

**MARITIME UNION OF AUSTRALIA (MUA)**

**SUBMISSION TO THE HOUSE OF  
REPRESENTATIVES STANDING COMMITTEE  
ON INFRASTRUCTURE, TRANSPORT,  
REGIONAL DEVELOPMENT AND LOCAL  
GOVERNMENT**

**INQUIRY INTO COASTAL SHIPPING POLICY  
AND REGULATION**

**29 APRIL 2008**

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## 1. Introduction

- 1.1 The Maritime Union of Australia (MUA) represents over 11,000 workers in the stevedoring, port services, shipping, hydrocarbons and diving sectors of the Australian maritime industry.
- 1.2 Members of the MUA work in a range of occupations across all facets of the maritime sector including stevedoring and ports, on coastal cargo vessels (dry bulk cargo, liquid bulk cargo, refrigerated cargo, project cargo, container cargo, general cargo) as well as passenger vessels, towage vessels, salvage vessels, dredges, ferries, cruise ships and recreational dive tourism vessels. In the offshore oil and gas industry, MUA members work in a variety of occupations in vessels which support offshore oil and gas exploration eg on drilling rigs, seismic vessels; in offshore oil and gas construction projects including construction barges, pipe-layers, cable-layers, rock-dumpers, dredges, accommodation vessels, support vessels; and during offshore oil and gas production, on Floating Production Storage and Offtake Tankers (FPSOs), FSOs and support vessels. MUA members work on LNG tankers engaged in international LNG transportation.

## 2. MUA input to the national public policy debate on shipping and related maritime issues

- 2.1 The MUA has been an active participant, in fact often a leader, in the national public policy debate on shipping and related maritime matters over many decades. MUA views have been quoted extensively in reports arising from shipping and maritime related reviews and inquiries. Some instances of where the MUA has entered the public policy debate over 2006 and 2007 include MUA submissions to:
- Senate Employment, Workplace Relations and Education Committee Inquiry into Workforce Challenges in the Transport Industry
  - House of Representatives Transport and Regional Services Committee Inquiry into the integration of regional rail and road freight transport and their interface with ports
  - Senate Rural and Regional Affairs and Transport Committee Inquiry into Australia's future oil supply and alternative transport fuels
  - House of Representatives Committee on Employment, Workplace Relations and Workforce Participation Inquiry into workforce challenges in the Australian tourism sector
  - Senate inquiry into maritime security legislation
  - Productivity Commission Inquiry into Tasmanian Freight Subsidy Arrangements
  - Productivity Commission Inquiry into road and rail infrastructure pricing
  - The ATSB and NSW Maritime investigations into the *Pasha Bulker* grounding



- The Victorian Essential Services Commission on inquiry into the impact of port planning on competition for container stevedoring services in Victorian ports
  - Price Waterhouse Coopers review of competition and regulation in key NSW ports for the NSW Government
  - Qld Department of Transport review of competition and regulation in key Qld ports
  - SA Department of Transport, Energy and Infrastructure review of competition and regulation in key SA ports
  - Port of Melbourne redevelopment strategy 2006-2035
  - Response to the NSW Independent Expert Panel report on a 5<sup>th</sup> berth at Port Botany
  - DoTARS Draft Transport Corridor Strategies
  - ACCC on Toll undertakings on Bass Strait shipping re takeover of Patrick
  - DoTARS on review of Coastal Shipping Permit Guidelines
  - APPEA responding to its Issues Paper on the development of the upstream oil and gas industry
  - DoTARS (jointly with AIMPE) on the proposed review of the Navigation Act and Shipping Registration Act
- 2.2 We have also taken a lead role in the development and implementation of a number of previous Government initiatives aimed at improving the competitiveness and efficiency of the Australian shipping industry, including:
- Proposals for the “Efficient Development of the Australian Maritime Industry”, with ACTU, 1984
  - Maritime Industry Development Committee (MIDC), 1985
  - Shipping Reform Task Force, 1988
  - Shipping Reform Negotiating Committee, 1992
  - Maritime Industry Reform Agreement 1994
  - Independent Review of Australian Shipping (IRAS), 2001-2002
- 2.3 Over 2007 and early 2008 the MUA commissioned a number of independent studies to support the public policy debate, and to assist the Union build an evidenced based policy to support the case for the revitalisation of Australian shipping. These reports, which will be drawn upon in developing this submission, are:

- National Institute of Economic and Industry Research *Australian Coastal Shipping: Its Future Role*, June 2007 (unpublished);
- Australia Institute *Climate Change and Australian Coastal Shipping*, October 2007; and
- Meyrick and Associates *Fiscal Policy and Other Support to Revitalise Australian Coastal and International Shipping*, due in late April 2008.

2.4 In addition, the MUA participated in an informal advisory capacity in the preparation of a report prepared by the National Strategic Policy Institute entitled *The Future Unknown: The Terrorist Threat to Australian Maritime Security*, April 2005.

### 3. The MUA vision for a revitalised Australian shipping industry

3.1 The MUA is optimistic about the outlook for the Australian shipping industry.

3.2 This optimism is not based solely on the fact that there is in place a Federal Government that is committed to support a competitive and efficient shipping industry, as important and ground breaking as that change is.

3.3 The MUA optimism is also based on changing realities, and on a rational analysis of emerging circumstances that lean towards a new role for shipping in Australia's national and international freight task. That analysis is also taking place in business, in industry and in Government. Importantly our optimism is based on our understanding of the business cases of a number of major Australian companies involved in the resources and manufacturing sectors that indicates a desire on the part of those companies to invest in Australian shipping. What this suggests is that there are strong reliability, service, compatibility and supply chain reasons why investment in Australian shipping is desirable, and that the balance has tipped towards the competitiveness of Australian ships (there are more than just cost issues driving competitiveness).

3.4 What is lacking is certainty in the policy and regulatory settings to ensure the environment is conducive to ensuring the numbers fully stack up.

3.5 Our assessment is that there are a number of major Australian companies that will invest in Australian ships, and who want to have the operational certainty of owning or operating, and controlling, their own vessels because it provides them with a competitive advantage, but who want assurances that the policy environment will not continue to favour foreign shipping. What they are seeking is competitive neutrality in relation to the Australian freight market so far as domestic shipping is concerned, and a more competitive environment that reduces the cost differential to allow them to compete more effectively in international shipping.

3.6 In addition, there is a global shortage of quality nationally significant infrastructure investment opportunities available for fund managers and infrastructure investors. The right policy and regulatory settings could substantially improve the attractiveness of global investment in Australian maritime assets (albeit, these would need to be minority stakeholdings to meet

the Australianness tests under the Shipping Registration Act, which must be retained for Australia to comply with the UNCLOS treaty requirements).

- 3.7 Our optimism is also based on the public support that the shipping mode is gaining among key industry associations representing interests in the diverse segments of the transport and logistics supply chain, as well as a strengthening of thinking in the Defence forces that understands the importance of a robust merchant maritime sector to complement the Navy, and the services in general, in both national defence and national security terms.
- 3.8 The momentum for a sea change in the way Australia views shipping and its traction in the national transport policy debate is well underway. The Rudd Government has seized on this momentum for change by first, setting in train a process for the development of a framework for a National Transport and Infrastructure Policy and Plan, currently under consideration within the Australian Transport Council (ATC), and second by announcing this Inquiry.
- 3.9 We put the view that much of the analysis and planning has already been completed, as evidenced by the initiatives recorded in Section 2, and they are just the initiatives the MUA has been involved in. Other bodies such as the Australian Shipowners Association, the Australian Logistics Council, the Sea Freight Councils and the Australian Maritime Group have also completed much of the preparatory work for putting together a national shipping and maritime policy. The ASA initiated Independent Review of Australian Shipping (IRAS) report is a seminal report in this regard. We argue that many of the individual building blocks are essentially in place, needing only a Government commitment that helps assemble the building blocks into an ordered framework that could be conceived as a comprehensive shipping policy.
- 3.10 What is now required is a process for assembling those building blocks and to crystallise the remaining aspects of a national shipping policy so that we arrive at coherent plan, for staged and systematic implementation in a coordinated way with the support of all the key stakeholders. The MUA commits to play its part in making a success of a new national shipping policy.
- 3.11 This review provides a unique opportunity to bring the component parts together into a coherent national plan for revitalising the Australian shipping industry.

### **The policy and regulatory framework for a revitalised Australian shipping industry**

- 3.12 The MUA envisages that a robust and properly regulated Australian shipping industry will be characterised by the following features:
- A clear statement of Government policy on the public record, and which could be incorporated into the objects of a reformed *Navigation Act 1912* (the centrepiece legislation for Australian shipping), to establish the foundation of a revitalised shipping industry. We envisage such a policy as incorporating an economic, skills, security, defence and environmental basis for an innovative Australian shipping policy:

- Such a policy statement would form an integral part of a nationally integrated transport and infrastructure plan;
- A vastly reduced number of foreign ships carrying domestic cargo operating under coasting trade permits, with an expectation that over a 3-5 year period, foreign ships under permit would be carrying no more than 5-10% (in tonne kilometres) of Australia's domestic coastal sea cargo;
- New ship licensing and ship registration provisions that create a seamless hierarchy of regulation to provide for: (i) Australian registered (flagged) ships primarily operating in the domestic coastal trade; (ii) Australian registered (Flagged) ships operating primarily in the international trade; and (iii) a coasting trade permit system to allow foreign flagged ships to operate in the coasting trade under limited and specified conditions, and which is responsive to the varying circumstances of shipping operators, particularly those Australian shipping who also use the permit system;
- A menu of fiscal support measures available to ship owners/operators aimed at encouraging investment in modern and efficient Australian ships, and which are tied to performance outcomes, particularly employment/training outcomes; and which provide options for shippers to use a wider range of shipping terms of trade (such as CIF and DES, rather than FOB, so the seller controls the shipping);
- An integrated maritime industry labour market and skills development plan to ensure that the domestic seafarer labour shortage is addressed over time; that there is a reasonable balance in the demand and supply for seafaring labour over business cycles; and that seafarers have a number of seamless career path options, both off and on shore, following entry to maritime occupations;
  - An integrated maritime industry labour market and skills development plan must incorporate a national/regional maritime training system, that caters not only for Australia's domestic maritime skill needs, but also the regional and international opportunities for Australian seafarers in the regional and international shipping trades, in partnership with the seafaring needs of regional countries;
- A reformed industrial relations system that provides, among other things, for international seafarers engaged in Australia's coastal shipping trade to have access to collectively bargained agreements containing labour standards equivalent to the standards applying to Australian seafarers in the coasting trade;
- A single national regulatory system for commercial vessel safety (including ship survey, ship classification, ship registration, minimum safe manning, crew competencies and ship operations);
- A ports sector which caters fairly and equitably for the domestic freight trade, particularly the domestic container, break bulk and liquid bulk trades;
- A remodelled Auslink program that is broadened in scope to cover ports, shipping channels and sea lanes;

- A strengthened maritime security regime characterised by a new requirement to ensure international seafarers operating on ships in the coasting trade have visa standards requiring background checking equivalent to that required of Australian seafarers requiring Maritime Security Identification Cards; where specified security sensitive cargoes are carried on Australian registered vessels and where all commercial maritime operations in Australian coastal waters fall within the Migration Zone;
- A modernised legislative framework, particularly the Navigation Act and the Shipping Registration Act:
  - Including better integration of the Customs vessel importation and Customs clearance for sailing functions under the *Customs Act 1901*;
- A more efficient national workers' compensation and OHS regime for the maritime industry; and
- That Australia (or a particular city within Australia) becomes a centre for regional maritime commerce – a key pre-condition for establishing a maritime cluster in Australia.

