is not engaged on interstate or international voyages and is not an Australian registered vessel. The section does not impose any conditions on AMSA's ability to issue a declaration. When such a declaration is issued to a ship, it is required to comply with all the safety and environmental provisions of the Act, including those in Part II.

Attachment E lists the additional regulatory measures that apply in Part II of the *Navigation Act 1912* and relevant Marine Orders to ships that come within the application of Section 10 and/or are declared under Section 8AA of the Act.

State/Territory legislation regulating ship safety and environment standards

The States and Northern Territory are responsible for regulating ship safety and environment standards for trading ships on intrastate voyages, fishing vessels, pleasure craft and vessels on inland waterways. Generally, these are smaller ships of less than 35 metres in length or 500 Gross Tonnes.

The relevant State/Territory legislation regulating commercial shipping includes the New South Wales *Marine Safety Act 1998*, Victorian *Marine Act 1988*, Queensland *Transport Operations (Marine Safety) Act 1994*, South Australian *Harbours and Navigation Act 1993*, Western Australian *Marine Act 1982*, Tasmanian *Marine and Safety Authority Act 1997* and the Northern Territory *Marine Act 1981*.

Ship safety standards for smaller vessels are set by the Uniform Shipping Laws (USL) Code of the National Standard for Commercial Vessels. The USL Code was first developed in 1979 as a means of improving harmonisation of marine safety administration across State, Northern Territory and Commonwealth jurisdictions for smaller vessels. It covered a set of standards as the basis for uniform legislation across jurisdictions relating to the survey, manning and operation of smaller commercial vessels in Australia. At the national level, it is applied by AMSA to commercial vessels to which the international safety conventions do not apply. Generally these are vessels under 500 Gross Tonnage, to the extent that they currently come within the Commonwealth's ship safety jurisdiction.

The provisions of the USL Code do not have the force of law except to the extent that they are adopted in Commonwealth, State or Territory legislation. In practice, the Code and its subsequent amendments have been adopted over time in various ways by the different jurisdictions. Hence, there are now significant variations in the legal requirements across the various jurisdictions. The USL Code also has been criticised as being highly prescriptive and lacking the flexibility and responsiveness necessary to meet the needs of modern shipping regulation.

The National Marine Safety Committee has been developing the National Standard for Commercial Vessels (NSCV), which is eventually intended to replace the USL Code. The NSCV reflects the more modern safety management systems approach to regulation and aims to provide uniform application of safety standards across all Australian jurisdictions.

Ship inspection and detention provisions in the *Navigation Act 1912*

The *Navigation Act 1912* provides statutory powers for the inspection of ships and detention of unseaworthy or substandard ships by AMSA. The relevant sections are at [Attachment F](#).

Section 190 of the *Navigation Act 1912* provides for the appointment by AMSA of marine surveyors and Section 190AA provides for their inspections of ships at any reasonable time and to require the master or any officer to produce certificates or other documents relating to the ship.

Surveyors also may be appointed as inspectors under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* to inspect ships to ascertain compliance with that Act or, in the case of a foreign flag vessel, with the requirements of the MARPOL convention.

AMSA's marine surveyors are trained to conduct inspections in accordance with national and international guidelines, in particular AMSA's *Instructions to Surveyors* are based on regulations promulgated by the IMO and ILO.

Section 210 gives power to AMSA to detain unseaworthy or substandard ships. An unseaworthy ship has major deficiencies that are a potential threat to life or property or the environment. A substandard ship may be seaworthy but it has conditions on board clearly hazardous to safety or health and these include the standard of crew

accommodation and living arrangements, such as the quality of food and catering facilities.

If safety or environment deficiencies are identified during a port State control inspection, AMSA issues the ship's master with a deficiency notice directing their rectification. If the defects are of a serious nature meaning the ship is unseaworthy or substandard, AMSA has the power to detain the ship at the port pursuant to section 210 of the *Navigation Act 1912* to ensure the defects are addressed to AMSA's satisfaction before the ship sails. A decision to detain a ship may be based upon a major deficiency that renders the ship unfit for its intended voyage or the cumulative effect of a number of deficiencies. The economic consequences of a ship detention for the ship owner/operator and the charterer may encourage greater attention to ensuring the ship's compliance with international ship standards in future.

Section 192A of the *Navigation Act 1912* provides that, where a ship not registered in Australia is detained, AMSA should forthwith advise in writing the consul for the country where the ship is registered. AMSA also notifies the ship's classification society, which is responsible for the ship's safety certification. The details of all detentions are forwarded to the IMO and, as Australia is a party to the Memoranda of Understanding on Port State Control in the Asia-Pacific and Indian Ocean regions, information on detained ships is forwarded to their secretariats for entry to their data bases and publication on the Internet.

The *Navigation Act 1912* allows in Section 190AB for AMSA to publish details of ship's inspected and those detained under its port State control program. AMSA publishes an annual report about its port State control program and monthly reports on the Internet detailing the ship detentions in Australian ports.

Australia's flag and port State roles

Flag State role

Australia's flag State responsibilities are discharged by AMSA in ensuring Australian flagged ships comply with international and national standards through its flag State inspection program. Around 100 separate flag State inspections are conducted each year of Australian flag ships, representing an average inspection rate of two inspections per annum.

AMSA currently delegates its ship survey and certification responsibilities under the *Navigation Act 1912* to six approved classification societies, which are all full members of the International Association of Classification Societies. This delegation authorises the classification societies to perform statutory survey and certification work on behalf of AMSA in line with the applicable requirements of international conventions. It is a matter for the individual ship owner to choose one of the six classification societies to perform the statutory survey and certification work.

AMSA has entered into a memorandum of understanding with each approved classification society that details the respective obligations and responsibilities, including AMSA's audit of the activities of the classification societies.

The responsibility for audit and verification associated with statutorily required compliance with the International Ship Management (ISM) Code implemented under the SOLAS Convention has been retained by AMSA.

The ISM Code was adopted by the IMO in 1993 to provide an international standard for the safe and environmentally responsible management and operation of ships. It reflects the modern emphasis in ship safety and environmental regulation on building a safety culture within the shipping industry that encompasses not only the ship and its crew but also the overall management system at sea and on shore. The ship owner/operator is required to assume primary responsibility for providing a ship management system that ensures compliance with all mandatory requirements for ship safety and pollution prevention, as promulgated by the IMO conventions and the relevant national maritime administration.

AMSA's flag State role includes responsibility for ensuring that seafarers issued with seagoing certificates of competency by Australia have the appropriate level of training, seagoing experience and demonstrated practical capabilities to meet the standards specified in the STCW Convention and the STCW Code. The STCW convention training and prerequisite seagoing experience requirements are mainly given effect through Marine Orders Part 3, *Seagoing Qualifications*.

The STCW Convention and relevant ILO conventions also require seafarers issued with certificates of competency should meet specified standards of medical fitness. The *Navigation Act 1912* and Marine Orders Part 9, *Health - Medical Fitness*, implement these international obligations into Australian law.

AMSA issues minimum safe manning documents for Australian flag ships in compliance with Regulation 14 of Chapter V of the SOLAS Convention, which requires flag States to ensure that all ships are "sufficiently and efficiently manned" having reference to an IMO resolution in 2000, Resolution A.890(21) *Principles of Safe Manning*, and standards contained in the STCW Convention concerning watchkeeping arrangements, hours of rest and fatigue prevention. The *Navigation Act 1912* and Marine Orders Part 21, *Safety of Navigation and Emergency Procedures*, gives effect to Regulation 14 in Australian law.

Holders of overseas qualifications wishing to work on Australian flag ships are required to hold an equivalent Australian marine qualification relevant to their duties.

The STCW Convention provides that a flag State may not issue a Certificate of Competency in recognition of another flag State's certificate, but can only issue a Certificate of Recognition. The IMO requires a written undertaking to be concluded between parties to the STCW Convention in relation to recognition of Certificates of Competency between flag States. In addition, flag State administrations may impose other conditions that need to be met prior to the issue of a Certificate of Recognition.

As required by the IMO, Australia has concluded agreements with major flag States in accordance with the STCW Convention, whereby AMSA and/or the other flag State administration can issue Certificates of Recognition for the other flag administration's certificates of competency.

Port State control

AMSA also conducts port State control inspections of foreign ships visiting Australian ports with the aim of filling any regulatory gap where a ship's flag State is unable or unwilling to effectively enforce internationally agreed safety and pollution prevention standards for its flag ships.

Australia maintains one of the world's highest port State control ship inspection rates with 70% of eligible ships currently being inspected annually. An "eligible" ship is one that has not been inspected by AMSA during the past six months (three months for a passenger ship or a tanker over fifteen years old) immediately preceding the date of its arrival at an Australian port.

The table below summarises for the past five years the number of port State control inspections, the number of ships detained with major safety and environment deficiencies and the average rate of safety and environment deficiencies identified per ship inspection.

Year	Number of individual foreign ships visiting Australian ports	Number of port State control inspections	No. of ships Detained (Detention Rate)	Total Deficiencies	Deficiency Rate per inspection
2007	3,800	2,963	159 (5.4%)	7,290	2.46
2006	3,668	3,080	138 (4.5%)	8,971	2.91
2005	3,593	3,072	154 (5.0%)	8,008	2.6
2004	3,566	3,201	173 (5.4%)	7,467	2.33
2003	3,200	2,827	190 (6.7%)	6,841	2.42

It will be noted that around 5% of ships visiting Australian ports have serious safety and environment deficiencies that require their detention and that there is an average of 2.5 deficiencies identified per ship inspection.

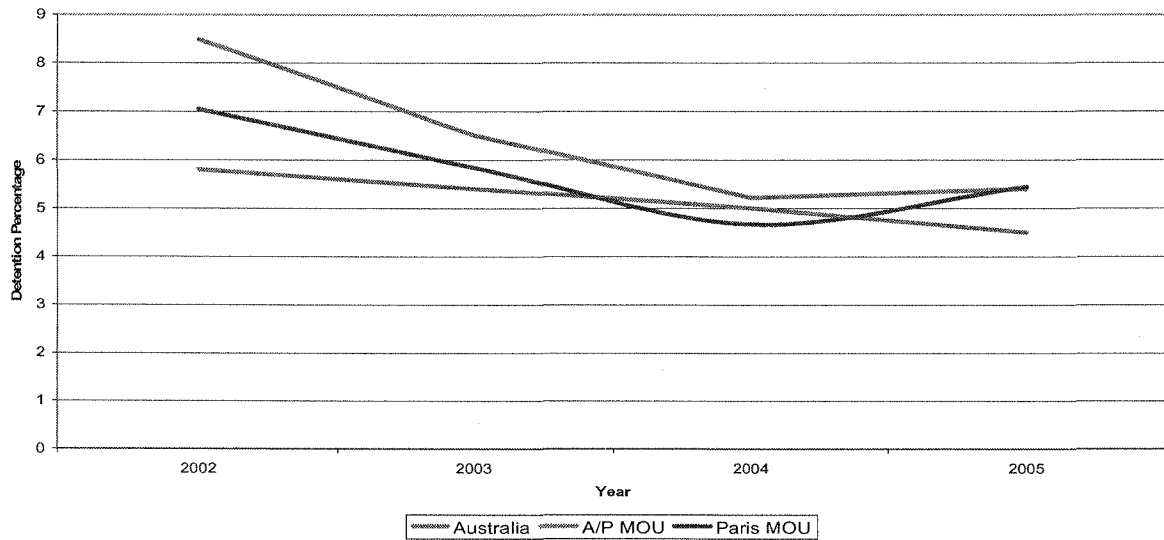
This is similar to the experience of other countries. In 2006, the members of the Asia/Pacific Memorandum of Understanding on Port State Control, which includes Australia, recorded on average a 5.4% detention rate and averaged 3.72 deficiencies per ship inspection.

The members of the Paris Memorandum of Understanding on Port State Control, which covers Europe and the North Atlantic (including Canada and the United States) in 2006 also recorded an average detention rate of 5.4% and averaged 3.1 deficiencies per ship inspection.

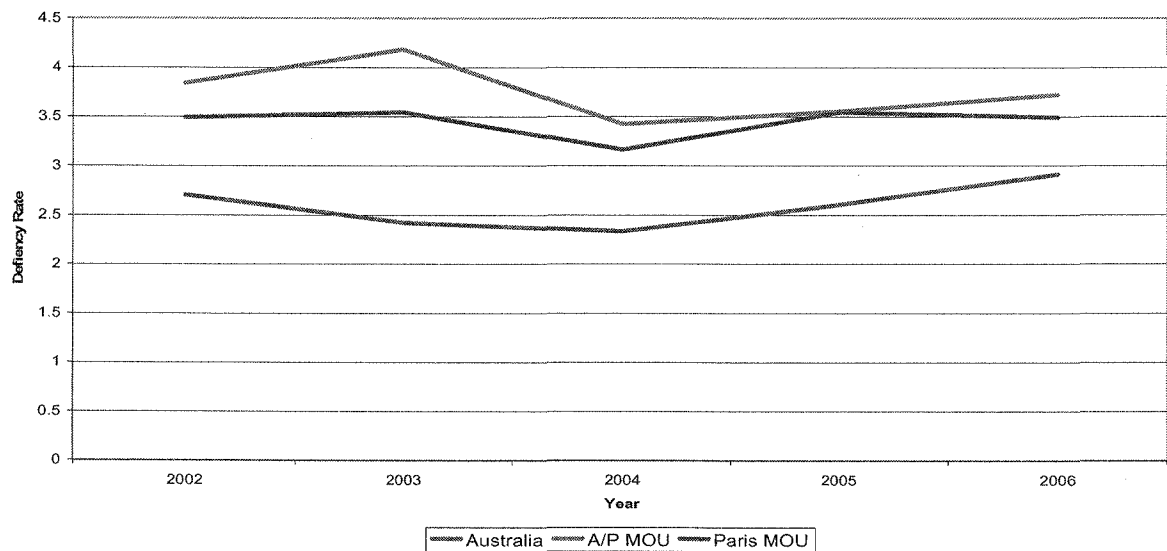
The table and charts below compare these statistics over the past five years:

Year	Australia		Asia/Pacific MOU on PSC		Paris MOU on PSC	
	Detention Rate	Deficiency Rate per inspection	Detention Rate	Deficiency Rate per inspection	Detention Rate	Deficiency Rate per inspection
2006	4.5%	2.91	5.4%	3.72	5.44%	3.10
2005	5.0%	2.6	5.21%	3.55	4.67%	2.93
2004	5.4%	2.33	6.51%	3.42	5.84%	3.16
2003	6.7%	2.42	8.49%	4.18	7.05%	3.54
2002	5.8%	2.7	6.67%	3.84	7.98%	3.49

Detention Rates



Average Deficiencies per Ship Inspection



Ship inspection targeting system

In administering Australia's port State control program, AMSA has adopted a sophisticated inspection targeting system that allocates risk ratings to each arriving foreign ship eligible for inspection based on factors such as type of ship, its age and inspection history. This ensures higher risk ships are more likely to be inspected and allows AMSA to allocate its inspection resources to focus on high-risk ships so using its inspection resources more effectively.

AMSA has set minimum inspection levels for each risk category of ship as performance measures to demonstrate to its stakeholders that appropriate priority is being given to the inspection of high risk ships. The actual inspection rates generally exceed the targeted levels, as shown in the table below comparing the targeted and actual inspection rates in the past five years:

Risk Categories of Ships	Targeted Inspection Rate	Actual Inspection Rates				
		2002	2003	2004	2005	2006
High Risk Ships	80%	95%	96%	96%	94%	92%
Medium to High Risk Ships	60%	86%	70%	86%	82%	86%
Low to Medium Risk Ships	40%	74%	40%	73%	71%	71%
Low Risk	25%	63%	27%	60%	56%	51%
Overall Target:	50%	80%	58%	79%	75%	74%

AMSA continues to refine its inspection targeting system and from 1 July 2007 ship inspection allocation has been based entirely on risk assessment methodology, with the targeted inspection rates revised accordingly. The table below shows AMSA's performance measures for 2007-2008 and the actual inspection rate in 2007:

Priority Allocated to Ships	Targeted Inspection Rate	Actual Inspection Rate in 2007
Single-hull tankers	100%	100%
Priority One ships	80%	90%
Priority Two ships	60%	84%
Priority Three ships	40%	76%
Priority Four ships	20%	58%
Overall Target	50%	70%

AMSA also conducts Focused Inspection Campaigns involving ship inspections over a set time period, usually three months, giving particular attention to compliance with specific safety and environment requirements on foreign ships. These special inspections are conducted in conjunction with regular port State control inspections and AMSA issues a Marine Notice to alert the shipping industry of each campaign. AMSA also participates in Concentrated Inspection Campaigns, which are conducted by the regional port State control forums, the Asia-Pacific (Tokyo) and Indian Ocean Memoranda of Understanding on Port State Control. These campaigns also target specific safety and environment areas as decided by the regional forums. Advice is issued to the shipping industry about each campaign.

Inspection of shipboard crew health and living conditions

As part of the port State control program, AMSA undertakes inspections of health and living conditions on board foreign ships visiting Australian Ports pursuant to section 207A(2) of the *Navigation Act 1912* and Marine Orders Part 11, *Substandard Ships*, made pursuant to the Act, which encompasses crew health and safety standards.

The *Navigation Act 1912* provides in Section 207A that a ship is substandard if the ship is seaworthy, but conditions on board the ship are clearly hazardous to safety or health. In determining whether a ship is substandard, Marine Orders Part 11 prescribes a list of matters to be considered and these appear at Attachment G.

The list represents conditions on a ship to which regard must be had in determining whether a ship is substandard, but it is not intended to be exhaustive. The existence of a listed deficiency on a ship does not automatically render the ship substandard, nor does the absence of a deficiency from the list prevent a ship from being substandard as a result of that deficiency, if it is a clear hazard to safety or health.

Shipboard social conditions and crew wage disputes

Marine Orders Part 11 concerns ship conditions in relation to crew health and safety and does not cover complaints that are not health and safety related. These would include social conditions, such as alleged maltreatment of certain crew members, or disputes over wage rates and unpaid wages.

Some social conditions on board can be dealt with by the criminal law. For instance, evidence of maltreatment on board while within Australian waters could be dealt with through the Australian legal system. However, such incidents occurring outside Australia would be the responsibility of the flag State.

There is currently no international instrument in force dealing with wages and related working conditions and there is no action available to a port State to address these type of complaints.

Civil action under the Commonwealth *Admiralty Act 1988* may be available to crews in pursuit of unpaid wages. However, this is a cumbersome remedy and not a matter for safety and environment regulatory authorities. The Attorney-General's Department administers the *Admiralty Act 1988*.

Australian seafarer qualification systems

National qualifications system

At the national level, AMSA administers the qualification system for seafarers serving in large commercial ships, which meets the standards of training and certification established by the STCW Convention. These are given effect in Australian law through the *Navigation Act 1912* and Marine Orders Part 3, *Seagoing Qualifications*. Australian issued seagoing qualifications are highly regarded for their integrity and quality worldwide. This reputation is primarily based on Australia's national

qualifications system of training and certification being maintained in compliance with the STCW Convention standards and the ongoing audit of training provided by recognised training organisations.

AMSA's records as at January 2008 show that there are 2,491 deck officers, 1,607 marine engineer officers and 1,886 ratings holding current Australian issued certificates of competency. These include certificates of competency issued to overseas resident seafarers who have trained in Australia and sought Australian issued certificates of competency.

Attachment H provides a breakdown of these certificates into the various classifications and the age groups of the certificate holders. The age profile indicates that in ten years time, 45% of current masters, 33% of all deck officers, 54% of Chief Engineers, 44% of all engineer officers, 62% of Chief Integrated Ratings and 38% of all ratings will be aged over 60 years.

State and Northern Territory qualifications systems

State and Northern Territory marine administrations also issue seafarer qualifications that allow holders to serve on smaller tonnage vessels, such as fishing boats and small commercial and trading vessels, operating within their safety regulatory jurisdictions. These qualifications require the holder to demonstrate training and experience at sea that meet separate State and Territory standards for the operation of these smaller vessels within local waters. These standards are generally provided by the Uniform Shipping Laws (USL) Code or the National Standard for Commercial Vessels (NSCV), Part D, Crew Competencies.

The requirements for issue of a State or Territory qualification do not generally meet the full range of competencies required to comply with the STCW Convention standards. In addition, State or Territory qualifications may include conditions or limitations on their use that restrict the holder to be engaged on certain vessels that only operate in a specific area. One of these limitations is to restrict the holder to serve on vessels only engaged on near-coastal voyages. In this case, the qualification holder is not considered to have the training and/or experience to be engaged on deep-sea voyaging by large commercial ships.

If holders of State or Territory qualifications want to serve on larger commercial vessels, they need to obtain an endorsement from AMSA under the STCW Convention of their State or Territory certificate to confirm that their training and experience meet the STCW Convention standards. This often involves the State or Territory qualification holder having to undertake additional training to cover the broader range of competencies and higher standards required under the STCW Convention compared to the State or Territory qualification requirements.

After completing this additional training, the holder of a State or Territory qualification may receive an STCW Convention endorsement certifying that the holder has attained the relevant equivalent grade of certificate under the STCW Convention. If the State or Territory qualification is subject to conditions or limitations on its use, its endorsement by AMSA must be subject to the same conditions or limitations. For instance, a State or Territory qualification restricting

the holder to service on vessels on near-coastal voyages will only receive an STCW Convention endorsement restricted to vessels on near-coastal voyages.

After receiving the STCW Convention endorsed certificate from AMSA, the holder would then need to seek a Certificate of Recognition if wanting to serve on a foreign flag ship from the relevant overseas flag State administration to allow the holder to work within that flag State's jurisdiction.

Several holders of State or Territory qualifications with STCW endorsements issued by AMSA reported encountering difficulties in obtaining Certificates of Recognition from overseas administrations because of concern about their State or Territory qualifications not meeting STCW Convention standards.

In response to these difficulties, AMSA introduced in 2004 a new structure in regard to deck certificates in line with the full implementation of the STCW Convention in a new issue of Marine Orders Part 3. Two new AMSA deck certificates of competency were created to replace the issuing of AMSA STCW endorsements on State and Territory issued master class three and master class four (other than near-coastal) certificates. The new certificates fully conform to the STCW Convention requirements and aim at resolving the recognition problems encountered with State and Territory certificates. The conversion of a State or Territory qualification to one of the new certificates requires applicants to have undertaken training and service requirements for issue of the new certificate, as specified by Marine Orders Part 3.

Seafarer career path progression

An important factor in improving availability of maritime skills is to enhance the ability of seafarers to progress from entry-level State/Territory issued qualifications for small ship operations to the highest certificates provided under the STCW Convention for large ship operations. A vital element is creating a seamless career path by the harmonisation between the national training and certification requirements and the State/Territory qualifications systems.

In 2001, the National Marine Safety Committee developed Part D, *Crew Competencies*, of the National Standard for Commercial Vessels. The future adoption by the States/Northern Territory of the National Standard for Commercial Vessels is aimed at facilitating consistency of competency standards across jurisdictions. In 2007, the National Marine Safety Committee commenced a review of the standards in Part D of the National Standard for Commercial Vessels, including operational standards for ships' crew and medical and sea time requirements.

AMSA foresaw this review as the opportunity for further integration between the requirements in Part D and the STCW Convention standards administered by AMSA. This would allow the development of competency standards for vessels operating in Australian near coastal waters within the flexibilities allowed by the STCW Convention, instead of these remaining outside of the STCW convention qualifications system.

In AMSA's view, the revised Part D could allow for restricted qualifications, applying to inland waters and local operation of vessels within a particular State or Territory,

and unrestricted qualifications. The latter would be recognised by other jurisdictions and allow for transition to AMSA issued unlimited qualifications under the STCW Convention through the Maritime Training Package of the Transport and Logistics Industry Skills Council, the transport industry training advisory body.

AMSA also advocates the adoption of the medical standards and medical fitness assessment guidelines applying under the AMSA administered Marine Orders Part 9, *Health - Medical Fitness*, in the National Standard for Commercial Vessels. This is aimed at further integration of the qualifications systems administered by AMSA and the State/Territory marine administrations.

Occupational health and safety in the Australian shipping industry

Occupational health and safety and rehabilitation and workers' compensation arrangements in the Australian maritime industry, including the trading ship sector, is administered by the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority), an agency in the Department of Education, Employment and Workplace Relations. This Department has responsibility for occupational health and safety policy in industry generally.

The Commonwealth *Occupational Health and Safety (Maritime Industry) Act 1993* establishes a series of general duties and provides a framework of workplace participation in occupational health and safety standard setting and enforcement in relation to the Australian maritime industry. It is complemented by regulations and codes of practice aimed at the prevention of workplace injury and disease.

The Commonwealth *Seafarers' Rehabilitation and Compensation Act 1992* establishes a rehabilitation and workers' compensation scheme for seafarers employed on certain vessels in the Australian maritime industry and establishes the Seacare Authority. This authority comprises an independent Chairman appointed by the Minister for Education, Employment and Workplace Relations, a deputy Chairman nominated by Comcare, (as administrator of the Seacare Authority), two employee representatives nominated from the maritime unions, two employer representatives and AMSA's Chief Executive Officer as an *ex officio* member.

AMSA is responsible for carrying out the Inspectorate functions under the *Occupational Health and Safety (Maritime Industry) Act 1993* and works closely with the Seacare Authority in its administration of both the *Occupational Health and Safety (Maritime Industry) Act 1993* and the *Seafarers' Compensation and Rehabilitation Act 1992*.

A Memorandum of Understanding of February 2003 between the Seacare Authority and AMSA sets out their respective roles and responsibilities. It also acknowledges that occupational health and safety in the Australian maritime industry is integrally linked to international standards and procedures developed by the IMO and ILO, as defined in treaties adopted by Australia. It provides that, in considering the applicable occupational health and safety standards for the Australian maritime industry, the Seacare Authority aims to avoid adopting Australian standards that are inconsistent with international treaty obligations. Several of AMSA's Marine Orders implement international occupational health and safety standards, as indicated in Attachment F.