### **In practical terms what would be different?**

3.13 Taking a 10 to 12 year outlook through to 2020, we envisage that the adoption by Government and key industry stakeholders of a policy and regulatory framework as outlined would result in:

#### *Domestic shipping*

- A new coastal container (or mixed container/break bulk/liquid bulk) shipping service of at least 3 vessels serving the East-West trade:
  - We understand there is already investor interest in this trade, and the PAN Shipping experience demonstrated that with the right business plan and right ship management skills, there is a successful business to be built in the coastal container freight market;
- The commercialisation and expansion to at least 2 ships in the WA-NT coastal trade:
  - It is our assessment that with relatively modest policy changes, SeaCorp would be in a position to expand its WA-NT coastal operations
- The expansion of the WA-NT-Qld-NSW multi purpose coastal trade, particularly if there are complementary policies that result in more Australian steel and other locally manufactured products being used in the hydrocarbons industry, particularly offshore projects, under a set Australian participation policy as part of an industry innovation package;
  - Perkins Shipping has already demonstrated that a well managed company can incrementally expand and to service niche elements of the freight market

- Investment in new Australian ships to service key manufacturing supply chains in cement, steel, processed minerals, alumina and sugar/molasses/ethanol;
  - CSL, which services several key manufacturing clients, as well as manufacturing companies like CSR remain committed to growing a profitable shipping business to service manufacturing supply chains
- The return to the Australian register of at least 2 vessels in the oil/clean petroleum products sector;
  - Two of Australia's petroleum companies have a long history of operating shipping businesses as a profitable adjunct to their core petroleum business, and we believe can be convinced to continue to invest in shipping under the right policy and regulatory settings, or at the very least to support Australian shipping operators

#### *Trans-Tasman shipping*

- Investment in 2 ships to serve the Trans-Tasman trade to take advantage of the major liner shipping rationalisation occurring in the servicing of the NZ market;

#### *Regional shipping*

- Investment in ships to serve the Australian-Indonesian-Timor trade, such as in fertilisers and timber and other key raw materials, as part of the extension of the two countries' cabotage policies, and as part of a regional shipping industry and seafarer skills development plan;

#### *International shipping*

- Investment in new Australian ships, and a return of some current foreign flagged ships to the Australian register, in the iron ore and coal trade, particularly those involved in the triangulation trade;
- Investment in new ships to serve the LNG trade (the Australian Petroleum, Production and Exploration Association (APPEA) has estimated that an extra 20-30 LNG tankers will be required to service new Australian LNG projects over the next 10 years (there are currently 11-12 LNG tankers in the trade now, of which 4 are Australian owned and operated), suggesting that there is further opportunity for Australian ownership of additional LNG tankers (APPEA 2007);
- Some passenger cruise vessels could potentially be encouraged to the Australian register in the context of tourism industry development strategies; and

#### *Offshore oil and gas*

- Investment in drilling rigs and FPSOs required for Australian oil and gas production.

- Given the vast exploration yet to be undertaken in Australia, particularly now that our maritime boundaries have been expanded, and given strong global demand for drilling rigs, currently commanding a daily hire rate in excess of \$400,000, there appears an opportunity for an Australian consortium to invest in rigs and other offshore assets that could be dedicated to the Australian exploration effort, as well as being chartered out internationally. Australian investment in defence shipbuilding should be expanded in the civilian maritime sector, to help even out the peaks and troughs in defence spending and to provide stronger technology transfer between the sectors

### **What needs to be changed to steer a path towards achievement of this vision?**

- 3.14 The overriding objective is firstly to stabilise Australia's cabotage regime, primarily through improving the objectives and administration of the permit guidelines. The increasing opportunistic use of coasting trade permits is anathema to developing strong, reliable, service oriented supply chains in the Australian freight transport industry.
- 3.15 Additionally, the use of foreign shipping results in a net outflow of revenue, creating a drain on the balance of payments, rather than developing the industry in a way which builds the productive capacity of the economy.
- 3.16 We submit that the current policy and practice represents a serious market failure, and on that basis there is a case for concerted Government intervention in that market.
- 3.17 A well functioning cabotage regime provides the foundation for reducing transaction costs, improving reliability, improving service quality and creating efficiencies in the transportation of goods and people.
- 3.18 We say however, that rectifying elements on the demand side, is only part of the required policy response. Supply side responses aimed at stimulating investment in new ships (newbuilds and charters) is an essential part of the policy response.
- 3.19 Further, a well functioning domestic shipping industry is a springboard for stronger Australian participation in international shipping.
- 3.20 A strong and viable national shipping industry helps achieve other Government policy objectives as well – reducing greenhouse emissions, strengthening national security and supporting our defence forces.
- 3.21 We note the 2020 Summit outcomes, particularly from the working group examining Australia's Future Security and Prosperity in a Rapidly Changing Region and World, which agreed that Australia should pursue:
- Closer economic and political integration with the Pacific, including a rights-based labour mobility program for the Pacific;
  - Engagement of major regional economies: US, Japan, China, India;

- Assert new leadership in global governance, including a deeper institutional engagement to nation and peace building;
- A broader conception of security, including:
  - A new approach using smart power to address food, water and energy security issues in collaboration with our neighbours; and
  - Enhance local, domestic, and community security as a foundation for national and global security.

3.22 There are a range of practical steps that will need to be taken to realise this vision. The key steps, in summary, will include:

- Reform the Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping;
- Amendments to the coasting trade provisions (Part VI) of the *Navigation Act 1912* – in particular to alter and tighten the definition of licenced vessel;
- Amendments to the ship registration and ship mortgage provisions of the *Shipping Registration Act 1981*;
- Amendments to the ship importation and ship clearance to sail provisions of the *Customs Act 1901*;
- New legislation providing a package of fiscal support measures to encourage investment in ships (new and chartered) and to create the conditions for a return to the Australian register of ships (operated by an Australian entity, and/or engaged in the transportation of Australian exports) in the international trade;
- A national labour flow and skills development framework for seafarers, to be signed off by the Transport and Logistics Industry Skills Council and DEEWR, in the context of overarching bilateral Government to Government agreements with a number of regional countries to ensure the framework is integrated with the shipping requirements of the offshore oil and gas sectors of not only Australian but regional countries such as Timor, PNG, NZ and Pacific Island nations;
- Repeal of those provisions in the Workplace Relations Regulations 2006 that exclude the operation of the *Workplace Relations Act 1996* and any State or Territory industrial law in respect to any non-citizen member of the crew of a ship in respect to which a permit has been issued under section 286 of the *Navigation Act 1912*;
- An Australian Transport Council (ATC) agreement to re-calibrate Commonwealth-State/NT jurisdictional boundaries for maritime/shipping regulation in Australia. This agreement, which would modify the Intergovernmental Agreement of 1997, would establish revised jurisdictional parameters for:
  - The staged reform of the *Navigation Act 1912* (we do not favour commencement of a complete overhaul of this Act in one bite);



- Reforming the National Marine Safety Strategy (A Strategy for Small Commercial and Recreational Vessels in Australia) and the Commonwealth-State boundaries in the Uniform Shipping Laws (USL) Code and its successor, the National Standard for Commercial Vessels (NSCV)
- Refinement of the application provisions of the *Seafarers Rehabilitation and Compensation Act 1992* and *Occupational Health and Safety (Maritime Industry) Act 1993*:
  - Aspects of which may require refinement of elements within the Maritime Training Package.
- A broadening of the role of the National Transport Commission (NTC) so that it has the capacity to perform a role in the regulation of nationally significant ports, aimed at ensuring certainty and consistency in port planning (sea and inland), port leasing, port regulatory, port access and port pricing arrangements to encourage:
  - long term investment and investment certainty in port infrastructure (wharves, channels, roads, rail (including shuttle) links, intermodal facilities) and port superstructure (cranes and other loading equipment, sheds, rolling stock);
  - fair competition among all freight transport modes to maximise efficiencies of transport flows into and out of ports;
  - fair and nationally consistent tendering practices by landlord port authorities.
- The replacement of the Auslink program with a new multi modal transport funding program that responds to the *Infrastructure Australia* priorities and which contains the following features, that are non existent in the current Auslink program:
  - A scope which includes port access, ports, shipping channels surrounding ports and sea lanes (sometimes referred to as sea highways; and
  - A transport corridor planning framework which is genuinely multi-modal in character, unlike the discredited Transport Corridor Strategies of the previous Government;
- A new Regulation under the *Migration Act 1958* to alter the boundary of the Migration Zone so that all commercial maritime operations (such as aquaculture operations and mothership loading operations) in Australian coastal waters fall within the application of the Migration Act;
- Introduction of a modified Maritime Crew Visa to provide a category of visa for seafarers engaged on foreign vessels where the seafarers are not transiting Australia to join an international voyage, but who are engaged on vessels issued with permits to engage on the coasting trade, so that the visa checks are of the same standard as apply to holders of the Maritime Security Identification Card (MSIC);
- Reform of the *Seafarers Rehabilitation and Compensation Act 1992* aimed at strengthening the rehabilitation provisions, modernising the administration of

the scheme, creating greater transparency of insurance arrangements and reducing premium costs to employers; and

- Adoption of a new national policy which aims to create Australia (or a city within Australia) as a global/regional centre of maritime commerce – a central element of an Australian maritime cluster.

#### **4. A staged approach to implementation – requiring long term commitment and performance monitoring**

4.1 The MUA recognises that the vision or policy implementation will need to be staged, and will be evolutionary. We urge the Inquiry to recommend that the Government take the long term view, recognising that we are commencing the revitalisation task from a low base and that it will take patience and perseverance to deliver tangible results. Some adjustments on the part of some stakeholders will be required to ensure successful implementation. Government will need to be open to consider structural adjustment support where appropriate.

4.2 Consistent with the principles of evidence based policy development, we support monitoring of performance outcomes to assess the success of policy implementation.

4.3 In this regard, we propose that ATC withdraw the current charter or terms of reference for the Australian Maritime Group (AMG) and restructure and refocus the AMG so that its principal role is to keep ATC informed on implementation of the new national shipping policy in accordance with agreed performance indicators. Further, we propose that the Bureau of Infrastructure, Transport and Regional Economics (BITRE), AMSA, the NTC and the Transport and Logistics Industry Skills Council become part of a restructured AMG, in an advisory capacity, along with key industry stakeholders such as the Australian Shipowners Association and maritime unions:

4.4 We envisage the role of BITRE being to model and report on performance against agreed indicators; the role of AMSA to advise on IMO and (marine related) ILO Conventions to which Australia is party; the role of the NTC to advise on the regulatory issues associated with ports (assuming it is given a charter in this area) and the T&L ISC to advise on labour market trends, training outcomes and skill development issues.

4.5 The performance indicators would track trends in shippings contribution to GDP, to the balance of payments, permit usage, ship registration/licencing, ship importation, ship investment (including charters), tonnage capacity by market segment, modal share trends by freight corridors, greenhouse emissions reductions by mode, labour market trends, labour market trends and training outcomes, growth of support services such as maritime law, maritime arbitration, maritime insurance etc, that would enable ATC to monitor and refine the policy framework as required.

4.6 ATC in turn should report progress to COAG.

#### **5. Addressing the Inquiry terms of reference**

## 5.1 Outline the nature and characteristics of the Australian shipping industry and the international and coasting trades

5.1.1 The MUA wishes to make four key points in addressing this term of reference.

### The key subsectors in the Australian shipping industry

5.1.2 First, the Australian commercial shipping industry comprises a number of distinct, yet related subsectors, including:

- A coastal trading vessel subsector;
- An international trading vessel subsector;
- A passenger cruise vessel subsector;
- A ferry (open and closed waters) subsector;
- A tourism vessel subsector, which includes recreational dive vessels, charter vessels, small cruise vessels;
- An offshore oil and gas industry subsector which includes seismic vessels, construction barges and drill vessels (exploration), drill rigs, pipe layers, rock dumpers, dredges (construction); FPSOs, FSOs and platforms (production) and tankers (transportation) – and support and supply vessels (required during all phases);
- Fishing vessel subsector, including the emerging aquaculture subsector;
- Pilotage vessels; and
- Towage vessels and salvage vessels (tugs) which support most of the above subsectors.

5.1.3 There are strong interconnections between the subsectors in terms of labour mobility, labour supply, training, ship operational responsibility and corporate involvement.

5.1.4 Additionally the Australian shipping industry is no different to the global shipping industry, where, because of its truly international nature, a key characteristic is the typical separation between vessel ownership, vessel operation, vessel registration and crew supply company (employer of seafarers).

5.1.5 This characteristic of the industry creates challenges for regulators and those responsible for managing workplace relations as well as for agencies responsible for delivering skills and qualifications.

### The Australian trading fleet

5.1.6 Second, the policies of the previous Government have led to a major run down of Australian shipping in general and the trading fleet in particular. This was recognised by Minister Albanese in announcing the review of coastal shipping policy and regulation, where he noted that between 1996 and mid 2006 the number of Australian registered trading vessels fell from 75 to just 46. This is a decline of 39%.

5.1.7 An analysis of the decline shows that over the period of the Howard Government there has also been a decline in deadweight tonnage (DWT – broadly, the measure of the weight that a vessel can carry) from 3.28 million

DWT to 2.14 million DWT which represents a decline of 34.7% in DWT capacity of the Australian trading fleet.