Seacare's primary objective is to minimise injury and illness within the Australian maritime industry and its 2006-07 annual report advised there had been no work related fatality involving seafarers covered by the scheme in the past twelve years. The scheme also reported maintaining positive performance across a range of key injury prevention and workers' compensation indicators and it remained on track to meet its intermediate targets in the National Occupational Health and Safety Strategy 2002-2012, specifically concerning zero fatalities and reductions in the incidence of injuries, as measured by the Australian Safety and Compensation Council. Seacare also recorded significant reductions against injury incidence targets set by the Authority and had exceeded its target for 2006-07.

The scheme has demonstrated improvements in terms of return to work programs for injured seafarers and information on premium rates for workers' compensation insurance held by the scheme's employers indicated these had fallen significantly.

The Seacare Authority continues to progressively adopt national occupational health and safety standards to the extent they are applicable to the particular conditions of the maritime industry.

During 2006-07, AMSA in the performance of the Inspectorate function reported receiving 55 occupational health and safety incident reports and notification of 10 dangerous occurrences. AMSA's surveyors, who are trained as Occupational Health and Safety Inspectors, issued four prohibition notices for serious occupational health and safety breaches and 17 improvement notices. There were 11 investigations into incidents and dangerous occurrences.

AMSA conducts a program of annual regular inspections of all ships covered by Part II of the *Navigation Act 1912* and therefore usually covered by the *Occupational Health and Safety (Maritime Industry) Act 1993*. AMSA has Guidelines to AMSA's Inspectors for inspection of vessels under the *Occupational Health and Safety (Maritime Industry) Act 1993*, which list the criteria to be checked during an inspection.

AMSA does not maintain separate records of expenditure on occupational health and safety functions from its other ship safety compliance functions. Australian flag vessels under the jurisdiction of the *Navigation Act 1912*, and therefore usually covered by the *Occupational Health and Safety (Maritime Industry) Act 1993*, are eligible for flag State control inspections at six monthly intervals (or three months for tankers over 15 years old and all passenger ships).

When conducting a flag State control inspection, AMSA generally coordinates any required occupational health and safety inspection at the same time to make effective use of its inspection resources and to reduce disruption to the ship's operations. It is not possible to distinguish the time and resources involved with occupational health and safety functions from AMSA's other ship safety functions during these combined inspections. During 2006-2007, AMSA records show that 28 separate occupational health and safety inspections were conducted on Australian flag ships. AMSA aims to conduct a routine occupational health and safety inspection of each ship covered by the *Occupational Health and Safety (Maritime Industry) Act 1993* at least once annually.

ILO Consolidated Maritime Labour Convention

The ILO's Maritime Session of the International Labour Conference in 2006 adopted a new Consolidated Maritime Labour Convention, which updated and replaced some 68 existing ILO instruments on standards of crew health and safety.

The new convention received tripartite agreement from the shipowner, government and union representatives at the conference. It has been promoted as representing the fourth pillar of international maritime regulation governing occupational health and safety for ship crews and thereby complementing the IMO's SOLAS Convention, regulating ship safety, MARPOL Convention, regulating environment protection and STCW Convention, regulating crew competency and fatigue management.

The Maritime Labour Convention will come into force internationally after it has been ratified by 30 ILO member States with a total share of at least 33 per cent of world gross tonnage. The ILO is pursuing early adoption of the convention by member States, but it may be some years before the requisite number of States ratify the convention to bring it into force internationally

The convention requires ships of 500 Gross Tonnage and more on international voyages to have a Declaration of Maritime Labour Compliance and to carry a Maritime Labour Certificate.

The Declaration of Maritime Labour Compliance sets out the shipowner's plan for ensuring the ship complies on an ongoing basis with applicable national laws of the ship's flag State, regulations and other measures required to implement the standards in the convention. The ship's master is responsible for carrying out the shipowner's plan and keeping proper records to provide evidence of compliance with the convention.

The ship's flag State issues the Maritime Labour Certificate after reviewing the ship's Declaration of Maritime Labour Compliance and certifies that the shipowner's plan is in place and is being implemented by the ship. The ship's Maritime Labour Certificate is subject to port State control inspection.

The Department of Education, Employment and Workplace Relations is addressing issues involved with Australia deciding to become a party to this new convention and how its requirements would be implemented by the different agencies involved in Australia's maritime administration.

There are resource issues involved in discharging both the flag State responsibilities, issuing a Maritime Labour Certificate to all relevant Australian flag ships certifying their compliance with the convention, and expanding port State control ship inspections to confirm that foreign flag ships visiting Australian ports are in compliance with the convention requirements.

Marine environment protection and response to ship sourced pollution risks

Marine environment protection standards

The MARPOL Convention is the main international treaty covering environment protection standards for shipping. It is given effect in Australia primarily through the Commonwealth *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and *Navigation Act 1912* and complementary State and Northern Territory laws.

The operational and technical standards within the convention's Annexes are covered by the relevant Marine Orders Part 91, *Preventing Marine Pollution by Oil*, Part 93, *Preventing Marine Pollution by Noxious Substances*, Part 94, *Preventing Marine Pollution by Harmful Substances*, Part 95, *Preventing Pollution of the Sea by Garbage*, and Part 96, *Preventing Marine Pollution by Sewage*, as indicated in Attachment D. The *Maritime Legislation Amendment (Prevention of Air Pollution from Ships) Act 2007* and Marine Orders Part 97, *Preventing Air Pollution by Ships*, give effect to Annex VI of the MARPOL convention.

The enactments implementing the MARPOL Convention in State/Northern Territory jurisdictions include: the New South Wales *Marine Pollution Act 1987*, the Victorian *Pollution of Waters by Oil and Noxious Substances Act 1986*, the Queensland *Transport Operations (Marine Pollution) Act 1995*, the Western Australian *Pollution of Waters by Oil and Noxious Substances Act 1987*, the South Australian *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987*, the Tasmania *Pollution of Waters by Oil and Noxious Substances Act 1987* and the Northern Territory *Marine Pollution Act 1999*.

Enforcement of environment protection standards in Australian waters

AMSA's administration of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* includes the investigation and prosecution of offences in relation to ship-sourced pollution incidents occurring within the Commonwealth jurisdiction. The Australian Federal Police may take a role in the investigation and prosecution of serious pollution offences.

A vessel discharging pollution illegally within Australia's coastal waters is subject to the relevant law of the responsible State or the Northern Territory. A vessel outside coastal waters and within the 200 nautical mile Exclusive Economic Zone is subject to the Commonwealth legislation.

The Commonwealth legislation provides for a maximum fine of over one million dollars for the owners of a ship and more than \$200,000 for the master of a ship discharging oil pollution illegally.

The major challenge for regulatory agencies in prosecuting pollution incidents is the difficulties associated with collecting evidence when the incident occurs some distance offshore in busy shipping lanes, with a large number of vessels in the vicinity trading to different interstate and overseas destinations. The collection of evidence may involve oil spill analysis techniques, computer drift modelling to track the sources of pollution and satellite imagery to screen ships that may be responsible for a pollution incident.

AMSA prepares briefs of evidence for the Commonwealth Director of Public Prosecutions on potential pollution offences within the Commonwealth jurisdiction. AMSA may assist as necessary with the investigation and prosecution of pollution offences within State/Northern Territory jurisdictions, given the complementary regime of Commonwealth and State/Northern Territory laws that implement the MARPOL Convention in Australia.

AMSA may provide technical and operational assistance to the Great Barrier Reef Marine Park Authority if a ship-sourced pollution incident occurs in the marine park. Several AMSA marine surveyors have been appointed as an inspector under the *Great Barrier Reef Marine Park Act 1975*.

The outcome of legal action taken in all Australian jurisdictions and overseas is monitored by AMSA to ensure that its enforcement and prosecution activity keeps pace with developments in other jurisdictions. A record of completed prosecutions under the Commonwealth and State/Territory laws for the past ten years is maintained on AMSA's Internet site.

Ship detention for pollution offences

In addition to the ship detention powers under the Navigation Act 1912 in relation to major ship safety and environment deficiencies, the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 provides for the detention of a foreign ship if there are clear grounds or objective evidence that a pollution breach has occurred in the Australian territorial sea or in Australia's 200 nautical mile Exclusive Economic Zone (EEZ).

The ship may be detained if it is voluntarily in an Australian port and there are clear grounds for believing that a pollution breach has occurred as a result of acts or omissions in relation to the ship in the Australian territorial sea or the EEZ. It may be detained if it is in the Australian territorial sea and there are clear grounds for believing that a pollution breach has occurred as a result of acts or omissions in relation to the ship while navigating in the territorial sea. Finally, the ship may be detained if it is in the Australian territorial sea or the EEZ and there is clear objective evidence that a pollution breach has occurred as a result of acts or omissions in relation to the ship in the EEZ and the actions resulted in a discharge from the ship causing or threatening to cause major damage to the coastline of Australia, to related interests of Australia, or to any resources of the territorial sea or the EEZ.

The *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* provides in Section 27A(4) that, where AMSA has detained a ship, it must release it if security is provided equivalent to the maximum amount of all penalties, other amounts of money, costs and expenses that could be payable by the master and owner of the ship in respect of the pollution breach.

Powers of intervention in relation to shipping casualties

The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 allows coastal State parties to the convention to take

measures on the high seas necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution of the sea by oil.

The *Protection of the Sea (Powers of Intervention) Act 1981* implements the convention through empowering AMSA to intervene on the high seas when there is 'grave and imminent' danger of serious pollution to the Australian coastline from a maritime incident, and within the coastal seas when oil or noxious substances are escaping or are likely to escape from a maritime casualty.

AMSA has power to take any action considered necessary to eliminate, prevent or mitigate risks of marine pollution occurring. This includes AMSA giving appropriate directions to the owner of a casualty, its master and/or the salvor in possession of the vessel, to minimise the risks of pollution or to mitigate its effects. The Act requires these directions be reasonable and proportionate to the underlying threat of pollution. The Act imposes penalties for non-compliance with such directions.

The wide powers conferred on AMSA by the Act reflect the agreement in 2005 of the Australian and State and Northern Territory Governments to the National Maritime Emergency Response Arrangements. This is a package of measures for the ongoing protection of Australia's coastal and marine environment from ship sourced pollution. One of these measures was to clarify the extent of powers available to the Australian Government in responding to a marine casualty that poses a threat of significant pollution to provide a clear and unambiguous authority to deliver the desired pollution prevention outcomes. The governments' agreed that a single national decision-maker (AMSA) is the most effective means for managing and coordinating a response to an actual or potential pollution incident.

Other measures in the National Maritime Emergency Response Arrangements included the establishment of a national system for the availability of emergency towage services. This involved AMSA contracting with commercial providers to make available a level of emergency towage services in eight regions around the Australian coast to respond to a ship incident involving a significant pollution threat in Australian waters or to the Australian coast. AMSA also was responsible for contracting the provision of a dedicated emergency towage vessel in the Torres Strait and northern Great Barrier Reef region. The Arrangements required AMSA to establish management arrangements to regulate, monitor and coordinate emergency response as the national decision-maker when there is a significant pollution risk in relation to a ship in Australia's waters and around the Australian coast.

International marine pollution conventions

In addition to the MARPOL Convention, there are a suite of IMO conventions aimed at the prevention, reduction and control of marine pollution from ships and establishing the international regime of liability and compensation for damage by ship-sourced marine pollution. Australia is a party, or is taking action to become a party, to these conventions. Attachment I provides an outline of each convention and, where relevant, the legislation that seeks to implement them into Australian law.

ATTACHMENT A**INTERNATIONAL CONVENTIONS**

Australia is a party to following major international ship safety and environment protection conventions and is therefore obliged to give them effect in national law:

International Maritime Organization Conventions

International Convention for the safety of Life at Sea (SOLAS) 1974 and the 1978 Protocol and 1988 Protocol (including adoption of the International Safety Management (ISM) Code)

International Convention for the Prevention of Pollution of the Sea by Ships (MARPOL) 1973/78

Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS)

International Convention on Load Lines 1966 and Protocol of 1988

International Convention on Tonnage Measurement of Ships, 1969

International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 and 1973 Protocol

International Convention on Civil Liability for Oil Pollution Damage, 1992

International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, 1992

International Convention for Safe Containers, 1972

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended

International Convention on Maritime Search and Rescue, 1979

International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

Convention on Facilitation of International Maritime Traffic, 1965

International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001

International Labour Organization Conventions

C7 Minimum Age (Sea) Convention 1920

C8 Unemployment Indemnity (Shipwreck) Convention 1920

C16 Medical Examination of Young Persons (Sea) Convention 1921

C 22 Seamen's Articles of Agreement Convention 1926

C27 Marking of Weight (Packages Transported by Vessels) Convention 1929

C58 Minimum Age (Sea) Convention (Revised) 1936

C73 Medical Examination (Seafarers) Convention 1946

C 92 Accommodation of Crews Convention (Revised) 1949

C133 Accommodation of Crews (Supplementary Provisions) Convention 1970

C137 Dock Work Convention 1973

C166 Repatriation of Seafarers Convention (Revised) 1987

ATTACHMENT B

COMMONWEALTH LEGISLATION REGULATING COASTAL SHIPPING

Ship Operations	<p><i>Navigation Act 1912</i> <i>Lighthouses Act 1911</i> <i>Maritime Transport and Offshore Facilities Security Act 2003</i> <i>Occupational Health and Safety (Maritime Industry) Act 1993</i> <i>Seafarers' Rehabilitation and Compensation Act 1992</i> <i>Radiocommunications Act 1992</i> <i>Submarine Cables and Pipelines Protection Act 1963</i> <i>Great Barrier Reef Marine Park Act 1975</i> <i>Petroleum (Submerged Lands) Act 1967</i></p>
Marine Pollution	<p><i>Ballast Water Research and Development Funding Levy Act 1998</i> <i>Ballast Water Research and Development Funding Levy Collection Act 1998</i> <i>Protection of the Sea (Civil Liability) Act 1981</i> <i>Protection of the Sea (Oil Pollution Compensation Fund) Act 1993</i> <i>Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund – Customs) Act 1993</i> <i>Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund – Excise) Act 1993</i> <i>Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund – General) Act 1993</i> <i>Protection of the Sea (Powers of Intervention) Act 1981</i> <i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i> <i>Quarantine Act 1908</i></p>
Environment Protection	<p><i>Environment Protection and Biodiversity Conservation Act 1999</i> <i>Environment Protection (Sea Dumping) Act 1981</i> <i>Historic Shipwrecks Act 1976</i> <i>Protection of Moveable Cultural Heritage Act 1986</i> <i>Wildlife Protection (Regulation of Exports and Imports) Act 1982</i></p>
Administrative	<p><i>Australian Maritime Safety Authority Act 1990</i> <i>Border Protection Legislation Amendment Act 1999</i> <i>Coastal Waters (Northern Territory Powers) Act 1980</i> <i>Coastal Waters (Northern Territory Title) Act 1980</i> <i>Coastal Waters (State Powers) Act 1980</i> <i>Coastal Waters (State Title) Act 1980</i> <i>Control of Naval Waters Act 1918</i> <i>Crimes at Sea Act 1979</i> <i>Crimes (Ships and Fixed Platforms) Act 1992</i> <i>Migration Act 1958</i> <i>Petroleum (Submerged Lands) Act 1967 (National Offshore Petroleum Safety Authority)</i> <i>Seas and Submerged Lands Act 1973</i> <i>Transport Legislation Amendment (Search and Rescue Service) Act 1997</i></p>
Taxes and Levies	<p><i>Customs Act 1901</i> <i>Marine Navigation Levy Act 1989</i> <i>Marine Navigation Levy Collection Act 1989</i> <i>Marine Navigation (Regulatory Functions) Levy Act 1991</i> <i>Marine Navigation (Regulatory Functions) Levy Collection Act 1991</i> <i>Protection of the Sea (Shipping Levy) Act 1981</i> <i>Protection of the Sea (Shipping Levy Collection) Act 1981</i> <i>Sea Installations Act 1987</i> <i>Sea Installations Levy Collection Act 1987</i> <i>Seafarers' Rehabilitation and Compensation Levy Act 1992</i> <i>Seafarers' Rehabilitation and Compensation Levy Collection Act 1992</i></p>
Commercial Matters	<p><i>Admiralty Act 1988</i> <i>Carriage of Goods by Sea Act 1991</i> <i>Limitation of Liability for Maritime Claims Act 1989</i> <i>Marine Insurance Act 1909</i> <i>Shipping Registration Act 1981</i></p>

ATTACHMENT C

AUSTRALIAN MARITIME SAFETY AUTHORITY (AMSA)

AMSA is the national safety agency with a primary role in maritime safety, protection of the marine environment, including marine pollution response and emergency towage services, and aviation and maritime search and rescue. AMSA's workforce averages around 245 employees, with 180 staff at its head office and 65 staff located at regional offices in Australia's major trading ports. The regional staff includes a workforce of around 40 marine surveyors who are involved in ship inspection and administration of other ship safety requirements and seafarer qualifications.

AMSA was established in 1990 to take over the maritime safety and regulatory functions then performed by the Maritime Operations Division of the then Department of Transport and Communications. It is governed by its establishment legislation, the *Australian Maritime Safety Authority Act 1990*, and the *Commonwealth Authorities and Companies Act 1997*.

The *Australian Maritime Safety Authority Act 1990* sets out AMSA's functions and powers, financial arrangements, the constitution of the Board, the Chief Executive Officer's appointment, and engagement of staff and consultants. The AMSA Board is appointed by the Minister for Infrastructure, Transport, Regional Development and Local Government and also the Chief Executive Officer, after advice from the Board.

The *Commonwealth Authorities and Companies Act 1997* sets out financial management, accountability and audit obligations including the annual report and directors' audit obligations, standards of conduct for officers and requirements for ensuring Ministers and Parliament are kept informed of major changes in activities.

AMSA administers a range of ship safety and environment protection legislation:

Ship and navigation safety and maritime security

- *Navigation Act 1912* and Marine Orders made under that Act in relation to ship construction standards, survey, safety, crewing level, qualifications of seafarers, welfare and discharge of seafarers, cargoes and passenger safety.
- *Lighthouses Act 1911* in relation to provision of the national network of marine aids to navigation.
- *Occupational Health and Safety (Maritime Industry) Act 1993* in relation to discharge of functions as the Inspectorate appointed under the Act.
- *Maritime Transport and Offshore Security Act 2003* in relation to appointment of AMSA marine surveyors as Duly Authorised Officers.

Registration of ships

- *Shipping Registration Act 1981*.

Pollution prevention and liability and compensation for pollution damage

- *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and Marine Orders made under that Act in relation to prevention of pollution by oil, noxious liquid substances, harmful substances in packaged form, sewage, garbage and air pollution.
- *Protection of the Sea (Powers of Intervention) Act 1981*;
- *Protection of the Sea (Civil Liability) Act 1981*;
- *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993*;
- *Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - Customs) Act 1993*;
- *Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - Excise) Act 1993*; and
- *Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - General) Act 1993*.

Levies funding of AMSA's ship safety, regulatory and environment protection services

- *Marine Navigation Levy Act 1989*;
- *Marine Navigation Levy Collection Act 1989*;
- *Marine Navigation (Regulatory Functions) Levy Act 1991*;
- *Marine Navigation (Regulatory Functions) Levy Collection Act 1991*.
- *Protection of the Sea (Shipping Levy) Act 1981*;
- *Protection of the Sea (Shipping Levy Collection) Act 1981*.

AMSA's funding

AMSA's revenue comprises three main components: levy funding, Community Service Obligation funding and revenue from the sale of goods and services.

Levy funding from the commercial shipping industry supports AMSA's ship safety and environment protection services on a full cost recovery basis. The three levies correspond to AMSA's major functions:

- Marine Navigation Levy funds the national aids to navigation network.
- Maritime Regulatory Functions Levy funds shipping regulatory functions.
- Protection of the Sea Levy funds national marine pollution response, including the National Plan marine pollution preparedness and response regime and maritime emergency towage services.

The levies apply to ships of 24 metres and over in length on the basis of their net registered tonnage. The levy rate for the Marine Navigation and Regulatory Functions levies vary according to a sliding scale in relation to ship size. The Protection of the Sea Levy applies to ships carrying on board more than 10 tonnes of oil in bulk as fuel or as cargo and is charged at a flat rate per net registered ton with no sliding scale. The table below summarises the rates of each levy at 1 July 2007:

Marine Navigation Levy				Regulatory Functions Levy				Protection of the Sea Levy
Ship's Net Registered Tonnage				Ship's Net Registered Tonnage				
1 to 5,000	5,001 to 20,000	20,001 to 50,000	Over 50,000	1 to 5,000	5,001 to 20,000	20,001 to 50,000	Over 50,000	
Cents per Net Registered Ton								
23.5	12	7	25	17	17.1	17	15.5	7.7

Community Service Obligation funding from the Federal Budget funds AMSA's search and rescue coordination functions and boating safety education, which aims at improving the safety and reducing demand on search and rescue services by recreational boating and fishing vessels.

Other revenue is received from fees and charges for a range of marine services (for example, ship and cargo inspections, issuing seafarer qualifications and shipping registration services) and the accrual of interest on cash reserves.

AMSA is bound by its establishment legislation to promote the efficient provision of its services and has adopted a range of management strategies to considerably improve efficiency in service delivery. In the past, these initiatives provided regular opportunities to reduce levy rates on an ongoing basis and since 2004 to maintain the current rate of the Marine Navigation and Regulatory Functions Levies, while continuing to improve service levels.

AMSA's consultative arrangements

The *Australian Maritime Safety Authority Act 1990* requires in section 12 that AMSA consult in the performance of its functions and the exercise of its powers, where appropriate, with government, commercial, industrial, consumer and other relevant bodies and organisations. AMSA has a well-established range of committees for regular consultation on issues relevant to each committee's group of stakeholders.

The AMSA Advisory Committee is AMSA's top level forum comprising senior executive representatives of AMSA's key stakeholders. It usually meets three times each year with one meeting held jointly with the AMSA Board members. Other specialist committees include:

- AMSA Livestock Advisory Committee
- AMSA Bulk Cargo Advisory Committee
- Navigational Services Advisory Committee
- Coastal Pilotage Consultative Committee
- Australian Search and Rescue Consultative Forum

These consultative arrangements are particularly effective in gaining industry views to determine Australia's position in international forums, such as the IMO, considering relevant ship safety and environment protection standards. Consultations also take place with the relevant committee about the implementation of significant international treaty standards into Australian law, particularly in relation to AMSA's development of new and amended Marine Orders, in addition to general consultation with stakeholders.

ATTACHMENT D

CURRENT MARINE ORDERS AS AT 31 MARCH 2008

PART NO.	TITLE	SUBJECT	NAV ACT SECTION	CONVENTION/ CODE
3	Seagoing Qualifications	Standards of competence and conditions for qualified masters, officers and seamen and their duties	15 and 16	STCW STCW Code
6	Marine Qualifications - Radio	Requirements for persons qualified to operate ship's radios	231B	STCW SOLAS IV
9	Health - Medical Fitness	Health and fitness standards of masters, seamen, and coastal pilots including medical certificates	15, 124 and 134	STCW ILO 73
10	Medical First Aid on Ships	Medicines, related stores etc and carriage of doctors and first aid attendants	125,133, 270, 283A, and 283E	ILO 164
11	Substandard Ships	Inspection of allegedly substandard ships	189 and 207A	ILO 147
12	Construction - Subdivision and Stability, Machinery and Electrical Installations	Ship construction, hull, machinery, equipment, stability and subdivision	190B, 191, and 192B	SOLAS II-1
14	Accommodation	Crew and passenger accommodation	136 and 270	ILO 92 and ILO 133
15	Construction - Fire Protection, Fire Detection and Fire Extinction	Fire prevention, detection and extinction	191 and 215	SOLAS II-2
16	Load Lines	Load lines, draft marks and related matters	171 and 220	LLC
17	Liquefied Gas and Chemical Carriers and Tankers	Gives effect to Gas and Chemical Tanker Codes	191, 257, and 267P	SOLAS VII, MARPOL Annex II, BCH, EGC, GCC, IBC, IGC
18	Measures to enhance	Survey requirements for certain bulk carriers and	191	SOLAS XI-I

PART NO.	TITLE	SUBJECT	NAV ACT SECTION	CONVENTION/ CODE
	Maritime Safety	tankers, ship identification numbers, company and registered owner identification numbers and Continuous Synopsis Records.		
19	Tonnage Measurement	Tonnage measurement	171 and 405E	TC
21	Safety of Navigation and Emergency Procedures	Passenger ships plans for co-operation with search and rescue authorities, mandatory ships' routeing systems and adopted ship reporting systems, minimum safe manning, principles of bridge design, navigational systems and equipment, pilot transfer arrangements, steering gear and systems, life-saving signals and messages, nautical charts and publications and the keeping of navigational records.	191, 229, 232, 235, 269A and 425	SOLAS V
23	Equipment – Miscellaneous and Safety Measures	Barometers, signalling lamps, closing appliances, signal books, pilot ladders, anchors, cables, etc, accommodation ladders, gas sampling equipment	191 and 425	SOLAS V
25	Equipment – Life-saving	Lifesaving appliances	191, 215 and 228	SOLAS III
27	Radio Equipment	Radio equipment	231A, 231B, 231C, 231E, 231F	SOLAS IV
28	Operations Standards and Procedures	Responsibilities of companies, masters and crew, fitness for duty, watchkeeping arrangements and	425	STCW