5.1.8 Bureau of Infrastructure, Transport and Regional Economics data from 2005-06 (*Australian Sea Freight 2005-06*), in relation to the international trading Australian fleet, shows there were 33 vessels in the fleet, of which 26 were overseas registered, with only 7 being Australian registered.

5.1.9 Similarly in the coastal trading fleet, the data shows there were 44 vessels, of which 11 were foreign registered and 33 were Australian registered.

5.1.10 In other words of the 77 vessels in the international and coastal trading fleet, 37 or 48% were overseas registered while 40 or 52% were Australian registered.

5.1.11 These data demonstrate that not only has the total fleet declined, but that a large proportion of the Australian trading fleet has flagged out, usually to a Flag of Convenience registry.

5.1.12 A snapshot of the characteristics of the Australian fleet is shown in Table 1 and in Figures 1 and 2.

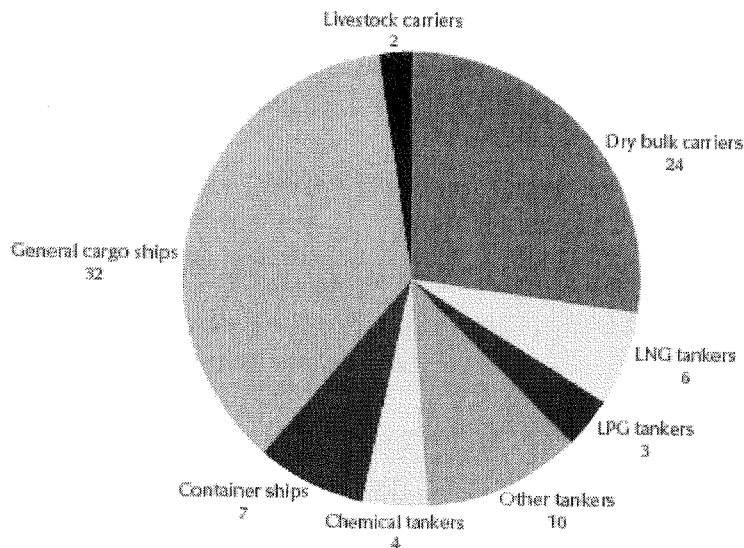
**Table 1: Australian Trading Fleet 2005-06**

Trade		Vessels Number	Deadweight tonnage Tonnes	Gross registered tonnage Tonnes
<b>Major Trading Fleet (&gt;2000 dwt)</b>				
Coastal	Australian registered	33	982 503	742 491
	Overseas registered	11	363 275	237 098
	<b>Total coastal</b>	<b>44</b>	<b>1 345 778</b>	<b>979 589</b>
Overseas	Australian registered	7	575 298	599 036
	Overseas registered	26	1 072 068	796 610
	<b>Total overseas</b>	<b>33</b>	<b>1 647 366</b>	<b>1 436 111</b>
<b>Total major trading fleet</b>		<b>77</b>	<b>2 993 144</b>	<b>2 375 235</b>
<b>Other trading ships (&gt;150 Gross registered tonnage but less than 2000 dwt)</b>				
	Australian registered	6	4 911	6 468
	Overseas registered	5	5 750	5 273
<b>Total other trading ships</b>		<b>11</b>	<b>10 661</b>	<b>11 741</b>
<b>Total Australian registered</b>		<b>46</b>	<b>1 562 712</b>	<b>1 347 995</b>
<b>Total overseas registered</b>		<b>42</b>	<b>1 441 093</b>	<b>1 038 981</b>
<b>Total Australian trading fleet</b>		<b>88</b>	<b>3 003 805</b>	<b>2 386 976</b>

Note: During the period 2005-06, a number of ships left the Australian fleet. At the same time, new ships were acquired but these new "additions" can only be accounted for when registered and reported by the end of June 2007.

Sources: DOTARS—personal communications; LMIU 2007; Fairplay 2006; AMSA 2006; Shipping companies (various)—personal communications.

Source: Bureau of Transport and Regional Economics (BTRE), 2007, Australian sea freight 2005-06, Information Paper 60, BTRE, Canberra ACT.

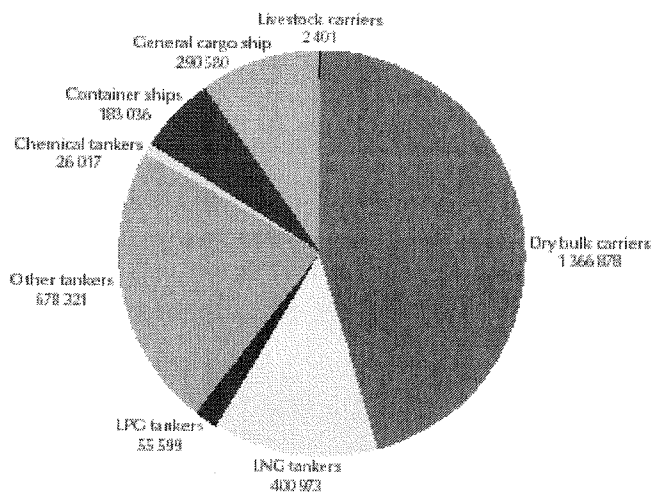
**Figure 1: Australian fleet: number of ships by ship type, 2005–06**

Sources: DOTARS—personal communications; LMIU 2007; Fairplay 2006; AMSA 2006; Shipping companies (various)—personal communications.

Source: Bureau of Transport and Regional Economics (BTRE), 2007, Australian sea freight 2005–06, Information Paper 60, BTRE, Canberra ACT.

5.1.13 The composition of the fleet, by ship type, is illustrated in Figure 1. Compared with 2004–05, in 2005–06 there was: an increase in the number of LPG and LNG tankers, from 8 to 9; a decrease in the number of dry bulk carriers, from 30 to 24; a decline in the number of other tankers from 12 to 10; and an increase in the number of general cargo ships, from 16 to 32. This increase in general cargo ships reflects the fact that some operators have taken protective positions by licensing their foreign ships. It also reflects the expansion in niche markets of operators such as Perkins Shipping.

**Figure 2: Australian fleet: deadweight tonnage by ship type, 2005–06**



Sources: DCTARS—personal communications; LMIU 2007, Fairplay 2006; AMSA 2006, Shipping companies (various)—personal communications.

Source: Bureau of Transport and Regional Economics (BTRE), 2007, Australian sea freight 2005–06, Information Paper 60, BTRE, Canberra ACT.

### Australia – a trading and shipping nation

5.1.14 Third, we want to repel the urban myth created by successive National Party Ministers for Transport that Australia is a shipper nation, not a shipping nation. We present these facts to explode that myth:

- Approximately 99 per cent of Australia's merchandise trade is moved by sea;
- Australia has the fifth largest shipping task in the world, in terms of tonnage and kilometres travelled;
- Our international maritime trade has increased significantly over the past decade, increasing from 408 million tonnes in 1994/95 to 681 million tonnes in 2004/05 (Meyrick & Associates, *International and domestic shipping and ports study*, 2007);
- Over the next twenty years, containerised trade is forecast to almost triple from 5.2 million Twenty-Foot Equivalent Units (teus) in 2004-05 to 14.9 million teus in 2024-25 (Meyrick 2007);
- Total non-containerised trade is forecast to more than double over the next twenty years, from 0.6 billion tonnes in 2004-05 to 1.4 billion tonnes in 2024-25 (Meyrick 2007);
- About 30 thousand visits were made by all ships at all Australian ports in 2004-05. The number of ship visits is forecast to nearly double over the next 20 years to around 54,800 in 2024-25 (Meyrick 2007).

5.1.15 Australia has a healthy involvement in direct maritime support services such as marine insurance and marine arbitration. There is also a large segment of the maritime industry involved in broking, freight forwarding, and all aspects of logistics.

## Who are the key shipping players?

5.1.16 In addition, Australia retains a number of successful shipping owners, operators and ship management companies. These include:

### *Ship managers/operators/labour supply companies in the Bluewater sector*

- ASP Ship Management, which operates (and supplies the labour for) some 12 vessels, usually for owners such as Rio Tinto, BP Shipping and Jebesen International. ASP Ship Management also provides a range of ship management support services including:
  - Technical ship management
  - Crew Management
  - Commercial management
  - Bunker services
  - Port and terminal management
  - IT solutions;
  
- Teekay Shipping (Australia), which operates (and supplies the labour for) several vessels, including for owners such as BHP Billiton. Teekay Also provides a range of related support services, including:
  - Ship Management – both technical and crew related;
  - Crewing - Teekay recruits and trains crews for vessel owners;
  - Technical services which include: vessel technical support, scheduled repair and maintenance programs including dry-docking, procurement services and supply, insurance and accounting, audits – and other services aimed at improving customer vessel performance.
  - Towage and Service Vessel Management - manages marine towage operations – including tug management and port towage, crewing, fleet renewal advice, and maintenance and service.
  - Health and Safety Management - Services include risk assessment for possible health and safety risks on a vessel; risk assessment surveys; preparation of design models and systems to minimize such risks; and consulting and advisory services for improving the safety of vessel systems, procedures and design elements.
  - Defence industry support such as technical management, and onboard and ashore technical support for Defence vessels and crews, and Superintendency, involving collaboration with Department of Defence to develop work packages for all shipbuilding, conversion and modification, and repair projects.
  
- Trident Shipping Services & Trident LNG Shipping Services (part of the Shell Group), which operates some 6 vessels, for owners such as the North West Shelf Shipping Services Company, which owns 4 of the 9 dedicated LNG tankers trading LNG between Australia and Japan; and for petroleum companies such as Shell;
  
- Inco Ships, which manages a fleet of 11 ships, for a range of owners including CSL, ANL, Zinifex, SIBA Ships (livestock carrier);

5.1.17 The above ship management companies do not own any vessels in Australia.

- The Canada Steamship Line (CSL) which currently owns or charters, and operates, 5 vessels, with a newbuild to be commissioned in late April 2008;

### **Owners/operators**

- The North West Shelf Shipping Services Company, which operates 4 of the 9 dedicated LNG tankers trading LNG between Australia and Japan;
  - and it is expected that one of the three additional LNG tankers required for the Pluto project will be Australian owned, by Woodside Energy
- CSR, which majority owns one Australian vessel and has chartered another foreign flagged vessel while awaiting the right market conditions to purchase a new build to replace 2 old vessels which it decommissioned in mid 2007
- Perkins Shipping, which owns and operates 6 Australian flagged vessels (and charters 1 foreign flagged vessel) out of Darwin, mainly Ro-Ro self landing vessels and container/multipurpose vessels, serving the island communities, coastal communities and gulf, and the NT-Qld trade, as well as offering services to Timor Leste and Asia
- Jepsen International (Australia) which operates 1 vessel, and has a newbuild on order;
- Searoad Shipping, which operates two purpose-built, roll on/roll off vessels plying between Melbourne and Tasmania
- ANL Container Line Ltd which owns/operates one Australian flagged vessel between Melbourne and Tasmania, and has port calls in Australia as part of its global foreign registered container line operations. In addition it operates two foreign flagged licenced vessels
- SeaCorp, which owns/operates one vessel, and has a long-term WA State Government contract to provide coastal shipping services which link North West ports with Fremantle and Darwin. This ship services Fremantle, Dampier, Port Hedland, Broome, Wyndham and Darwin
- TT Line, a Tasmanian Government owned corporation, which operates two ferry/cargo vessels between the mainland and Tasmania
- Southern Shipping, sea freight and passenger service running the weekly Tasmanian government contracted sailing's between Bridport, Tasmania and Lady Barron, Flinders Island, with fortnightly sailing's to Cape Barren Island and Port Welshpool, Victoria on weekly basis. Southern Shipping owns and operates two small Roll On/Roll Off vessels.

5.1.18 There are several other owners of Australian trading ships, such as Zinifex, BP, Torrens Investments, Merchant Princess, Adelaide Brighton Cement, SIBA Ships which own vessels but contract out ship management, operations and crewing.

### **Characteristics of shipping which supports the offshore oil and gas industry**



5.1.19 In the offshore oil and gas industry there are 6 major vessel and labour supply companies that service offshore oil and gas industry projects, from the exploration stage to the production stage. These companies are operating in the order of 70-80 vessels at any one time, with a crew complement ranging from 9-15 on each vessel. These companies are:

- Offshore Marine Services (OMS), an Australian company, with approx 18 vessels
- Total Marine Services (TMS), and Australian company with approx. 3 vessels
- Tidewater Marine, an Australian company, with approx. 8 vessels
- Mermaid Marine, an Australian company linked to TMS, with approx. 21 vessels
- Farstad, a Norwegian company, with approx. 14 vessels
- Swire Pacific, a Hong Kong based company, with approx. 11 vessels

5.1.20 Seismic vessels, drilling rigs, construction barges, dive support vessels, pipe laying vessels, rock dumpers, dredges and RVOs are generally contracted in by the lease holders (companies such as Woodside, Chevron). The suppliers of such vessels often contract out these vessels to ship managers/operators who may or may not supply the labour. Where the vessel operator does not supply the labour, a specialist labour supply company (the employer) will provide that service. All such vessels hired in to work in the Australian offshore oil and gas industry are crewed by Australian seafarers, though in a few instances where there have been critical shortages of officers and engineers, foreign officers and engineers have been utilised, usually under 457 visas.

5.1.21 Some FPSOs and FSOs are Australian owned, while a number are on long term charter.

5.1.22 The following information will provide some perspective of the extent of marine activity in the offshore oil and gas industry in Australia at present. The 18 drill rigs in the industry at present are:

- West Atlas - NT
- West Triton – Vic
- Nan Hai VI – WA
- Wilcraft – WA
- Stena Clyde – WA
- Songa Venus – WA
- Songa Mercur – WA
- Sedco 703 – WA
- Ensco 106 – WA
- Ocean Bounty – WA
- Ocean Patriot – Vic
- Atwood Eagle – WA
- Jack Bates

5.1.23 The 9 current operating platforms (manned), include:

- Goodwyn A
- Wandoo A
- Wandoo B
- North Rankin A
- Stag A
- Ocean Legend
- 18 Esso Platforms in Vic
- Yolla
- Otway

5.1.24 The 13 current Floating, Production, Storage and Offtake tankers (FPSOs) include:

- Challis Venture
- Jabiru Venture
- Crystal Ocean – Vic
- Cossack Pioneer
- Front Puffin
- Griffin Venture
- Modec Venture 11
- Stybarrow (Modec Venture 16)
- Nganhurra
- 4 Vanguard
- Maersk Ngujima-Yin – leaving Singapore within weeks to commence in Australia (Vincent Field-WA)
- Montara – Commencing work in Aust late 08
- Ningalla Vision – Commencing in Aust late 08

5.1.25 The 2 current Floating, Storage and Offtake tankers (FSOs) include:

- Karartha Spirit
- Dampier Spirit.

### **Cruise ship sector**

5.1.26 Australia has only a small domestic cruise vessel sector. There are only a few operators who own and operate Australian vessels, such as Coral Princess Cruises, North Star Cruises, Pearl Sea Coastal Cruises and Melbourne Star Cruises, which between them operate about 6 small coastal cruise vessels. All the major cruise vessels serving Australian are foreign owned and flagged.

### **Towage sector**

5.1.27 In addition, there is a large towage (tug) sector, comprising some 150 to 170 vessels. There are 5 key operators, the largest operator being Svitzer (a subsidiary of AP Moller Maersk), which is foreign owned and operated. Other companies include Pacific Basin Towage, Teekay (operating tugs for BHP Billiton), Riverwise (operating tugs for Woodside Energy) and Hobart Ports.

### **Shipping industry employment**

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- 5.1.28 Fourth, we note the scarcity of reliable data on employment in the Australian shipping industry.
- 5.1.29 ABS data available to the MUA (ABS 1998 Business Register) shows there were 2,400 seafarers in the trading fleet and 1,400 seafarers in the offshore sector, a total of 3,800 seafarers in 1998. However, the ABS data reported there being 14,827 seagoing employees in the maritime industry as a whole.
- 5.1.30 The Seafarers Safety, Rehabilitation and Compensation Authority Annual Report 2006-07 reports that there were 5,690 employees covered under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) during the year working for 33 employers. As the Seafarers Act only covers employees on vessels engaged in inter-State and overseas voyages, its employment data understates the number of seafarers engaged in the industry. It does not cover vessels engaged in intra-State voyages such as harbour ferries etc.
- 5.1.31 Union membership data from the 3 Australian maritime unions reveals a Union membership in seafaring occupations of approximately 9,000 in 2007.
- 5.1.32 We note that on the Government's own data showing a decline in the trading fleet of some 34 ships over the 10 years to 2007, and taking an average crew of 17 (X2 to account for leave = 34), the trading fleet decline has resulted in a loss of employment of some 1,156 seafarers, or approximately 20% of the seafarer trading fleet labour force. This is a major decline.

### **Shipping terms of trade**

- 5.1.33 The Union submits that Australian commodity exporters and the Australian international shipping industry have failed to take full advantage of their market power in effectively managing the supply and value chain opportunities beyond our ports. We believe that Australian shippers, particularly the commodity exporters with long term contracts, have failed to fully understand or pay attention to shipping in their supply and value chain management.
- 5.1.34 The evidence can be seen in the large shipping queues at Australia's coal and to a lesser extent iron ore export ports, in the heavy reliance on foreign ships for our exports, almost exclusively operating under Free On Board (FOB) shipping contracts (under which the buyer controls the shipping, and therefore determines the ship scheduling, ship utilisation, crew standards and costs).
- 5.1.35 The predominance of FOB shipping contracts in the international coal and iron ore trade where long term fixed contracts predominate is in marked contrast to the Delivered Ex Ship (DES) contracts (where the seller controls the shipping) in the Liquefied Natural Gas (LNG) trade for example.
- 5.1.36 The long shipping queues at ports like Newcastle and Dalrymple Bay are as much about poor shipping policy as about structural deficiencies in shore side

infrastructure. Yet this factor is consistently overlooked by policy makers and commentators – and certainly by regulators. The propensity of Australian commodity exporters and Governments to place a low value on the shipping component of the overall supply chain, from mine to export destination, is at the core of the dilemma facing Australian exporters and those who provide supply chain services in an environment where demand for Australia's abundance of resources is increasing.

5.1.37 Australia's resource exporters have failed to understand the shipping industry and its significance in supply chain productivity and efficiency.

5.1.38 This is recognised by infrastructure asset managers such as Babcock and Brown. In relation to its Dalrymple Bay Coal Loader Babcock and Brown has publicly stated that FOB shipping terms create a dysfunction in the supply chain, exacerbated by variations caused by lateral and dynamic shipping requirements which compound stockyard management at the port. Babcock and Brown say that there are several consequences:

- FOB coal sales create an inability to control ship arrivals;
- It means there is no minimum ship size rules (and deballasting of small ships creates time delays in queuing); and
- There is lack of control over multi-parcelling of vessels as well as blending of vessels for efficient port operations.

5.1.39 Shipping appears to be regarded by exporters as just another service to be bought in to support the supply chain, like fuel for the trains or tyres for the trucks. Invariably, shipping is left to the commodity buyer to arrange. This is the big downside of Free On Board (FOB) shipping terms, apparently so strongly favoured by Australian commodity exporters, particularly in the coal/minerals sector.

5.1.40 What are the disadvantages of FOB shipping terms?

5.1.41 First, FOB shipping terms means that the exporter has minimal influence over the scheduling of the ships, and cannot maximise the productivity of the ships. Yet the exporter is paying the demurrage (waiting time charges) while the ships sit in queues off Australian ports, typically at a cost of up to \$1m per day (ACCC estimate from Newcastle). Under such circumstances, there is no incentive for the foreign ship operator to find alternative cargoes for the ship - to reschedule. Nor is there any ability for Australian regulators such as the ACCC to influence ship arrival times to ensure arrival times match available loading time slots.

5.1.42 Second, the ships are invariably Flag of Convenience (FOC) ships, operating at the lowest international standards and with crews that are paid at the lowest international seafarer rates of pay, and with the weakest conditions of employment. The very fact that a ship may have to wait outside a port for 2-3 weeks means that the opportunity for seafarers to enjoy some form of normalcy of life, such as shore leave, is diminished and contributes to the already low labour standards. Third, the Australian exporter has no control over ship safety standards. It is no coincidence that there has been a number of accidents involving foreign ships carrying Australian commodities in the

Asian region over the past 2 years, as well as potentially disastrous incidents like the *Pasha Bulker* grounding.

5.1.43 In summary FOB shipping means the Australian exporter loses all control over shipping – its scheduling, its cost, its standards, its efficiency.

5.2.44 The preponderance of FOB shipping terms in coal/minerals exports contrasts dramatically with the Liquefied Natural Gas (LNG) trade from the North West Shelf (NWS), where the exporter has arranged shipping on Delivered Ex Ship (DES or Ex Ship) terms, where the exporter controls the shipping. The net result is that the commodity exporter has full control over ship scheduling, ship costs and ship standards. For example, when an LNG carrier is likely to be underutilised during the Asian summer, it can be diverted to deliver spot LNG cargoes to additional customers, thus maximising ship productivity.

5.1.45 Furthermore, the Ex Ship arrangements mean that there are Australian registered ships using Australian crews in the LNG trade, with national interest and other commercial advantages for Australia. The use of Australian shipping and seafarers is regarded by the NWS LNG operator as giving it a critical comparative advantage in the LNG trade. Not only are Australian ship standards at the leading edge, but Australian seafarers are regarded internationally as among the best trained and best qualified. The shipping becomes a profitable and productive business in its own right, with significant spin offs for Australia, not least of which is strong integration between the shipping and onshore infrastructure assets.

5.1.46 The LNG industry will be a major shipper of Australian resources over the next 50 plus years. It is already setting the standard in managing the entire supply chain, from well head to export destination, with stunning results. There has not been one safety incident or ship delay in over 2,300 shipments of Australian LNG over nearly 20 years of export, and not one dollar paid in demurrage costs. As new LNG projects come on stream, and the shipping element of projects becomes increasingly important, the example established on the NWS project should become the shipping model for all future Australian export industries, and most definitely the model for new LNG shipping.

5.1.47 A recent report commissioned by the Australian Maritime Group, comprising Commonwealth and State maritime officials that reports to Australia's Transport Ministers, prepared by Meyrick and Associates entitled *International and Domestic Shipping and Ports Study*, released on 2 July 2007, said that:

*“sales trade terms of Australian exporters means that they, and the ports, are unable to control the inefficiencies of vessel planning by overseas buyers which is often a cause of the growing congestion found at bulk export ports”.*

5.1.48 This is in stark contrast to the willingness of commodity exporters to invest in road and rail infrastructure (including trucks and trains) and in ports, both wharfage and loading equipment, and to work collectively to micro-manage onshore supply chains to maximise efficiency and productivity, and of course to maximise the return on that investment in landside transport.

5.1.49 Further evidence of neglect in the shipping component of our export trade lies in the near potential disasters like the *Pasha Bulker* grounding on Nobbys

Beach at Newcastle and in the almost zero media attention given to the sinking of FOC vessels carrying Australian iron ore over recent years.

## 5.2 Review the policy and regulatory arrangements in place for the coastal shipping sector

### The policy and regulatory framework – background

- 5.2.1 There is currently no clearly articulated national coastal shipping policy.
- 5.2.2 However, the Coasting Trade provisions (Part VI) of the Navigation Act establish the principle of cabotage, which has been retained in the Navigation Act by successive Governments of all political persuasions for nearly 100 years. These provisions are the central policy foundation on which coastal shipping sits.
- 5.2.3 With the exception of Part X of the *Trade Practices Act 1974*, which provides an anti collusion regime for liner shipping; the safety and marine protection provisions of the Navigation Act and the security provision in the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA), international shipping, and in particular international bulk shipping, is essentially deregulated. There is no articulated policy position at all for Australian international shipping. We address Australia's international shipping in Section 5.3.
- 5.2.4 The policy position that has applied for the past 11 years to November 2007 contrasts markedly with the policy position of previous Labor and even Coalition Governments in the 1970s, 1980s and early 1990s all of which adopted policy positions of support for the Australian shipping industry through a range of fiscal and administrative support measures aimed at increasing the efficiency of the Australian fleet and encouraging investment in Australian ships.
- 5.2.5 The key supportive policy approaches are outlined below:

#### ***Crawford Report***

- 5.2.6 In 1981, Sir John Crawford produced a report for the Fraser Coalition Government titled *Revitalising Australian Shipping*. Key recommendations in the Report included:
- Financial incentives were to be made available providing manning met levels determined by a manning committee:
  - The extension of investment allowances to ships in international trades (previously applicable to coastal vessels only);
  - Depreciation of 20% pa commencing in the year prior to commissioning (previously 6.25% pa):
  - 2% import duty on imported ships to be abolished.

5.2.7 These measures were conditional on reductions in crew numbers. The Crawford recommendations were substantially implemented. Several new ships entered the fleet and there were some reductions in crew sizes although numbers were still above OECD standards. The Crawford financial package came into force in April 1984.