PART NO.	TITLE	SUBJECT	NAV ACT SECTION	CONVENTION/ CODE
		principles.		
30	Prevention of Collisions	Collision regulations	258	COLREG
31	Ship Surveys and Certification	Survey and certification	Division 1, 2, 2A, 2B, of Part IV of the Act	SOLAS I
32	Cargo Handling Equipment	Loading and unloading equipment, marking of cargo, duties of persons loading and unloading , accident reporting	283D, 283E, 425	ILO 27, ILO 152, ILO R160, SHDW
33	Cargo and Cargo Handling - Grain	Loading and discharge of grain	191, 257	SOLAS VI, GrC
34	Solid Bulk Cargoes	Loading, stowing, carriage and unloading of solid bulk cargoes, other than grain	257	SOLAS VI, SBCC, BLUC
35	Additional Safety Measures for Bulk Carriers	Structural, stability and other requirements for bulk carriers	191, 425	SOLAS XII
41	Carriage of Dangerous Goods	Dangerous goods, including International Maritime Dangerous Goods Code and handling precautions	191, 253A, 255, 257	SOLAS VII, IMDG
42	Cargo Stowage and Securing	Deck and timber cargoes, accessibility, navigation bridge visibility	191, 257	SOLAS V, SOLAS VI, CSS, TDC
43	Cargo and Cargo Handling - Livestock	Ship safety standards for carriage of livestock shipments	190B, 257	
44	Safe Containers	Standard containers	240, 425	CSC
47	Mobile Offshore Drilling Units	Mobile offshore drilling units	190B, 191, 192B, 283E, 283G, 283H	MODU
49	High Speed Craft	High speed and dynamically supported craft	190B, 191	SOLAS X, HSC, DSC
50	Special Purpose Ships	Research, training and similar ships	206S, 206V, 283, 283A	SPSC

PART NO.	TITLE	SUBJECT	NAV ACT SECTION	CONVENTION/ CODE
51	Fishing Vessels	Fishing vessels	16, 187A, 190B, 192B	SFV, STCW(F)
52	Sailing Ships	Sailing ships	136, 190B, 192B, 270	
53	Employment of Crews	Employment of crews	Part II, 268, 417	ILO 7, ILO 22, ILO 23, ILO 58, ILO 166
54	Coastal Pilotage	Safety regulation of coastal pilotage in the Torres Strait and Great Barrier Reef.	Part IIIA	
55	Publication of Inspection Data	Port State Control inspection information	190AB, 190AA	
56	REEFREP	Reporting of ships' positions in the Torres Strait and Great Barrier Reef	191, 425	SOLAS V
57	Helicopter Operations	Helicopter operations	425	
58	International Safety Management Code	Ship safety management systems	191	SOLAS IX
59	Offshore Support Vessel Operations	Safe operation of offshore industry vessels	283D, 283E	
60	Floating Offshore Facilities	Safe operation/navigation of Floating Production, Storage and Offtake Facilities (FPSOs) and Floating Storage Units (FSUs)	283E	SOLAS
61	Safe Working on Board Ships	Safety of persons on board, ships under the <i>Code of Safe Working Practice for the Australian Seafarer</i>	425	
62	Commonwealth Ships	Safety of ships owned or operated by Australian Government departments and authorities	421	
63	AUSREP	Reporting of the movement or intended	269D, 425	SOLAS V

PART NO.	TITLE	SUBJECT	NAV ACT SECTION	CONVENTION/ CODE
		movement of ships for ship safety, search and rescue and pollution risk minimisation purposes.		
91	Marine Pollution Prevention – Oil	Preventing marine pollution by oil	187AA, 267A, Division 12	MARPOL Annex I
93	Marine Pollution Prevention – Noxious Liquid Substances	Preventing marine pollution by noxious substances	267P, Division 12A	MARPOL Annex II
94	Marine Pollution Prevention – Packaged Harmful Substances	Preventing marine pollution by harmful substances	267ZB 267ZC	MARPOL Annex III
95	Marine Pollution Prevention – Garbage	Preventing pollution of the sea by garbage	POTS Act 33, 34	MARPOL Annex V
96	Marine Pollution Prevention – Sewage	Preventing marine pollution by sewage	267ZF, 425	MARPOL Annex IV
97	Marine Pollution Prevention – Air Pollution	Preventing air pollution by ships	267ZV, 425 POTS Act 33	MARPOL Annex VI

Glossary for Marine Orders Table

MARPOL	International Convention for the Prevention of Pollution from Ships
Annex I	Annex I: Prevention of Pollution by Oil
Annex II	Annex II: Control of Pollution by Noxious Liquid Substances
Annex III	Annex III: Prevention of Pollution by Harmful Substances Carried in Packaged Form, or in Freight Containers or Portable Tanks or Road and Rail Tank Wagons
Annex IV	Annex IV: Prevention of Pollution by Sewage
Annex V	Annex V: Prevention of Pollution of the Sea by Garbage
Annex VI	Annex VI: Prevention of Air Pollution by Ships
SOLAS	International Convention for the Safety of Life at Sea
I	Chapter I: General Provisions
II-1	Chapter II-1: Construction – Subdivision and Stability, Machinery and

	Electrical Installations
II-2	Chapter II-2: Fire Protection, Detection and Extinction
III	Chapter III: Life Saving Appliances and Arrangements
IV	Chapter IV: Radiotelegraphy and Radiotelephony
V	Chapter V: Safety of Navigation
VI	Chapter VI: Carriage of Grain
VII	Chapter VII: Carriage of Dangerous Goods
VIII	Chapter VIII: Procedures of Amending the Convention
IX	Chapter IX: Management for the Safe Operation of Ships
X	Chapter X: Safety Measures for High Speed Craft

SOLAS (cont)	International Convention for the Safety of Life at Sea
XI	Chapter XI: Special Measures to Enhance Safety
XII	Chapter XII: Additional Safety Measures for Bulk Carriers
COLREG	Convention on the International Regulations for Preventing Collisions at Sea
CSC	International Convention for Safe Containers
LL	International Convention on Load Lines
SFV#	Torremolinos International Convention for the Safety of Fishing Vessels
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
STCW-F#	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel
TMC	International Convention on Tonnage Measurement of Ships
BCH	Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
BLUC	Code of Practice for Safe Loading and Unloading of Bulk Carriers
CSS	Code of Safe Practice for Cargo Stowage and Securing
DSC	Code of Safety for Dynamically Supported Craft
EGC	Code for Existing Ships Carrying Liquefied Gases in Bulk
GCC	Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk
GrC	International Code for the Safe Carriage of Grain in Bulk
HSC	International Code for Safety of High Speed Craft
IBC	International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
IGC	International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk
IMDG	International Maritime Dangerous Goods Code
MODU	Codes for the Construction and Equipment of Mobile Offshore Drilling Units
OSVC	Offshore Vessel Code
SBCC	Code of Safe Practice for Solid Bulk Cargoes
SPSC	Code of Safety for Special Purpose Ships
TDC	Code of Safe Practice for Ships Carrying Timber Deck Cargoes

Convention not yet in force internationally

ATTACHMENT E

ADDITIONAL REQUIREMENTS IN PART II OF THE *NAVIGATION ACT 1912*

Division/Section/ MARINE ORDER	Requirement
Division 2A Section 14 Minimum complement of ships Marine Orders Part 21 (MO21) <i>Safety of Navigation and Emergency Procedures</i>	Requires a ship to carry a qualified master and specified numbers of qualified officers and seamen to the extent necessary in the interests of safety and marine environment protection. Provides AMSA with the power to exempt a ship from specific manning requirements. MO21 (provision 9) allows AMSA to issue a document as evidence of minimum safe manning.
Division 3 Section 15, 16, and 17 Qualifications of Masters, Officers and Seamen Marine Orders Part 3 <i>Seagoing Qualifications</i>	Section 15 provides for making of regulations specifying standards of competence and other conditions to be satisfied by seafarers. MO 3 specifies the certificates of competency to be held by seafarers. It also specifies the criteria for AMSA to issue a certificate of recognition of a certificate issued by an overseas marine administration. MO 3 (provision 7.6.4) provides that AMSA may issue a restricted certificate of recognition where the criteria are not met, but AMSA is satisfied a seafarer holds qualifications adequate to perform duties on a ship to which Part II applies in particular circumstances and for a particular time.
Division 8 Section 46 <i>Engagement of Seamen</i>	Section 46 requires a master to enter into an agreement with each seaman engaged to serve on the ship. AMSA may approve an agreement in a form other than that specified.
Section 48A <i>Minimum Age for Employment at Sea</i> Marine Orders Part 53 <i>Employment of Crews</i>	Section 48A provides that persons shall not engage for service at sea unless they are of a minimum age of 16 years.
Section 52 <i>Owner or master to furnish details of crew of ship</i>	Section 52 requires the owner or master of a ship to provide AMSA details of the crew and changes to the crew.

Division/Section/ MARINE ORDER	Requirement
Division 13 Section 117 <i>Provisions adequate for voyage</i> Section 117A <i>Adequate food catering facilities to be provided</i> Marine Orders Part 11 <i>Substandard Ships</i>	Section 117 requires the master to ensure carriage of suitable quantity and quality of provisions and water before undertaking a voyage. Section 117A requires shipowner to provide proper catering facilities. MO 11 allows AMSA to inspect foreign flag ships to ensure there are no hazards to health in relation to accommodation and catering facilities.
Division 14 <i>Health</i> Section 124 <i>Medical examination of masters and seamen</i> Marine Orders Part 9 <i>Health- Medical Fitness</i>	Section 124 allows regulations to be made for the issue of certificates of fitness to seafarers and to prohibit engagement of persons as seafarers unless a certificate has been issued under those regulations. MO9 provides for medical standards and issue of medical fitness certificates.
Section 125 <i>Medicines etc to be carried on ships</i> Marine Orders Part 10 <i>Medical First Aid on Ships</i>	Requires master, owner and agent to ensure carriage of prescribed medicines, medical and surgical stores and dispensing instructions. MO 10 provides guidance on suitable medicines to be carried and ship operators are responsible for determining the medical supplies suitable to their operational requirements.
Division 15 Section 136 Marine Orders Part 14, <i>Accommodation</i>	Allows regulations to be made prescribing accommodation for ship's crews and to give effect to ILO Conventions No. 92 and 133. MO 14 implements the ILO standards. AMSA can issue a determination approving accommodation variations to the requirements in MO14.
Division 21 section 171 Official Log Book Marine Orders Part 53 <i>Employment of Crews</i>	Requires the master to keep an official log book in the prescribed form and make entries as prescribed. MO 53 prescribes the form in which the Log Book should be kept and prescribed entries under the Act and MO 53. These include: Load Line details, crew musters, drills or failure to hold drills, machinery and equipment checks, rendering assistance to ships in distress, distress signals received and reasons for not rendering assistance, deaths, injuries and disappearances, loss or theft of drugs, dangers to navigation, sending danger or safety signals, checks and tests of watertight doors and steering gear, convictions, disciplinary matters, stowaways, accidents and incidents.

ATTACHMENT F

NAVIGATION ACT 1912 SHIP INSPECTION SECTIONS**190AA Powers of inspection of surveyors**

- (1) A surveyor may at any reasonable time go on board a ship and inspect the ship and any part of the ship, including the hull, boilers, machinery and equipment of the ship, and may require the certificates of the master or of any officer of the ship, or any certificate or other document relating to the ship, to be produced to him or her.
- (2) Without limiting the generality of subsection (1), the powers of a surveyor under that subsection extend, subject to section 227E, to the inspection of a ship for the purpose of ascertaining whether the ship complies with such of the provisions of this Act and the regulations and orders relating to load lines as apply to the ship and whether the ship is overloaded, and to requiring the production to him or her of any certificate relating to load lines issued in respect of the ship.
- (2A) A person who fails to comply with any requirement made by a surveyor under subsection (1) or (2) commits an offence punishable on conviction by a fine not exceeding 60 penalty units.
- (2B) An offence against subsection (2A) is an offence of strict liability.
- (3) Where the Authority receives the report of a surveyor who has carried out, or proposes to carry out, an inspection of a ship under this section, it may, if it considers it necessary so to do, require the ship to be taken into dock or otherwise dealt with so that a surveyor can inspect the hull, boilers, machinery or equipment of the ship.
- (4) If:
 - (a) the Authority requires a ship to be taken into dock or otherwise dealt with under subsection (3); and
 - (b) the person to whom the requirement was given does not comply with that requirement;
 the person commits an offence punishable on conviction by imprisonment for a period not exceeding 2 years.
- (5) Subsection (2A) or (4) does not apply if the person has a reasonable excuse.

190AB

- (1) The Authority may publish, in the manner prescribed, such information derived about a ship:
 - (a) during an inspection or survey of that ship under section 190AA; or
 - (b) during an inspection or survey of that ship conducted otherwise than under this Act; or
 - (c) otherwise than by an inspection or survey;
 as is prescribed.
- (2) The regulations may make provision for:

- (a) the manner in which information derived:
 - (i) during an inspection or survey; or
 - (ii) otherwise than by inspection or survey;
 will be published; and
- (b) the nature of the information that will be published; and
- (c) the time at which the publication of information will occur.