### ***Maritime Industry Development Committee***

5.2.8 In 1985, the Hawke Government established the Maritime Industry Development Committee (MIDC). It recommended the acquisition of new generation ships, multi-skilling of crews, and the abolition of various labour demarcations. The Government accepted these recommendations and provided capital assistance for the purchase of vessels under the *Ships (Capital Grants) Act 1987*. The resulting investment reduced the average age of the Australian shipping fleet to below the average age of the world fleet. Crew numbers were reduced to the levels on most OECD ships. The abolition of demarcation problems was reflected in a fall in the number of ship days lost through crew disputes.

### ***Transport Industry Advisory Council***

5.2.9 In 1986 the Transport Industry Advisory Council submitted to the Minister a report entitled *A Proposal for the Development of Australian Flag Shipping*, recommending three year depreciation, beginning in the year before commissioning. The report maintained that the expansion of the fleet following the Crawford report was a consequence of shorter depreciation periods, the extension of the investment allowance to overseas trading ships, and the manning reductions on which these concessions were conditional.

### ***Shipping Reform Task Force and the Shipping Industry Reform Authority***

5.2.10 In 1989, the Shipping Reform Task Force developed an agreed package of reforms which would help to reduce the operating costs of Australian ships to that of comparable OECD ships with national crews. Key elements of the package included:

- Extension of the 7% capital grant and accelerated depreciation for an additional five years to 30 June 1997;
- Rebated, from 1 July 1992, that component of marine diesel excise allocated to road and rail (about \$3 million pa);
- Contributed up to \$24,000 per package to a one-off redundancy scheme;
- Introduced programs to reduce crews on existing and new ships;
- Provided joint funding on a dollar for dollar basis for retraining up to a ceiling of \$5 million over three years for associated non-tuition costs; and
- Established the Shipping Industry Reform Authority for three years from 1 July 1989 to oversee the detailed development and implementation of the reform strategy.

- 5.2.11 Effective from 1 July 2000, the Government introduced a 100% rebate of the excise on heavy fuel oil, the main source of power for ships engaged in coastal trade, and diesel fuel used in marine transport. This rebate has continued under Section 36 of the *Energy Grants (Credits) Scheme Act 2003*. The rebate eased the cost disadvantage that coastal shipping faces relative to road transport. However, the Government also extended the rebate to rail transport, negating to some extent the competitive benefit to coastal shipping.
- 5.2.12 On coming to power in 1996, the Howard Government took a number of deliberate steps aimed at strangling investment in Australian shipping. As a result there are currently no supportive fiscal or non-fiscal measures exist for the national shipping industry.
- 5.2.13 These positive policy approaches of the decade or more prior to the Howard Government were abruptly reversed in 1996. The Howard Government terminated the PAYE rebate scheme (a scheme that assisted seafarers in the international seafarer labour market); it terminated the shipping capital grants scheme (to have been applicable to vessels delivered on or before 30 June 1997) as at 30 June 1996 (though subsequently extended to 30 June 1997); and it terminated the accelerated depreciation provisions that supported investment in Australian shipping.

### **The impact of liberalisation of the permit system by the Howard Government**

- 5.2.14 Significantly, the Howard Government also extensively liberalised the coastal trade permit system through significant revisions to the Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping. One effect of the liberalised administration of the permit guidelines is that it has allowed the permit system to be abused. Some of the key abuse mechanisms are:

#### ***Late applications for Permits***

- 5.2.15 Shippers and/or their agents are making application for a Permit just before a cargo is required to be shipped, having discreetly ascertained that a foreign vessel is available to transport their cargo, thus making it almost impossible for an Australian licenced vessel to be available. Moreover, shippers and/or their agents are making applications at a time when they know the relevant licenced vessel already has a cargo onboard and/or is a long distance away from the loading port and would therefore not be able to be available within the 3 day window stipulated in the Guidelines (the Guidelines require the licenced vessel to load the cargo within a 3 day window either side of the shippers specified sailing date). It is inconceivable that shippers or clients do not know well in advance the shipping schedule for most cargoes.

#### ***Selective timing of applications for Permits and possible collusion to deny cargoes to licenced ships***

- 5.2.16 A practice which suggests there could be collusion between shippers and foreign shipping lines was revealed in research undertaken by the MUA in relation to shipments of High Consequence Dangerous Goods (HCDG) such as ammonium nitrate.



5.2.17 The MUA researched Permit data obtained from the then Minister for Transport under a Question on Notice covering Permits over a 5 year 7 month period from 2000 to August 2005. The research revealed that particular ships from two global shipping lines accounted for 25 of the 30 Permit voyages (83.3% of voyages) for certain HCDGs over that 5 year 7 month period, leading the MUA to speculate that the shipper and ship operators may be colluding to exploit or abuse the Permit system. It seems more than mere coincidence that in 83.3% of cases, ships from just two operators just happened to be available to carry a particular HCDG cargo.

5.2.18 Given that on average there are less than 10 such cargoes carried under Single Voyage Permits (SVPs) each year, it seems inconceivable that the shipper was not able to arrange for/contract with a licensed ship/s to carry the cargo. It could not be possible that the client of such a cargo type only realises they have a need for such a product at short notice and then find that there is no licensed ship available to deliver it, even under low inventory industrial production strategies.

#### ***Manipulation of cargo sizes to avoid the use of a licenced ship***

5.2.19 Another means by which shippers are obtaining Permits is by stating a cargo size on the Permit application that they know the licenced vessel cannot meet, or would only be able to meet with more than one voyage, making it uneconomical for the licenced ship to carry the cargo. This results in the Department of Infrastructure and Transport granting a Permit on the basis that the licenced ship is unsuitable.

#### ***Unreasonable conditions on licenced ships***

5.2.20 Another mechanism used to ensure a Permit is issued is that applicants for a Permit are able to specify the conditions that are required of a licenced ship, and which they apparently do not require of a foreign Permit ship. For example, an Australian shipper was known to have placed a condition on the licenced ship that its tanks to be used for carriage of an animal feedstock not have been used to carry a petroleum product within the last 3 voyages. This is despite the capacity to clean tanks in these specialised liquids tankers to exacting standards for the carriage of more sensitive cargoes.

5.2.21 A second example is that in the container trade, the licenced ship must be able to move the whole of the container cargo in one voyage, or lose the entire shipment, whereas the shipper is entitled to share the shipment among a number of Permit ships. Such practices clearly discriminate against licenced vessels.

#### ***Freight price differentials, rendering the licenced ship unsuitable***

5.2.22 A disturbing development is that the former Government apparently accepted the shippers' argument that if the freight price quoted by the licenced ship is higher than that quoted by the foreign ship then the licensed ship is unsuitable. Even if the foreign shipping lines seek to maximise freight revenue from Australian coastal voyages where a Permit is issued, this aspect of their operation is still "cream" on the overall international voyage, (i.e. it is freight they did not factor into freight rate quotes for the principal voyage) and freight

rates can be adjusted to always undercut those charged by an Australian licenced vessel.

- 5.2.23 However, it is obvious that foreign vessels, often Flag of Convenience (FOC) vessels operating under the lowest international standards, will almost always be able to offer a cheaper freight rate than a licenced ship. In May 2006 Senate Estimates hearings, Department of Infrastructure and Transport officials advised that officers adjudicating on Permit applications do not rely on recognised international sources of advice on freight rates in determining the merit of the freight rate offered by the licenced vessel. Officials acknowledged that decisions are based purely on the case made by the applicant, irrespective of the commercial imperatives required by a licenced vessel to remain operational. We note that officers in Department of Infrastructure and Transport that have responsibility for determining Permit applications have little if any commercial shipping expertise.
- 5.2.24 This aspect of the administration of the permit system is founded on the entirely false premise that coastal shipping's competitor is international shipping, when in fact coastal shipping's competition is the other domestic freight transport modes

### **Reflagging**

- 5.2.25 Another opportunity to exploit the current weak regulatory provisions and which severely undermines the Australian coastal shipping industry, and which has been used in a number of high profile cases since 2000, is the withdrawal from service and reflagging of vessels.
- 5.2.26 This can be legally achieved because the current licensing provisions are severely flawed in that they allow a vessel to be licenced without it having to be Australian registered or Australian crewed. All that is required is that the crew be paid Australian wages and emoluments (and that is only when it is engaged in the coasting trade). The cost of a licence is negligible, at \$22.
- 5.2.27 Furthermore, the provision in the Navigation (Coasting Trade) Regulations 2007 which establish the proof that Australian wages have been paid (Section 16) are pathetically weak. All that is required is that the Master 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 seafarers 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.
- 5.2.29 Without casting aspersions on any particular Customs Officer, we question whether a Customs Officer would be sufficiently trained and up to date on the wages payable as defined in S292 of the Navigation Act (Evidence of rates of wages) which states that:

*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*

to be able to accurately ascertain if the correct wages have been paid and that they have been paid into the bank account of every seafarer (as required under the provisions of the relevant IMO Convention). In any case, the Maritime Industry Award rates have long been superseded by collectively negotiated rates, so the Award does not constitute an Australian wage in our view. The Navigation Act defines wages as including emoluments, but there is no accepted definition of emoluments. Again, we question how a Customs Officer can satisfy her or himself that wages (and emoluments) have been correctly paid before clearing the vessel to commence an overseas voyage.

5.2.30 We are unaware of a Customs officer having ever failed to clear a vessel in compliance with this provision. No reports on compliance are ever published to our knowledge.

5.2.31 Despite a strong industry campaign arguing for a modest package of reforms to support Australian shipping, no positive initiatives occurred during the Howard years, except the Government initiated a number of reviews.

5.2.32 For example, in March 1999, the Report of the Shipping Reform Group was handed to Government, and in May 1999 the Shipping Reform Working Group Report was also handed to Government. Still there was no Government action, except the then Transport Minister, John Anderson, made the now infamous statement that Australia was a nation of shippers, not a shipping nation.

5.2.33 Neither of these reports has ever been made public. There is widespread acceptance that they were not made public because they recommended strategies aimed at revitalising Australian shipping.

5.2.34 Out of frustration at the time, and in the public interest, the Australian Shipowners Association established the Independent Review of Australian Shipping (IRAS) co-chaired by former Ministers for Transport the Hon John Sharp and the Hon Peter Morris. It reported in December 2001. Even that bipartisan report in support of the industry stimulated no action by the Howard Government.

5.2.35 It was not until 2004 that the then Transport Minister John Anderson set out what in fact is a non policy where he indicated that the key planks of Australian shipping policy are:

- That Australia's international trade should continue to rely on international shipping – which means foreign ships, and in many cases Flag of Convenience (FOC) ships that bring no economic benefit to the nation and in fact which result in a net transfer of Australian wealth to foreigners; and
- A continuing reliance of the Coastal Trading Permit System to ensure Australian shippers can access foreign shipping – in contravention of the cabotage principles in the *Navigation Act 1912*, where permits were only meant to apply in limited circumstances to ensure that freight was not held up (permits were meant to be the exception, not the norm. The original intention

was that they were to be issued only when there is no suitable licenced vessel available).

### Recent developments in support of a national shipping industry

5.2.36 Despite this regressive state of affairs, the MUA believes we are on the cusp of a significant change that will begin to restore an important role for shipping in the national freight and logistics industry.

5.2.37 Leaving aside the election of a Labor Government late in 2007, some of the other factors that have led the MUA to this conclusion are:

- The calls by a number of respected industry leaders for a greater role for shipping in the national freight task. For example:
  - On 3 May 2007, the maritime press reported on a statement by the Executive Director of the Association of Ports and Marine Authorities, David Anderson, that the Australian transport chain should prepare for the re-emergence of coastal shipping as a formidable alternative to road and rail.
  - On 23 May 2007 the Executive Director of the Australian Logistics Council, Hal Morris, is reported as saying that coastal shipping was missing from the national transport policy agenda in favour of rail and road reforms, and that the Australian Logistics Council is concerned at the lack of attention paid at a Commonwealth level to the development of coastal shipping as an alternate transport mode.
  - The regular and positive interventions into the transport policy debate by the Australian Shipowners Association.
- The positive statements made by political leaders across the political spectrum. For example:
  - On 22 May 2007, the then Shadow Minister for Transport, the Hon Martin Ferguson, issued a statement saying that Labor is committed to a strong, efficient domestic shipping industry that offers fair pay and working conditions to Australian workers and the responsible use of single and continuous voyage permits. The statement went on to say that in Government Labor will:
 

*“undertake a review of coastal shipping policy as requested by the shipping industry to improve the efficacy of the current cabotage regime – with the objectives of sustaining a viable and efficient domestic shipping industry, decent wages and conditions for working Australians, responsible use of single and continuous voyage permits, and safety and security in our ports and shipping lanes.”*
  - On 24 May 2007, the then Parliamentary Secretary with responsibility for Maritime Transport, The Hon De-Anne Kelly, is reported to have indicated to the Regional Ports in Focus 2007 Conference that:

*“the Federal Government was looking at a means of supporting the growth of Australia's coastal shipping industry and that the Government wanted to see coastal shipping take a greater role in the freight task over the next 20 years.”*

- On 1 August 2007, Labor issued a major policy statement on shipping entitled Labor's Vision for Shipping in a National Intermodal Transport System.
- Support from Parliamentary Committees of Inquiry for a stronger role for shipping in the national freight task. For example:
  - The House of Representatives Transport and Regional Services Committee report entitled *The Great Freight Task: Is Australia's transport network up to the challenge?*, of 13 August 2007, arising from its inquiry into the Integration of Road and Rail Interface with Ports over 2006-2007 concluded that:
    - Moving more freight by sea may be an option to alleviate some of the growing pressure on land transport networks.
    - Australia is necessarily reliant on international shipping for its import and export needs. However, the coastal shipping option for transporting freight between Australian cities is currently overshadowed by road and rail.
    - The European experience suggests that coastal shipping has significant potential to curb anticipated increases in heavy vehicle road traffic, rebalance modal shares, bypass land bottlenecks and provide a sustainable transport option.
    - The role of coastal shipping should not be overlooked when examining existing transport network operations and prospects for future freight efficiencies.
    - 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, cabotage, potential skills shortage, industrial issues and foreign competition.
    - 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. These standards are in sharp contrast to the condition of some foreign vessels operating on the Australian coast.
    - 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.

- Even a small modal shift in favour of domestic shipping should reduce transport sector energy consumption and emissions.
  - 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.
  - 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.
  - 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.
- The signs emanating from the Transport bureaucracies with responsibility for shipping policy, signalling that there is a growing interest in shipping as an important component of the freight task, after years of policy inaction. For example:
    - In July 2007, the Australian Maritime Group (a forum of maritime officials that reports to the Standing Committee on Transport - SCOT), under the auspices of the Australian Transport Council, comprising all the Transport Ministers, released a report prepared for it by Meyrick and Associates entitled *International and Domestic Shipping and Ports Study*.
    - The fact that the study was commissioned in the first place represents a sea change in thinking in the policy echelons of the Commonwealth and State transport departments. Further, the study essentially made the case for a revival of an Australian coastal shipping industry, and pointed to the types of policy options that might be considered by Government if shipping is to play a greater role in the national freight task.
  - A renewed interest in the shipping policy debate in the maritime and mainstream media. For example:
    - In June 2007, at the time of the grounding of the *Pasha Bulker* at Nobbys Beach in Newcastle, the maritime press gave some attention to the role of Flag of Convenience (FOC) shipping and the significance of

the form of commercial shipping contracts, particularly the dominance of Free on Board (FOB) shipping terms in Australia's bulk commodity export market.

- On 19 May 2007, shipping policy made it onto the front page of the Australian, arising from an MUA website media release commenting on the outcomes of the ALP National Conference of April 2007. This was followed by a second front page article on 21 May, as well as an Editorial and further coverage on 22 May. The Financial Review gave shipping policy some attention on 21 May 2007. Such attention was unprecedented in recent Australian history over the late 1990s and early 2000s.
- The analysis in the Australian newspaper during October 2007 of the role of shipping and freight rates in the context of the BHP Billiton call for a new international pricing mechanism for iron ore contracts.

### **The findings from recent MUA research on a national shipping industry**

5.2.38 Over this same period the MUA commissioned two important reports on Australian domestic shipping aimed at lifting the quality of the policy debate.

#### ***The domestic competition issue***

5.2.39 The first was a report prepared by the National Institute of Economic and Industry Research entitled *Australian Coastal Shipping: its Future Role* (unpublished) of June 2007. That report noted that:

*“Coastal shipping carries a little under a third of Australian domestic freight, measured in tonne-kilometres. As a freight carrier, it therefore ranks with road and rail transport, each of which, similarly, is responsible for about a third of the Australian freight transport task (BTRE 2006b). However, coastal shipping performs its task with commendable efficiency. Shipping as a whole, of which coastal shipping is but part, employs no more than 3 per cent of the transport workforce, incurs no more than 3 per cent of transport industry fatalities, and is responsible for around 2 per cent of transport-sector greenhouse gas emissions. These are but small costs for nearly a third of the load.”*

5.2.40 The report also concluded that:

*“...container shipping is strongly competitive with land transport on the long haul between the East and West coasts of Australia. On the thousand-kilometre runs between the east coast capitals shipping is not currently competitive, but any one of the following events could easily precipitate a change.*

- *If international liner ships ceased calling at all Australian ports, but instead selected one or two, coastal shipping would be in a position to gain some of the resulting local trade, particularly if low-cost transfer between liner and coastal vessels could be arranged. The resulting increase in service frequency would then improve its competitiveness overall.*

- *The competitive position of coastal shipping would be improved if the ports reviewed their charging practices, removing monopoly elements and shifting elements of cost recovery from coastal shipping (which operates in a highly competitive market) to international shipping.*
- *The competitive position of coastal shipping would likewise be improved if cost recovery for competing land transport were increased. Though rail is most directly competitive on the East-West run, its freight rates are set to compete with the market leader, road transport. The Productivity Commission has recently found that B-doubles are subsidised, these being the vehicles most likely to compete with rail and shipping. Independent calculations .....indicate that there is plentiful scope for increased cost recovery from road vehicles engaged in interstate trade, not only from B-doubles but from long-distance trucking in general. Increased cost recovery from trucks would then permit increased recovery from rail and improve the competitive position of shipping. However, this report does not advocate a move to full cost recovery for land transport infrastructure; rather, it advocates investment in shipping to level the playing field.*
- *Finally, any increase in fuel prices, whether due to 'peak oil' or to greenhouse concerns, would advantage shipping (and rail) over road transport."*

5.2.41 The report identified a number of policy options which include the following:

- *"Better integration of transport, including shipping, into bulk manufacturing and commodity processing supply chains. Bulk transport so integrated should be eligible for support on the same conditions as the manufacturing operations to which it relates. This would include not only shipping but ports, road and rail.*
- *Provision of capital relief for shipping investment, so that the Australian register again becomes tax-competitive. The capital relief could include registration reform, accelerated depreciation (as was successful in the past), a switch to a tonnage tax (as is fast becoming world maritime standard practice) and measures to reduce the risks of shipping investment – integration into manufacturing supply chains, retention of cabotage and level playing field policies being important elements.*
- *The artificial cost disadvantages of shipping relative to land transport should be addressed by increasing cost recovery for land transport line-haul infrastructure (particularly road) and by reducing port costs loaded onto coastal shipping.*
- *Cabotage has in the past been conditional on the coastal shipping industry giving good service. The industry has met past targets for productivity improvement, and can do so again if its risk environment is managed so that investment is justifiable. Being made cost-effective through productivity improvements, cabotage will then yield spin-off benefits including improved security, improved backup for the navy, reduced environmental cost and a supply of skilled personnel to the maritime industries generally."*

### **The greenhouse credentials of shipping**



5.2.42 The second report was prepared for the MUA by the Australia Institute, entitled *Climate Change and Australian Coastal Shipping*, published in October 2007. The essential messages that can be drawn from the Australia Institute report are that:

- Of all the domestic freight transport modes, coastal shipping is the least energy and emission intensive – shipping has positive greenhouse credentials.
- Shipping is at least 10 times more energy efficient than rigid trucks and about 5 times more energy efficient than articulated trucks.
- Any shift of freight from the land transport modes to shipping produces positive greenhouse benefits. Transport accounts for 15% of Australia's emissions (80 Mt of the 522 Mt of Australia's carbon emissions), with freight transport contributing about 1/3 of transport emissions (approx 30 Mt [37Mt on a full fuel cycle basis (in 2005)]). Transport emissions are growing at nearly 30% per annum, indicating that transport emissions must be reduced if Australia is to reduce its overall emissions:
  - coastal shipping contributes just 4% of freight transport emissions, compared to 84% by road transport.
- In contestable freight corridors such as the East-West corridor, there is potential to move more than 200 container shiploads (of 1700 TEUs) off the road and onto ships – that equates to reducing 26,637 truck movements (222 trucks) annually off the E-W highways (86,569 truck movements (594 trucks) if the N-S corridor is included), with substantial reductions in greenhouse emissions from the freight transport sector.
- Australian ships are more efficient and cleaner than the international fleet due to higher shipping standards in Australia – despite the fact that the Australian fleet is on average 5 years older than the international fleet (the average age of the Australian fleet is 17.5 years, indicating it is nearing the end of its commercial life).
- The age of the Australian fleet suggests that there is an urgent need to replace the Australian fleet with modern efficient vessels if we are to avoid a loss of shipping to other modes and to take advantage of technological developments in shipping design which would further extend the greenhouse advantages of shipping.
- Fleet replacement provides Australia with an opportunity to adopt the latest in ship and engine design to ensure the Australian fleet is at the cutting edge of ship efficiency, which will further enhance the greenhouse credentials of shipping.

### **Government responses**

5.2.43 The MUA considers that the Meyrick and Associates report of May 2007 commissioned by the Australian Maritime Group to be the most significant report on coastal shipping to emerge from Government in the past 10 years. In relation to domestic freight shipping the report concludes that:

- The expected increase in Australia's freight task is seen as providing an opportunity for shipping to play a greater role in the movement of domestic freight around Australia's coastline.
- The mainland inter-State container shipping trade across Australia has been the fastest growing trade in Australia over the last 5 years (gaining market share on road and rail).
- The market for non-bulk freight on the East-West and North-South trade lanes is mature and the expected growth is limited in the "business-as-usual" situation. However, the report says that:

*"What is exciting is that movement by sea is currently a small part of the overall freight task and even small changes in mode share could lead to significant additional volumes of mainland containers, i.e. there is a large contestable market when critical success factors are achieved for coastal shipping."*

- Coastal shipping can become a viable option for significant annual freight volumes if the critical mode choice factors of price, reliability, availability and transit times are pushed towards market competitive levels relative to rail (which is similar to the conclusion reached in the NIEIR report). Success factors include:
  - Reliability upwards of 90% is likely to be required in order for shipping to be trusted as a market alternative.
  - Shipping can realise substantial mode share through minor streamlining in transit times of 10 to 20%. This means in practice deploying vessels with service speeds of around 21 to 25 knots instead of the more standard 18 to 20 knots.
  - Another critical success factor is the securing of a fixed, ideal day berthing window at the main Australian international ports. Without this, it is very hard to provide the level of quality of service required and be attractive for shippers.
  - Availability of shipping services is a mode choice factor directly within the control of operators for immediate returns in mode share. The number of services between cities needs to be increased to compensate for the lag in transit times.
  - Coastal operators need to complement improvements in critical mode choice factors with significant investment in integrated infrastructure and domestic-sized equipment (i.e. port suitability and container availability)
- There exists the opportunity for an innovative operator (entrepreneur) to create a market by combining domestic containerised flows (using domestic-sized equipment) with bulk and/or breakbulk cargoes using "combi/multi-purpose" vessels.

5.2.44 These reports, individually and collectively, provide a powerful public policy case for a revival of Australian coastal shipping. Should they be ignored, we are likely to witness a further decline in the capacity and capability of domestic shipping in the national freight transport task. If this decline were to continue, the critical mass of Australian shipping may well be lost, with catastrophic consequences for the Australian economy, for the maritime sector, for the maritime skills base and for the nation's defences and security.

### **A reformed regulatory setting**

5.2.45 We have outlined in Section 3.21 the broad elements of the reform package required to revitalise Australian shipping. We now outline below the specific policy measures that are required.

### ***Reform of the Ministerial Guidelines for Granting Licences and Permits to Engage in Australia's Domestic Shipping***

5.2.46 A new Preamble, to reflect the Government's commitment to enhance the competitiveness and sustainability of the Australian coastal shipping industry and to clarify the intent of Permits.