Division 3—Unseaworthy and substandard ships

207 Definition of seaworthy

- (1) Subject to subsection (2), a ship is to be treated as seaworthy under this Act if, and only if:
 - (a) it is in a fit state as to the condition of hull and equipment, boilers and machinery, the stowage of ballast or cargo, the number and qualifications of crew including officers, and in every other respect, to:
 - (i) encounter the ordinary perils of the voyage then entered upon; and
 - (ii) not pose a threat to the environment; and
 - (b) it is not overloaded.
- (2) If:
 - (a) it is proposed to take a Safety Convention ship to sea on a voyage from a port in Australia; and
 - (b) there is in force in respect of the ship the certificate or certificates that may be required to be produced under subsection 206W(2) in respect of the voyage;

the ship is, for the purposes of this Act, to be treated as meeting the condition in subparagraph (1)(a)(i) in relation to that voyage so far as that condition relates to the condition of the ship and its equipment unless the condition of the ship or of its equipment does not correspond substantially with the particulars of that certificate or of any of those certificates.

207A Substandard ships

- (1) A ship is, for the purposes of this Act, substandard if the ship is seaworthy, but conditions on board the ship are clearly hazardous to safety or health.
- (2) In determining whether a ship is substandard, regard shall be had to such matters as are prescribed.

210 Detention of unseaworthy and substandard ships

- (1) If it appears to the Authority that a ship is unseaworthy or substandard, the Authority may order the ship to be provisionally detained.
- (2) The Authority shall immediately give the master of the ship notice of the provisional detention, together with a statement of the grounds of the detention.

- (3) The Authority shall direct a person to prepare a report as to whether the ship is unseaworthy or substandard.
- (4) The ship shall be surveyed by a surveyor if a survey is necessary for the preparation of the report.
- (5) Unless the Authority decides to order the ship to be unconditionally released, the Authority shall provide the master of the ship with a copy of the report.
- (6) On receipt of the report, the Authority may:
 - (a) order the ship to be finally detained; or
 - (b) order its release unconditionally or on such conditions as the Authority considers appropriate.
- (7) If an order for the final detention of the ship is made, the ship shall not be released until the Authority is satisfied that its further detention is no longer necessary, and orders its release.

211 Costs of detention

- (1) If it appears that there was no reasonable and probable cause for the provisional detention of the ship, the Authority shall be liable to pay to the owner of the ship his or her costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by the owner by reason of the detention or survey.
- (2) If:
 - (a) a ship is finally detained under this Division;
 - (b) a ship is provisionally detained under this Division and the ship was, at the time of detention, unseaworthy or substandard; or
 - (c) a ship is detained in pursuance of a provision of this Part which provides for the detention of a ship until a certain event occurs;
 the owner of the ship is liable to pay to the Authority the costs of and incidental to the detention and survey of the ship and those costs are recoverable by the Authority in a Court of summary jurisdiction.

212 Taking detained ship to sea

If the master of any ship legally detained under this Division takes the ship to sea before it is duly released, the master shall be guilty of an offence punishable on conviction by a fine not exceeding \$20,000 or imprisonment for a period not exceeding 10 years, or both.

ATTACHMENT G

MARINE ORDERS PART 11 SUBSTANDARD SHIPS**Prescribed matters to be considered in determining if a ship is substandard**

Item	DEFICIENCIES
Accesses	<ul style="list-style-type: none"> • Not capable of being secured. • Insufficiently protected against weather and sea. • Insufficiently insulated from engine noise. • Unsafe or unsatisfactory condition.
Ventilation	<ul style="list-style-type: none"> • Mechanical ventilation or electric fans fitted in sleeping rooms and mess rooms are not in satisfactory working condition.
Accommodation	<ul style="list-style-type: none"> • Accommodation is not free of cargo, or ship stores such as paint. • Floors are not of easily cleaned durable material, which is impervious to damp. • Floors have blocked scuppers. • Floor tiling or covering is deteriorated to the extent that it cannot be kept clean, or creates a hazard. • Accommodation in an unhygienic condition, or in a filthy condition with either built-up or surface dirt.
Electrical wiring and switches	<ul style="list-style-type: none"> • Overloaded power points. • Defective insulation. • General unsafe appearance.
Garbage disposal	<ul style="list-style-type: none"> • Garbage cans are not available in galley, pantries or mess rooms. • Garbage cans in unsatisfactory condition. • Main garbage drums are not located in an accessible position. • Main garbage drums without properly fitting lids.
Galley, storerooms and handling rooms	<ul style="list-style-type: none"> • Not in a clean condition, with built-up or surface dirt. • Galley exhaust fan not in working order. • Galley exhaust not grease free.
Food provisions	<ul style="list-style-type: none"> • Food is not suitable for intended voyage in regard to: <ul style="list-style-type: none"> - quantity and/or quality; - flour, rice, grain or cereal stores are weevil infested.
Water, potable	<ul style="list-style-type: none"> • Fresh water is contaminated and unsuitable for human consumption.
Insect/vermin infestation	<ul style="list-style-type: none"> • Evidence of infestation exists in accommodation by insects or vermin.

Item	DEFICIENCIES
Fly screens for portholes, ventilators and doors to the open deck	<ul style="list-style-type: none"> • Screens missing. • Screens exist but apertures cannot be properly protected by close fitting screens. • Screens exist but have gauze broken and/or missing. (Where temperature controlled mechanical ventilation is fitted, screens are only required for areas, such as galley and food preparation areas, where insects can enter through open windows.)
Lighting	<ul style="list-style-type: none"> • Crew spaces are inadequately lit. • Light fittings are inoperable. • Light fittings are not fitted with globes or tubes of the correct rating of the fitting.
Heating	<ul style="list-style-type: none"> • Heating is not capable of maintaining a temperature of 16°C.
Steam pipes	<ul style="list-style-type: none"> • Steam or exhaust pipes for winches and similar gear pass through accommodation (other than alleyways).
Lagging	<ul style="list-style-type: none"> • Steam or exhaust pipes passing through alleyways not properly lagged. • Heating steam or hot water pipes are not adequately lagged or protected.
Paint locker	<ul style="list-style-type: none"> • Inadequate natural ventilation. • In an unsatisfactory condition. • Spillage of flammable liquid found.
Noise	<ul style="list-style-type: none"> • Excessive noise. (On receipt of complaint, ascertain if reduction of noise level is practicable. If this is both possible and reasonable, but no action is taken, a deficiency exists.)
Paintwork	<ul style="list-style-type: none"> • Painted surfaces deteriorated such that they cannot be washed clean.
Work spaces, including engine room	<ul style="list-style-type: none"> • Not in a safe and clean condition. • Prevalence of oily rags or other fire hazard. • Adequate lighting, ventilation or means of escape is not available.
Mooring ropes and wires (including fittings)	<ul style="list-style-type: none"> • Damaged or defective. • Stored in a manner that is likely to result in damage or defects • Exposed to conditions that could lead to their deterioration and eventual failure.

Item	DEFICIENCIES
Berths	<ul style="list-style-type: none"> • Individual berth with clear access is not provided for each crew member. • A mattress, a pillow and pillowcase, and two clean sheets is not fitted to each berth. • A blanket is not available for each berth. • Insufficient linen exists to provide a weekly change during the longest leg of the voyage between ports with laundry facilities. (Only one change need be provided if a suitable laundry exists aboard.) • Essential furnishings are not in good repair and clean.
Sanitary facilities	<ul style="list-style-type: none"> • Insufficient showers, wash basins and toilet facilities are provided. • Toilets broken or not flushing correctly. • Wash basins broken or without supply or waste pipes. • Water not available at wash basins. • Water supply contaminated and not fit for washing. • Blocked drainage or seepage from toilets/wash basins/showers. • Numerous tiles or extensive patches of coating missing in wet areas or other defects which prevent these areas being kept clean and sanitary.
Cold rooms and refrigerated room	<ul style="list-style-type: none"> • The refrigeration machinery is not operating efficiently. • Door seals defective. • Internal alarms not fitted or not operating. • The securing devices not capable of being operated from inside the room. • Refrigerators not kept clean and defrosted. • Food improperly stored. • Gratings unclean, defective, or with food scraps or dirt beneath them. • Lining defective.
Clothes washing facilities	<ul style="list-style-type: none"> • Suitable sinks in wash rooms broken or not provided. (Not required if electric washing machines are fitted.)
Drying rooms	<ul style="list-style-type: none"> • Clothes drying facilities not provided in a compartment separate from sleeping rooms and mess rooms. • Facility not ventilated or heated. • Facility not provided with racks or lines.
Mess rooms	<ul style="list-style-type: none"> • Sleeping room used as a mess room. • Mess room not located as close as practical to the galley. • Adequate furniture not provided. • Proper facilities for washing eating utensils and plates not provided.

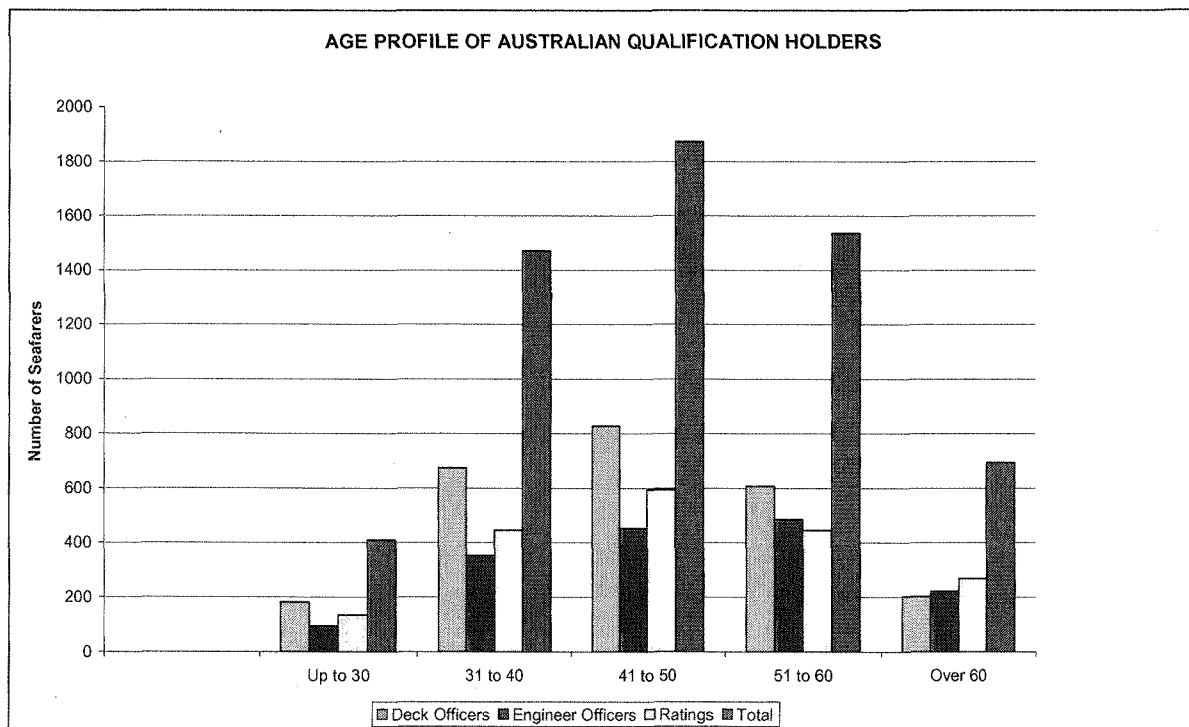
Item	DEFICIENCIES
Hospital	<ul style="list-style-type: none"> • A separate hospital is not provided. (Only required if crew is 15 or more and voyage exceeds 3 days). • The hospital is used for other than medical purposes.
Sewage treatment plant	<ul style="list-style-type: none"> • If fitted and operating, is not operating in accordance with the manufacturer's instructions.
Medical equipment	<ul style="list-style-type: none"> • A medicine chest and/or dispensing instructions not carried. • Medicines and stores are damaged or time expired.
Walkways	<ul style="list-style-type: none"> • Walkways are not safe and clear.

ATTACHMENT H

AUSTRALIAN ISSUED SEAFARER QUALIFICATIONS

The table below summarises the age profile in ten year intervals of all deck officers, marine engineer officers and ratings, who hold Australian issued certificates of competency issued by AMSA as at January 2008:

Age Group (10 year intervals)	Deck Officers	Marine Engineers	Ratings	Total
Up to 30	14	29	52	95
31 to 40	135	121	97	353
41 to 50	269	103	80	452
51 to 60	338	93	54	485
Over 60	159	41	22	222
Total	915	387	305	1607



The table below shows the number of deck officers holding Australian issued seagoing qualifications and their age groups:

Age Group (10 year intervals)	Master	Master less than 3000 GT	Master less than 500 GT	Chief Mate	Chief Mate less than 3000 GT	Mate less than 500 GT	Watch-keeper (Deck)	Total
Up to 30	6	0	3	64	4	2	102	181
31 to 40	207	10	20	134	16	3	283	673
41 to 50	589	19	30	78	8	5	98	827
51 to 60	494	18	31	25	3	1	35	607
Over 60	175	2	10	8	0	0	8	203
Total	1471	49	94	309	31	11	526	2,491

The table below shows the number of marine engineer officers holding Australian issued seagoing qualifications and their age groups:

Age Group (10 year intervals)	Engineer Class 1	Engineer Class 2	Engineer Watchkeeper	Total
Up to 30	14	29	52	95
31 to 40	135	121	97	353
41 to 50	269	103	80	452
51 to 60	338	93	54	485
Over 60	159	41	22	222
Total	915	387	305	1607

The table below shows the number of ratings holding Australian issued seagoing qualifications and their age groups:

Age Group (10 year intervals)	Able Seaman	Integrated Rating	Chief Rating	Integrated	Total
Up to 30	1	133	0		134
31 to 40	14	412	19		445
41 to 50	42	477	75		594
51 to 60	45	303	97		445
Over 60	14	196	58		268
Total	116	1521	249		1886

ATTACHMENT I

INTERNATIONAL MARINE POLLUTION CONVENTIONS

The major international conventions are outlined below with the Commonwealth legislation, where relevant, that seeks to implement them into Australian national law:

International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 makes provision for oil pollution emergency plans for ships, offshore platforms, and sea ports; oil pollution reporting procedures; establishment of national and regional systems for preparedness and response; the facilitation of international cooperation and mutual assistance; exchange of information; and promotion of research and development, and technical cooperation and training.