- Part of that policy statement would need to acknowledge the principle of Australian sovereignty over commercial shipping operations within Australian waters is adhered to, as upheld by the High Court in *Re Maritime Union of Australia; Ex parte CSL Pacific Shipping Inc* (2003) 200 ALR 39; (2003) 77 ALJR 1497; (2003) 121 IR 103; [2003] HCA 43.
- A second part of the policy statement must seek to establish the objective of competitive neutrality between licenced ships and permit ships

5.2.47 The preamble would also clarify the intent of the permit as being to:

- Fill a temporary incapacity in the Australian fleet so that shippers can meet customer contracted expectations;
- Meet specialised needs that cannot be fulfilled by Australian ships
- Facilitate the development of new trades; and
- Clarify that permits are the exception, not the rule.

5.2.48 However, we believe there needs to be a new category of Permit, or a new subcategory of the Continuing Voyage Permit that provides a Continuing Permit to operators in special circumstances, such as where an operator is awaiting delivery of a newbuild, or where the business case is such that a period of time is needed to establish a foothold in a market. It is our view that applicants for this category of permit should be required to lodge a business case submission and that each case be considered on its merits.

5.2.49 Improving transparency in the administration of the Guidelines, in two ways: (i) by providing stakeholders (whom we believe should be ASA, MUA, AIMPE, AMOU and possibly SA) or interested parties (unspecified) with the opportunity to comment on all applications for a permit within a specified

timeframe aimed at assisting the Minister's delegate to make a decision on a permit application (under previous versions of the Ministerial Guidelines, the parties (which were specified) had 14 days to comment, and in addition, could trigger a conference of the parties if there was an issue of concern surrounding a permit application; and (ii) by providing a real time record of decisions as well as the reason for decision, and by providing regularly updated (no longer than quarterly) data/statistics on both SVPs and CVPs on the Department of Infrastructure website.

5.2.50 The cumulative statistical data should include, but not necessarily be limited to:

- Permit type
- Permit Number
- Date of Permit application
- Date of Permit approval
- Applicant name (company)
- Ship name
- Ship category
- Ship registration (country)
- Tonnes of cargo (MT) or TEUs (if containerised)
- Port of loading (POL)
- Port of discharge (POD)
- Estimated sailing date (ESD)

5.2.51 Strengthen the availability and suitability tests so that:

- The "reasonable commercial terms" provision are amended, or alternatively, define "reasonable commercial terms" so that (i) the offer of a freight rate by the Permit ship which uses international seafarer rates of pay and conditions of employment in determining the ships operational costs as a factor in the calculation of freight rates, is prohibited; and (ii) the Delegate is only able to assess the commercial terms relative to the going rate in the Australian domestic shipping freight market.
- In considering availability and adequacy, the Delegate be required to assess the patterns of applications by the Permit applicant, covering:
  - The previous applications made by the applicant;
  - The patterns of applications made by the applicant;
  - The frequency of applications made by the applicant; and
  - The timing of applications made by the applicant eg how close to the deadline for lodgement of applications are applications typically made.

5.2.52 Such information would enable the Delegate to determine if the information revealed a pattern of application that suggests the applicant is seeking to circumvent the spirit and intent of the Permit system. If a Department of Infrastructure and Transport officer in the course of assessing an application could ascertain from previous applications that a particular ship, or the ships of a particular operator or owner, are consistently showing up in applications for a particular cargo, or with a particular shipper, then the officer should reasonably question the bona fides of the application, and undertake additional investigation before determining an application.

- 5.2.53 Permit holders be required to uplift all available cargo, and not have the option to defer cargo to another voyage, so that the same conditions apply to both a licenced operator and a Permit holder. Alternatively, if the Permit holder cannot uplift the whole of a cargo, it should be deemed inadequate for the task and be ruled out of carrying any of the shipper's cargo.
- 5.2.54 Extend the public interest test by inclusion of a Labour Standards Clause, such that an applicant's adherence to minimum labour standards would form part of the public interest test to be applied by the Ministers delegate in determining an application.
- 5.2.55 The critical element of a Labour Standards Clause in our view is the minimum rates of pay and associated employment conditions applying to the crew. We propose that the definition of the minimum standard be an "ITF acceptable agreement". This is terminology that is used internationally and is recognised in for example, European and Scandinavian labor laws which provide a union right of boycott (for example, of a ship which does not apply an ITF acceptable agreement). It is also the terminology used in charter agreements globally, where the charterer requires the charter party to apply an ITF acceptable agreement to crew.

There are several ITF Agreements applying globally – the ITF Standard Collective Agreement 2006 (which applies when there is a major disputation of the parties), the ITF Uniform Total Crew Cost Collective Agreement 2006 (which is the most frequently applied agreement relevant to FOC ships) and the International Bargaining Forum Collective Agreement 2007 (which applies to ships owned by members of the Joint Negotiating Group (JNG), which is an employers' group made up of a number of ship management and ship owner associations in Asia and Europe which negotiates with the ITF in a body know as the International Bargaining Forum (IBF).

- 5.2.56 The secondary elements of the Labour Standards Clause would: (i) require the delegate to be satisfied that there is a 'genuine link' between the real owner of a vessel and the flag the vessel flies, in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). Article 91 of UNCLOS (Nationality of ships) requires that:

*"Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship"*

and (ii) require the delegate to be satisfied that the record of the Flag State where the vessel is registered is acceptable.

- 5.2.57 The main test of this record would be whether the Flag State has ratified the core ILO and IMO Conventions governing labour standards and ship safety standards. One source of such a record would be the ITFs Flag of Convenience list (which currently includes 32 States. Another source would be the Flag State Performance Table (available at <http://www.marisec.org/flag-performance/FlagStatePerformanceTable07.pdf>) produced by Maritime International Secretariat Services, a joint secretariat of all the major

international shipping associations - BIMCO, NTERCARGO, International Chamber of Shipping, International Shipping Federation and INTERTANKO.

The following 32 countries have been declared FOCs (at April 2008) by the International Transport Workers Federation (ITF) Fair Practices Committee:

Antigua and Barbuda  
 Bahamas  
 Barbados  
 Belize  
 Bermuda (UK)  
 Bolivia  
 Burma  
 Cambodia  
 Cayman Islands  
 Comoros  
 Cyprus  
 Equatorial Guinea  
 French International Ship Register (FIS)  
 German International Ship Register (GIS)  
 Georgia  
 Gibraltar (UK)  
 Honduras  
 Jamaica  
 Lebanon  
 Liberia  
 Malta  
 Marshall Islands (USA)  
 Mauritius  
 Mongolia  
 Netherlands Antilles  
 North Korea  
 Panama  
 Sao Tome and Principe  
 St Vincent  
 Sri Lanka  
 Tonga  
 Vanuatu

5.2.58 The Flag State Performance Table currently identifies a list of 14 Flag States as having 12 or more negative performance indicators, these being: Albania, Bolivia, Cambodia, Costa Rica, Democratic People's Republic of Korea, Democratic Republic of the Congo, Honduras, Kenya, Madagascar, Mongolia, Sao Tome & Principe, Suriname, Syrian Arab Republic and Thailand. If this source was to be used as a guide, the industry would need to agree on which performance indicators would form the basis of ruling out an operator from being eligible for a permit. As far as ILO Standards are concerned, the minimums we believe are essential would comprise those codified by the ILO in its 1998 'Declaration on Fundamental Principles and Rights at Work'. The four principles established in the declaration were;

- freedom of association and the effective recognition of the right to collective bargaining;

- the elimination of all forms of forced and compulsory labour;
- the effective elimination of child labour; and
- the elimination of discrimination in respect of employment and occupation (ILO 1998a).

5.2.59 Also, extend the public interest test by ensuring that a permit vessel complies with Australian laws, including labour law, OHS law, workers' compensation law, taxation law, customs law, immigration law, environment law.

5.2.60 Add a new Clause specifying that a Delegate must refuse to grant a Permit in relation to an application that specifies the cargos as a High Consequence Dangerous Good (HCDG), and in particular Security Sensitive Ammonium Nitrate (SSAN). Such cargoes must only be carried in the coasting trade by Australian flagged or licenced vessels.

5.2.61 We also believe that there needs to be a proper compliance and penalty regime, so that abusers can be quickly penalised, and/or removed from participating in the system.

### ***Amend the licensing provisions in Part VI of the Navigation Act***

5.2.62 Section 288(3) of the Navigation Act (Licensing of ships to engage in coasting trade) requires amending to provide new conditions for the granting of a licence, these being:

- The ship must be registered under the *Shipping Registration Act 1981*;
- The ship must be crewed by Australian nationals i.e. be Australian residents, or persons authorized to work in Australia;
- The Australian seafarers must be engaged under the terms of an Australian collective enterprise agreement; and
- The employer of Australian seafarers must be in compliance with the *Seafarers Rehabilitation and Compensation Act 1992*.

5.2.63 It is our view that the introduction of a more transparent Ministerial Guidelines, with strengthened availability, suitability and public interest tests, combined with the new category of permit we propose, will provide sufficient flexibility to meet shipper needs and shipping operator commercial requirements, whilst at the same time providing regulatory certainty and a foundation for investment in Australian shipping and to build reliability into the supply chain.

### ***Amendments to the Shipping Registration Act 1981***

5.2.64 Repeal the exemption provision in Section 12(2) of the Shipping Registration Act so that the potential loophole that provides for a ship operated by a foreign resident under a demise charter to be exempt from the registration provisions, is closed, aimed at strengthening the integrity of Part VI of the Navigation Act.

***Repeal of those provisions in the Workplace Relations Regulations 2006 that exclude the operation of the Workplace Relations Act 1996 and any State or Territory industrial law in respect to any non-citizen member of the crew of a ship in respect to which a permit has been issued under section 286 of the Navigation Act 1912***

5.2.65 Repeal of this provision will enable the parties to establish a legally enforceable industrial instrument for application of Australian standards to seafarers on permit vessels.

5.2.66 We note that In the CSL case in the High Court (*Re Maritime Union of Australia; Ex parte CSL Pacific Shipping Inc* (2003) 200 ALR 39; (2003) 77 ALJR 1497; (2003) 121 IR 103; [2003] HCA 43) firmly and unanimously established the principle of Australian sovereignty over ships trading the Australian coast, irrespective of vessel flag and crew nationality, and found therefore that the Australian Industrial Relations Commission has power to make an Award covering the employees on foreign vessels operating in the coasting trade under permit, even if the employees are not Australians.

5.2.67 High Court Judge Justice Kirby said in that judgement that

*"In a world of globalisation we are going to see more of this interface between international activity and local activity and jurisdiction is not an unimportant assertion of sovereignty,"*

5.2.68 Similarly, Justice McHugh stated that

*"You cannot point to any principle of international law that says a sovereign state cannot regulate the relations between an owner and the crew of the ship which trades along the coast of that state"*.

5.2.69 Justice Gummow described the submission of the Government, which backed the foreign shipping company by attempting to curtail the Commonwealth's own jurisdiction as a *"dangerous submission"*.

5.2.70 Having lost the High Court case in a unanimous judgement, the Howard Government proceeded to overturn the judgement in the Parliament through a regulation that dissapplied aspects of the Workplace Relations Act.

5.2.71 The MUA continues to pursue the release of documents associated with the Patrick dispute because among other things we believe those documents will also reveal the truth behind the regulations overturning the High Court judgement – and that this decision was taken for political reasons, not for economic or trade reasons.

***The imperative to move to a single national system of safety regulation for commercial vessels in Australia***

5.2.72 The MUA has a strong concern about the adequacy of the regulatory and related management of vessel safety regulation in Australia, and as a result



believes the time is right to adopt a new approach to the regulation of commercial vessel safety in Australia. What we seek is a move to a single national regulatory system of vessel safety for commercial vessels. The background to our concerns are:

- The trend towards the deregulation of maritime safety, particularly ship safety regulation, by State and NT marine/maritime safety agencies.
- That the deregulated approach is compromising vessel safety and occupational health and safety (OHS).
- This trend is impeding the development of a highly skilled and qualified maritime workforce necessary to service both offshore and onshore maritime operations in Australia.