In line with the convention's objective to encourage international co-operation and mutual assistance in preparing for, and responding to, a major oil pollution incident, Australia is party to a number of bilateral Memorandums of Understanding on Marine Pollution Preparedness and Response with other countries in the Asia Pacific region, including New Zealand, New Caledonia, Papua New Guinea, Indonesia and Singapore. These promote mutual cooperation in such areas as information exchange on oil pollution incidents, mutual visits of relevant personnel, joint exercises and training for combating oil pollution, promotion of research and technical cooperation, and facilitation of the expeditious trans-boundary mobility of personnel, materials and equipment in case of emergency. Australian also played a major role in the development of the Marine Pollution Emergency Contingency Plan for the South Pacific Environmental Program.

AMSA manages Australia's National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances, the national system providing oil and chemical pollution preparedness and response services, in consultation with the State/Northern Territory Governments, port corporations/authorities, emergency services, and the shipping, oil, exploration and chemical industries.

Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances 2000 extends the global system for combating major oil pollution threats from ships established by the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 to the carriage of hazardous and noxious substances, like chemicals. The Protocol entered into force internationally on 14 June 2007 requiring Australia's chemical response contingency plan to be upgraded to be consistent with the Protocol's requirements.

International Convention on the Control of Harmful Anti-Fouling Systems on Ships 2001 required all ships not to apply or re-apply organo-tin (eg Tributyltin) compounds, which act as biocides in anti-fouling systems, by an effective date of 1 January 2003. Ships were required either not to have such compounds on their hulls or external surfaces or to have a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling system by 1 January 2008.

The convention was implemented in Australian law by the *Protection of the Sea (Harmful Anti-fouling Systems) Act 2006*. Australia ratified the convention on 9 January 2007 and it will enter into force internationally on 17 September 2008.

International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004 seeks to address problems associated with the transfer of harmful aquatic organisms in ships' ballast water. Following Australia's signature of the Convention subject to ratification in May 2005, the Australian Department of Agriculture, Fisheries and Forestry has been consulting other relevant departments and agencies in the development of Australian legislation and procedures to implement the convention into Australian national law.

International Convention on Civil Liability for Oil Pollution Damage 1992 provides that ship owners of oil tankers are strictly liable for damage resulting from the escape or discharge of persistent oil, which are oils that do not evaporate readily and include crude oil, fuel oil, heavy diesel oil and lubricating oil. The level of liability is generally limited, depending on the size of the tanker.

The *Protection of the Sea (Civil Liability) Act 1981* implements the convention and provides for the recovery of compensation in the event of oil pollution damage, including recovery of loss by AMSA in preventing or mitigating pollution damage. The Act also provides for penalties in the case of failure to carry relevant insurance certificates. The amounts recoverable are limited by the terms of the convention, which applies exclusively to pollution damage caused on the territory or territorial sea of a contracting State and to preventive measures taken to prevent or minimise such damage. The liability of the owner of a ship is limited in respect of any one incident to a specified amount and any claim against the shipowner has to be met from the specified amount.

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 (the Fund Convention) established the International Oil Pollution Compensation Fund (the IOPC Fund). This pays compensation where full compensation for oil pollution damage is unable to be obtained under the International Convention on Civil Liability for Oil Pollution Damage 1992. The amount of compensation payable from the IOPC Fund is also limited so to a maximum amount payable in respect of a particular incident.

International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 provides for ship owners to be strictly liable for heavy fuel oil (bunker oil) spills and they will be required to carry compulsory insurance to cover any pollution damage following a heavy fuel oil spill. The ship's insurer also will be liable if there is any difficulty in recovering damages from the ship owner and can be sued for the costs of clean up and losses caused by bunker oil pollution. The Convention comes into force internationally on 21 November 2008 and the *Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Bill 2008* currently before the Australian Parliament seeks to implement the convention into Australian law.

Australia already has legislated in 2001, as an interim measure until the convention came into force, to require ships entering Australian ports to have documentation on board demonstrating that the ship had insurance coverage, at least to the limit of applicable international treaties. However, only if the shipowner is found to be at fault, is there a current requirement to contribute to compensation costs and instead these costs may have to be met by the Australian Government and/or the relevant State or Northern Territory Government.

Supplementary Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 is aimed at ensuring full compensation is available to victims of oil pollution damage from tankers where the total amount payable under the existing compensation regime is insufficient. The Protocol entered into force internationally on 3 March 2005 and the Australian Government has indicated that it will shortly introduce the *Protection of the Sea Legislation Amendment Bill 2008* to implement the convention into Australian national law. This will increase the existing maximum compensation level from approximately \$360 million to about \$1.33 billion.

APPENDIX 5: Recent Reports On Australia Shipping

International and Domestic Shipping and Ports Study (Meyrick) (2007)

The study was commissioned by the Australian Maritime Group (AMG) and examined three main topic areas:

- Implications of developments in the legislative and regulatory environment, shipping, ports and logistics chains with an assessment of likely impacts for Australia
- Implications of changes in the Australian international seafreight task over the period 2005-2020 covering the container, bulk and breakbulk trades with an assessment of existing plans to increase port capacity and the size/nature of any resulting capacity shortfalls
- Increasing shipping's share of the Australian domestic freight task which focuses on the current market, required success factors, potential contestable market based on 'optimal conditions', and opportunities government/industry may have to support the future viability of coastal shipping.

A final report was released on 1 May 2007. It contained a set of conclusions: relevant extracts are provided below.

A number of the IMO marine environmental protection initiatives have been picked up by the Australian government but the growing need for more drastic measures (including the establishment of a mandatory global carbon trading system) will certainly require new or amended national policy initiatives relating to shipping and ports.

The regulation of ship safety and quality appears to be well in hand with the Australian Maritime Safety Authority (AMSA) taking a leading role in the effective administration of the international Port State Control (PSC) regime.

Changes in ownership in both liner shipping and container stevedoring has been moving at a rapid pace following the trend of increasing globalisation. Consolidation (horizontal integration) has been the name of the game with the top twenty liner companies now controlling almost 90% of world containership cellular tonnage – this was only 40% in 1990. Vertical integration has also been occurring with liner companies increasingly offering door-to-door and secondary distribution services.

The expectation is that this consolidation in the container shipping market will continue. The balance of power between carriers and ports has been shifting towards the top tier of carriers as their container volumes, through consolidations, increasingly represent greater proportions of a port's total container trade. The implications of this trend are pressures on the ports' financial and strategic ability to provide or safeguard common-user facilities and open access policies.

As far as the Australia end-to-end direct calling services are concerned, the maximum size of containerships is expected to increase from the current 4,100 TEU to around 6,000 TEU after completion of the planned Melbourne channel deepening in 2010. There may well be the opportunity for larger Trans-Pacific

containerships to dip down (divert) to a single Australian hub port, such as Brisbane, using connecting feeder vessels along the Australian coast, but this will only happen in exceptional cases where carriers are able to obtain economic benefits by rationalising two or three existing vessel strings of chartered vessels – generally transshipment and feeder adds significantly to costs and fast transit times are a premium on the Trans-Pacific.

Shipping's share of the inter-capital non-bulk freight task (movements parallel to the coast) is currently small, just 3% in terms of mass. Indeed, domestic containers along the coast between Perth and the Eastern States, and between Brisbane and the southern eastern seaboard ports totalled around 65,000 TEU (or around one million tonnes of freight) in 2005. Virtually all of these were carried on international vessels.

There is a desire by governments, and Australian shipping, to seek opportunities and methods to increase this share with the benefits of an increased coastal shipping industry and possible (indirect) reductions in road congestion, the movement of hazardous goods by road, and CO2 emissions. Another important reason why shipping is a focus is because of the other impacts of land (road) transport such as road toll, injuries, noise and investment required in road maintenance. Although Australia has a different geography to other parts of the world, it is encouraging to see that other countries (New Zealand, UK, etc.) and regions (European Union) are increasingly recognising the important role that domestic shipping can play in alleviating land transport bottlenecks, infrastructure constraints, safety and environmental impacts. Australia is therefore not alone in this respect.

There are already examples of established domestic shipping trades which service island or remote areas (the largest being Bass Strait) and the bulk trades such as fuel, minerals, cement and steel products. Moreover, the rise and subsequent fall of PAN Shipping's coastal container shipping service in 2006, while it has undoubtedly not helped the cause of dedicated domestic container shipping, particularly amongst the shippers and forwarders, also demonstrates a resurgence of commercial interest in the use of sea transport for the carriage of domestic containers.

In our assessment, the reasons for the failure of PAN Shipping were largely specific to its operations, and do not reflect a fundamental failure of the dedicated coastal container shipping concept. Although further more detailed and focussed work would be necessary to reach a definitive conclusion on this point, in our judgment the information and analysis of this study indicates that that the balance can be tipped in favour of a role for dedicated coastal shipping services in the transportation of inter-capital non-bulk freight. This could be achieved through a combination of:

- *significantly improved service offerings than have yet been offered in the market, which provide a service quality similar to rail at a lower price*
- *the lead being taken by, or in partnership with, an existing door-to-door transportation company with the financial capability to invest in ships, domestic equipment and possibly co-invest in dedicated port infrastructure, and*
- *a supportive policy framework from governments which stimulates innovation in and promotes the use of non-bulk coastal shipping in a*

manner that facilitates efficient choices between the various modes of transport.

We also believe that the current domestic container shipping operations offered by international permit vessels is inherently volatile and unable to offer the level of service or space to contest additional cargoes currently carried by land transport modes. International cargoes will always take priority over domestic ones and the marginal-cost pricing used by shipping lines for domestic freight will never prove sufficient to switch priorities or re-design operations and equipment to better meet the needs of domestic shippers. This has been proven the case in the past in other parts of the world (in particular Europe and Asia) where decisions to move in and out of the carriage of intra regional cargoes on mainline international services have been regularly made by carriers prior to the introduction of dedicated intra regional vessel services.

Withdrawal of capacity by international operators would also have implications for land transport. The instability of the capacity offered by international services, who now carry a significant share of East-West container cargo, therefore implies that we must either accept the a risk of a sudden and significant deterioration of land transport capacity, or provide excess 'buffer' capacity in the system. Indeed brief consultation with rail industry confirms this point (i.e. they would be unable to cope in the short-term with the demand surge caused by international vessels dropping the carriage of domestic containers).

Next to this, government transport policy on road and rail certainly has the capability to impact upon the future modal share of domestic shipping. Regulations on road limits (size and weight), driver fatigue, fuel emissions, carriage of hazardous cargoes, etc. and decisions whether to invest in new rail infrastructure, all can help to tip the balance in favour of an expansion in domestic shipping.

These considerations suggest that a gap or role does exist for dedicated domestic container shipping and increased coastal bulk shipping.

The start-up of a twice weekly domestic container shipping service covering Perth – Adelaide/Melbourne/Sydney, and Melbourne – Brisbane using 500 TEU, high-speed containerships would have the two-way potential to carry a maximum of over 200,000 TEU per year or around three million tonnes of freight per year. This would represent capturing a significant part of both land transport's existing non-bulk freight carryings on these routes, but less in terms of the growing market in the future (an expected doubling by 2020).

In addition, some potential may exist for regional niche operations which combine containerised freight flows with break-bulk or bulk cargoes – however, the long-term trend is for the deployment of dedicated (fully-cellular) containerships once trade volumes reach sufficient levels.

It should also not be forgotten that there are associated landside industries which support and benefit from an expansion of domestic shipping (ship-building, insurance companies, ship servicing companies, etc.) – in other words the benefits to the national economy are not exclusively maritime.

The House of Representatives' Standing Committee on Transport and Regional Services inquiry into the integration of regional rail and road networks and their interface with ports concluded in July 2007 with its report *The Great Freight Task: Is Australia's transport network up to the challenge?*.

The report devoted a chapter on coastal shipping and while making no recommendations, noted that "moving more freight by sea may be an option to alleviate some of the growing pressure on land transport networks. This potential to assist Australia's capacity to meet the challenge of the growing freight task warranted consideration by the Committee." Extracted comments are as follows:

The coastal shipping option for transporting freight between Australian cities is overshadowed by road and rail. The Maritime Union of Australia has noted the lack of focus on shipping in the national transport policy debate. The Australian Shipowners Association commented "it is remarkable that such a comprehensive review of environmental, safety, infrastructure and cost implications for freight transport has overlooked sea transport altogether.

The Committee is aware that forecast movements may be curtailed by the current and anticipated constraints on Australia's ports.

The role of coastal shipping should not be overlooked when examining existing transport network operations and prospects for future freight efficiencies.

These predictions [of growth] support industry arguments that, although carrying only a small portion of total market volume, coastal shipping is a good option for long haul bulk freight movements.

The Australian coastal shipping industry does face a number of operational challenges, including a decline in the number of Australian-registered vessels, an ageing fleet, cabotage³¹, potential skills shortage, industrial issues and foreign competition.

One significant challenge is the range of legislation that regulates the operation of the Australian coastal shipping industry. For example, Part VI of the Navigation Act 1912 regulates the transportation of freight by ship between ports in the states and Northern Territory, including the provision of licenses for ships to engage in coastal trade. Registered ships must adhere to a number of conditions, particularly on wages and other employment benefits for seafarers.

*It is arguable that these, and related requirements, have been valuable in developing a domestic industry with quality, reliability and safety records that are high by world standards.³⁵ These standards are in sharp contrast to the condition of some foreign vessels operating on the Australian coast. Two reports by the predecessor of this Committee, *Ships of Shame* (1992) and *Ships of Shame – A Sequel* (1995), drew attention to the number of ships of substandard safety and seaworthiness that were operating on coastal shipping routes under permits, and highlighted the need for improvement in this area.*

Ultimately, the significant growth in freight demand may require optimising the use of both Australian registered and foreign vessel freight capacities. However, the continued and necessary role for coastal shipping of freight, combined with the levels of domestic freight being moved by foreign shipping lines, strongly suggest to the Committee an opportunity to foster the national shipping industry for domestic freight movements. When examining the viability of the coastal

shipping option, the Government will need to consider what, if any, protection or support the domestic shipping industry warrants.

Coastal shipping's potential lies in transporting less time critical freight. It represents an environmentally beneficial and cost effective alternative to rail and road modes, for bulk cargo shipped over long distances. Sea transport does not require the same infrastructure investment or maintenance.

A clearer government framework for the industry would help to combat perceptions that act as a barrier to investment. This could involve exploring new taxation policy options, including tonnage tax regimes under which, for example, shipping companies pay a flat rate of tax or profits are derived based on net tonnage moved.⁴

Overall, sea transport is not in a position to compete with road and rail. However, there is considerable potential for sea freight services to complement land transport networks.

The Committee considers that the coastal shipping industry warrants examination by the Australian Government. This consideration should include whether changes are required to ensure legislative arrangements are commercially appropriate, and consistent with measures applicable to investment and taxation of road and rail modes.

The Committee concluded that if Australia is to ensure it is in a position to meet the challenge of the growing national freight task, it must engage all transport sectors in logistics planning. With almost a quarter of the freight task predicted to be moved by sea in 2020, it is essential to take into account the coastal shipping industry and its capacity to share the freight task, as part of a comprehensive national transport strategy.

Independent Review of Australian Shipping (2003)

The Independent Review of Australian Shipping (IRAS) was commissioned by the Australian Shipowners Association (on behalf of the industry) in 2002 to identify an environment in which fresh investment in Australian tonnage could be fostered. The review was undertaken by two former Ministers for Transport, John Sharp and Peter Morris, and their report "A Blueprint for Australian Shipping" was released in September 2003

The overwhelming view of the authors was that there was a future for Australian participation in shipping, both domestically and internationally. For that to occur, it would require the commitment of all industry parties in co-operation with government. They believed it was essential for the industry to be independent of government largesse. They equally believed, however, that government had a key role to play in the industry's future.

IRAS had 12 key proposals as follows:

I Clarity and certainty of Government policy and regulation

The Review concluded that a business environment in which regulatory policies and the administration of legislation is certain and stable over time is essential to sound

investment decision-making. Instead, investment decisions are currently being made that reflect the current atmosphere of change and uncertainty.

The Review also heard evidence that the regulatory activity of Government had in some cases actively discriminated against the Australian industry.

There is clear evidence that there are sectors of the Australian industry capable of competing effectively where the regulatory framework is clear, consistent over time and applied equally to all participants.

The provisions of the Navigation Act 1912 that regulate the conduct of coastal shipping should be reviewed. The review should have regard to transport, customs, immigration, taxation, workplace relations, competition and other relevant policy considerations.

II Provide optimum shipping arrangements for shippers

The Review considers that effective competition must clearly be service-oriented, i.e. that the Australian industry must be capable of providing shipping services that meet the needs of shippers. The Review heard evidence that new ventures providing shippers with regular services at competitive prices could be a reality if a clear and consistently applied regulatory environment were available.

III Identification of the National Interest

The Review appreciates that the development and implementation of Government policy must take account of the "national interest". In particular, some legislation specifically requires that regard be had to the national interest. The Review is aware, however, that it is not always clear how the national interest is determined, and by whom. The Review is also conscious of the fact that what may be in the interests of one sector of the nation is not necessarily in the interests of another sector.

The Review considers that, where the national interest is a factor in developing or applying shipping policies, the process by which the national interest is determined should be clearly identified and that those affected should have adequate opportunity to contribute.

IV Personal tax treatment issues.

The Review heard very strong evidence that the inconsistent interpretation in Australia of the concept of employment in a foreign country discriminated against Australians in finding employment in international seafaring trades. Therefore, Section 23AG of the Income Tax Assessment Act 1936 needs to be reviewed to ensure consistent interpretation of the concept of employment in a foreign country.

The Review also considered Section 23AF of the Income Tax Assessment Act 1936 and found similar concessions available for consultants and contractors working overseas, and considers that these principles should be tested to see if they apply to Australian seafarers. The Minister for Trade, responsible for the granting of these concessions under 23AF, should consider a proposal for an international vessel to be deemed to be a project for the purposes of this section of the Income Tax Assessment Act 1936.

V Flexibility of crew numbers/skills

The Review heard evidence that some operators had difficulty in getting maintenance done on-board at a reasonable cost. Others had observed that in some situations shore-based maintenance could be more costly. It was suggested to the Review that consideration could be given to the possibility of a wider range of occupations being represented in crews in some circumstances; fully trained integrated ratings may not be required for all tasks on board ship. The Review sees merit in employees and

employers discussing the possibility of a more flexible range of occupations and skill levels on board ship.

VI Mixed manning

For the purposes of equity and jobs growth, it is necessary to ensure that the circumstances of Australian resident taxpayers in international trading vessels are no different under the Income Tax Assessment Act 1936 from other Australians employed in a foreign country. In that context, the Review notes that some participants have agreed that for the development of Australian seafarers' and Australian shipping interests' participation in international trading there are opportunities to crew vessels in new trades with a combination of Australian seafarers and foreign seafarers.

Some vessels may be subject to special pre-existing agreements as to their Australian manning and such vessels would remain subject to those agreements.

For example, some vessels may be fully Australian manned while others may be mixed-manned with the level of Australian participation being dependant upon the viability of the trade, the nature of the ship and the applicable legislation including the taxation position.

This will create training, job and career opportunities for Australians in an expanded presence in international trades, including Australian ratings who may choose to further train as officers. The skills base of qualified Australians in the maritime and related industries will be enhanced as a result.

VII Ship registration

Although not unanimously supported by stakeholders, the Review urges that the recommendations of the review of the Shipping Registration Act 1981, particularly with regard to Section 12 of the Act be implemented as soon as possible.

VIII National security

The Review notes the apparent inconsistency between the Government's policy for coastal shipping, i.e. to obtain the cheapest priced shipping services by accessing foreign ships, and its policy of strengthening border protection.

The Review notes measures to be undertaken by the US Government to limit access to its coastline to those vessels and crew from nations regarded as having a high degree of security. The Review received evidence that Australia risks losing access to US markets due to the use of foreign flagged vessels and crews that do not have the high degree of security required under their strengthened border protection regime.

Evidence was provided confirming that increased security would result in increased costs that will be borne by the shipping task. Australia faces the challenge of remaining competitive, as some competitor's governments will meet all or a portion of the increased security costs. Therefore any new measures would need to be pursued within competitive bounds.

IX Customs Act

The Review heard evidence of differences between Australia and countries in competition for shipping business in their treatment of some items for customs purposes. The Review again draws the attention of Government for the need to remove barriers to competition by Australians.

X Training

The Review heard evidence of the need for skilled seafarers for a wide range of occupations in the industry. The Review also heard evidence of the need for an

industry forum, such as National Maritime Industry Training Council (NMITC), to progress and enhance career paths and competencies. In this context, concern was expressed that existing federal Government funding could be more effectively channelled.

XI Seafarers' compensation

The Review strongly urges the participants to investigate alternative forms of coverage under the existing Seafarer's Rehabilitation & Compensation Act 1992 that reduces the cost of providing comparable cover.

The participants are also urged to rectify negative perception of the performance of the industry.

XII Tonnage tax

The Review considers the introduction of a tonnage-based company tax should be given urgent consideration in Australia as an alternative to traditional company tax. This has led to a revitalised shipping industry in countries that have adopted such a system.

The Shipping Reform Group (1997)

On 13 August 1996 the Minister for Transport and Regional Development, established the Shipping Reform Group (SRG) to provide the mechanism for industry consultation on winding back cabotage and examination of a second register for Australian shipping.

In approaching its task, the SRG took a very broad view of the main objective of shipping reform. In particular the SRG adopted as an overriding objective, access by Australian industry to the most competitive shipping services possible, consistent with maintaining no less than the existing levels of safety.

The SRG's report "A Framework for Reform of Australian Shipping", released in 1997, made 16 recommendations which it considered should be viewed as a package.

Recommendation 1 - A Package of Reform Measures

A comprehensive reform program should be implemented, comprising:

- *significant labour market reform;*
- *exposure to competitive pressures via the wind back and ultimate removal of the current cabotage regime; and*
- *equity with our foreign competition through the establishment of an Australian Second Register.*

Recommendation 2 - Company Employment

A system of company employment should be established and the current seafarers' engagement system terminated.

Recommendation 3 - Leave Provisions/Crew to Berth Ratio

The leave entitlements of seafarers' on Australian trading or merchant vessels should be reduced to a level consistent with community standards and based on OECD practice, resulting in a crew to berth ratio for Australian vessels of 1.7 (or cost equivalent).

Recommendation 4 - Workers Compensation

The separate seafarers' workers compensation scheme should be abolished and all seafarers should be covered by a relevant State or Territory-based scheme.

Recommendation 5 - Redundancy Provisions

Ship operators (including those in the offshore sector) should agree on a common approach to implementing the new labour arrangements and to the issue of redundancies, the cost of which will be borne by the operators in the industry.

Recommendation 6 - Winding Back Cabotage

Part VI of the Navigation Act 1912, dealing with the Coasting Trade, should be repealed, after a transition period to establish a coastal shipping regime as set out in Attachment D. Christmas Island should be exempted immediately from the Coasting Trade under the provisions of the Navigation Act.

Recommendation 7 - Safety and Environment

The Government and AMSA should continue to take action to improve the safety levels of all vessels in Australian waters and AMSA be resourced accordingly. In any discussions on the impact of the removal of cabotage it should be emphasised that the effect on the number of foreign vessels operating in Australian waters after the removal of cabotage will be minimal.

Recommendation 8 - Commonwealth/State Safety Regulation

The clarification, harmonisation and implementation of Commonwealth/State and Territory jurisdiction and safety regulations be given top priority by the Australian Transport Council.

Recommendation 9 - Customs and Migration

The discretion of Customs Collectors should be tightened to ensure that vessels are deemed to be imported if they remain on the Australian coast for more than 30 days. This time limit should be kept under review.

Recommendation 10 - Timing of Removal of Cabotage

The complete removal of cabotage should be contemporaneous with implementation of the full labour reform requirements under the second register and there should be a transition period during which access to CVPs is liberalised and CVP fees are reduced.

Recommendation 11 - Transition Period

The transition period should be 18 months from the introduction of legislation or 12 months from the date of effect of legislation whichever is earlier.

Recommendation 12 - Fuel Excise

The current fuel excise exemption arrangements for vessels on coastal voyages should be replaced with an equitable graduated system.

Recommendation 13 - Establishment of a Second Register

The Government should establish an Australian second register to be called the Australian Second Register (ASR) with the characteristics set out in Attachment E. The current shipping register will continue to exist.

Recommendation 14 - Second Register Reform-Linked Equity Measures

The Government should provide the limited range of Reform-Linked Equity Measures set out in Attachment F for operators that embrace the reform measures and that are subject to international competition. Achievement of reforms should be subject to annual monitoring.

Recommendation 15 - Location of the Second Register

The Government should negotiate with interested State and Territory Governments on the location of the second register, taking into account the practicalities of running a shipping operation.

Recommendation 16 - Continuing Shipping Industry Consultation

The shipping industry should continue to be consulted on specific measures to ensure that any new regulations to implement shipping reform are practical and efficient.