5.2.73 We believe the compromising of OHS and vessel safety is demonstrated by such factors as:

- The high numbers of seafarer and dive tourism employee deaths, particularly in Qld, where, in 2006 17 fatalities were recorded (6 of those on commercial vessels and 11 on recreational vessels), with a further 5 maritime related deaths that the maritime safety authority in Qld regards as out-of-scope;
- The high fatality rate in the fishing industry. From 1997–98 to 2004–05, the number of compensated fatalities in the Agriculture, forestry and shipping industry ranged between 26 and 36 per annum. There were 23 fatalities recorded in the preliminary data for 2005–06. This corresponds to a fatality incidence rate of 12.7 fatalities per 100 000 employees in 2005–06, which was five times the rate for Australia (all industries) of 2.6 fatalities per 100 000 employees;
- The scathing indictment of regulatory failure by Maritime Safety Qld in the Report of the Board of Inquiry into the marine incident involving the ship *Wunma* in the waters of the Gulf of Carpentaria on 6 and 7 February, 2007, released in November 2007; and
- South Australia being unable to deal with the failure of the owners of the vessel *MV Destiny Queen* to maintain the seaworthiness of the vessel, including breaches of required watertight and fire-rated bulkheads and refusal to pay for spare parts to allow machinery to be properly maintained. As a result of safety issues and OHS concerns no qualified Australian Engineers would work on this unsafe vessel and increasing safety concerns lead to an unwillingness of other Australian workers to put themselves in jeopardy. Employees and their unions took the matter up with AMSA but AMSA said they had NO jurisdiction as the vessel was South Australian-registered. The state maritime authority however took the view that the vessel was outside the scope of their expertise so AMSA should take charge.
  - In the end the owners re-registered the vessel under the Flag of Tuvalu and the vessel is now crewed with personnel that fly-in/fly-out from Singapore. The business is still owned by Australians living in South Australia but, similar to many other Australian vessels which have been re-Flagged, this can permit:

- an escape from Australian Employment Law;
  - an escape from Australian Taxation Law;
  - an escape from Australian OHS Law; and
  - an escape from Australian maritime Law.
- the findings in the NSW Office of Transport Safety Investigations (OTSI) report into a collision between the Sydney Ferries harbourcat the *Pam Burrige* and motor launch *Merinda* on Sydney Harbour, released on 28 March 2008, and in particular: (i) the current NSW regulatory provision which allows an unlicensed person to operate a motor vessel in NSW, regardless of its size and the number of passengers onboard, provided they do so at below 10 knots, which OTSI says requires review; and (ii) qualifying for a recreational boating licence in NSW which the OTSI report found needs to be contingent upon satisfying a knowledge test and demonstrating a satisfactory level of proficiency in basic boating competencies, contrary to current law regulations.

5.2.74 We are also concerned about the inconsistent application of regulation across jurisdictions, reflecting a failure on the part of the National Marine Safety Committee (NMSC) to successfully fulfil the mission it was given 10 years ago by Australian Transport Council (Commonwealth and State/NT Transport Ministers) in April 1998 in accordance with the National Marine Safety Strategy (A Strategy for Small Commercial and Recreational Vessels in Australia).

***The failure of the NMSC to deliver against the ATC objectives in the National Marine Safety Strategy***

5.2.75 That strategy required the NMSC, among other objectives to:

- Create and maintain a modern, efficient and responsive system for the coordination and adoption of consistent legislation and standards for marine safety across all jurisdictions:
  - we say that the NMSC has not achieved this objective, as evidenced by continuing inconsistencies in regulation, and by the letter to Minister Albanese and State colleagues by the Hon Joe Tripodi, NSW Minister for Ports and Waterways, proposing new national regulatory arrangements.
- Ensure that standards are established in a flexible, responsive and timely fashion that meets the needs of users and industry:
  - we say that the NMSC has failed to adequately respond to the differing needs of commercial vessels as opposed to the needs of recreational vessels, which has resulted in a dragging down of standards in the commercial vessel sector, which, by the nature of their size and voyage patterns need to be much more attuned to International Maritime Organisation (IMO) standards and national regulatory requirements.
- Ensure appropriate and consistent standards for crew levels and qualifications:

- we say NMSC has failed in this task, in that that injuries/fatalities continue to occur because new employees are not required by regulation to undertake entry-level safety training before commencing employment, and there remains significant variation in standards applying to crew levels and qualifications, across jurisdictions.
- Encourage the adoption of best practice in OHS in marine safety:
  - we say that rather than encourage adoption of best practice OHS in marine safety, NMSC has promoted a deregulated model of OHS (essentially self regulation) which has sought to eliminate enforceable safety standards and recognises no role for the workforce and their unions in implementing good OHS practice, contrary to the Robens model which is the foundation of all OHS systems in Australian law.
- Adopt world's best practice for competency based crew training:
  - we say that NMSC has sought to reduce competency levels and eliminate regulatory oversight of licensing and endorsement processes that have weakened crew competency levels generally, created the basis for industrial disputation over appropriate safe minimum manning standards, has resulted in barriers to developing the maritime skills bank, reduced labour mobility and has weakened the capacity to address the maritime labour shortage, particularly in the commercial sector.

5.2.76 What we propose is single nation-wide responsibility for all commercial vessels, regardless of size, will ensure consistent and effective vessel and employee-safety without differences between the States. With a single national jurisdiction the construction-standards and operational safety requirements will be the same throughout Australia ending the situation where a vessel built in one State does not meet the standards of another State.

5.2.77 These advantages will assist commercial maritime businesses by reducing the regulatory burden that simply arises through having a different Maritime Safety Authority in each State. It will also ensure the full portability of qualifications by issuing them to a national set of competencies which have regard to the desirability that in order to facilitate international portability of skills those issued in Australia should conform with relevant international conventions, thereby providing a stronger foundation of marine skills appropriate to commercial vessels of all sizes consistent with the revitalisation of the Australian shipping industry and improving both vessel and employee safety.

5.2.78 We believe the delinking of commercial ship regulatory arrangements from the regulatory arrangements for recreational vessels will result in a much simpler and smoother regulatory system at the State and NT level, and will allow the States to focus on their major area of interest/expertise i.e. the recreational boating industry.

5.2.79 The overall impact on State marine/maritime regulatory arrangements is likely to be small given the small number of commercial vessels falling under State regulatory arrangements. States would lose only around 5% of their ships, which would have only a small impact on revenue collected from fees and

charges, but would have a large impact on ease and efficiency of regulation of the remaining non-commercial vessel fleet.

5.2.80 The Unions support the central proposition outlined in a letter circulated to industry by the Hon Joe Tripodi, NSW Minister for Ports and Waterways on 10 December 2007, that involves the Commonwealth providing the legislative framework for adopting and enacting standards.

5.2.81 However, our proposal for reform differs from Minister Tripodi's proposal in that our proposition relates only to commercial vessels. Hence, we see the *Navigation Act 1912* and the Australian Maritime Safety Authority as providing the appropriate legislative and regulatory framework for achieving the objective we propose. AMSA is the only maritime authority with the capacity to deliver consistent regulation of commercial vessels throughout Australia.

5.2.82 AMSA is currently responsible for vessel safety in relation to vessels undertaking interstate and international voyages. The legislation it administers is closely attuned to the operation of commercial vessels and is consistent with Australia's IMO Convention obligations. AMSA already has the structures, relationships, expertise and capacity to be the regulator of all commercial vessels in Australia, irrespective of the nature of the voyage. Suitably qualified personnel, then surplus to requirements of the Maritime Safety Authority in each State may be able to be employed by AMSA as part of AMSA's adjustment to regulate commercial vessels of all sizes.

5.2.83 It is our view that a transition to AMSA of all vessel safety regulation of commercial vessels in Australia could be achieved with administrative ease

5.2.84 We understand that the Australian Transport Council is proposing to address this issue during 2008. We lack confidence in the NMSC in provision of impartial advice on this issue however, as it has been the chief advocate of the deregulated approach to maritime safety in Australia.

### **Fiscal support measures for domestic shipping**

5.2.85 Consistent with our argument for competitive neutrality in the Australian freight transport market, and on the basis of the substantial contribution that shipping makes, and can potentially make, to the Australian economy, that there is a strong case for the provision of a package of fiscal support measures to enable the Australian industry to innovate and to capitalise on the growth in the domestic freight market.

5.2.86 In that context we believe that the centrepiece of a fiscal setting that will encourage investment in coastal shipping is to provide a generous accelerated depreciation allowance to stimulate capital investment in ships.

5.2.87 Accelerated depreciation enhancements of the corporate tax regime could be linked to new vessels or modern designs which significantly improve the operating efficiencies of the vessels/cargo-handling and reduce impacts on the environment in terms of fuel emissions and bio-fouling (ballast water, hull, etc).

5.2.88 We also believe that a form of ships capital grants scheme should be reintroduced.

5.2.89 Finally, we believe that shipowners/operators should have the option of either opting for a tonnage tax scheme or the normal corporate tax scheme. We acknowledge that a tonnage tax may not suit all domestic shipowners, but it may be applicable to some business models, particularly those companies that operate in both the domestic and international trades.

### **Port reform is required to support coastal shipping**

5.2.90 It is the view of the MUA that the ports sector cannot be divorced from the coastal shipping sector. If shipping is to play a more significant role in the future freight transport modal mix for Australia's freight task then decisions taken in relation to the movement of international sea freight need to have regard to the impact on coastal shipping, now and into the future.

5.2.91 We believe there are two aspects of coastal shipping that need to be carefully factored into port planning frameworks and port development sequences.

5.2.92 The first is maintenance of priority capacity for existing domestic shipping services, such as those for the Bass Strait shipping trade, involving a mix of container, general purpose and Ro-Ro shipping, as well as other coastal cargoes involving bulk liquids and general freight.

5.2.93 Second, there needs to be scope to enable priority for stevedoring capacity response to any new domestic container shipping (or mixed container/general freight) operation that may emerge under a revitalised coastal shipping industry, which is geared towards revival of efficiency in domestic shipping. We note the conclusion of the Meyrick and Associates report of May 2007 entitled *International and Domestic Shipping and Ports Study* which said that a critical success factor for coastal shipping, which is reported to have been problematic for PAN Shipping, is the securing of a fixed, ideal day berthing window at the main Australian international ports.

5.2.94 Meyrick concluded that without this priority, it is very hard for a coastal shipping operator to provide the level of quality of service required and be attractive for shippers. The MUA puts the view that this capacity must be factored in to future port planning strategies.

5.2.95 As the role of coastal shipping increases in the national freight task, a very likely prospect in the medium to longer term, there is a major role for the ports regulatory framework to ensure fair access and fair competition between international and domestic shipping. It is for this reason that we propose that the NTC play a national coordination role in achieving that outcome.

5.2.96 We put the view that Government decisions to identify a target for the movement of container freight by rail (in the range of 30-40%, depending on various State government decisions) will in fact need to be considered a minimum if freight expansion projections Australia's key ports are in fact realised. It may be that at some time in the future closer to 100% of containers will need to be transhipped out of key ports by rail to various intermodal facilities, for distribution to end users, by road and rail.

- 5.2.97 Alternatively, we believe that the European short sea shipping policy may have application and relevance for Australian ports as volumes grow, to ensure capacity is extended beyond current projections. We believe that containers destined for other significant population centres beyond the immediate environs of the major Australian ports or indeed to other major capital cities (if one or more shipping lines chose to utilise just one or two ports as transshipment ports), might be more appropriately moved by sea, so that there is no demand on either road or rail systems, until the container is closer to its final destination. This could have significant impacts on reducing urban congestion and on meeting environmental goals. Such a model would take pressure off both road and rail, and significantly reduce infrastructure costs.
- 5.2.98 We note recent statements from the Chief Executive of the Port of Auckland, NZ, who said he wants to establish Auckland port as a regional container hub rivalling and feeding into Australia. He made the point that Maersk made Auckland its North Island hub earlier in 2007, in a boost to the port's regional ambitions, and that the Port of Auckland will continue to commit capital and other resourcing with the aim of becoming Australasia's premier container hub port. The NZ Shipping Federation is already working with the NZ Government to leverage an increased role for coastal shipping off the Maersk decision. Australian ports need to be responding to these developments with more far sighted policy thinking.
- 5.2.100 Should a short sea shipping strategy gain traction, there is a considerable body of economic evidence that provides direction on port pricing schemes aimed at increasing the efficiency the sea leg in the supply chain<sup>1</sup> which also increases the overall competitiveness of a supply chain that includes a sea leg. We also suggest that in this respect, Ramsey Pricing<sup>2</sup> might be adopted by the stevedores. We recognise that such a strategy would probably require a change in the performance criteria in the port authority-stevedoring operator contracts, to include a specific goal of ensuring coastal sea freight becomes a part of the transport mode mix if road, and possibly rail, congestion is to be eased.
- 5.2.101 Given the proposed timing of implementation of an emissions trading scheme being proposed by the Rudd Government, emissions trading can be expected to become a reality within a short period of time. It seems wise to commence consideration of the implications of an emissions trading regime on the cost and pricing of the freight task at an early rather than a later stage.

### **Fiscal support measures for international shipping**

- 5.2.102 We believe that the centrepiece of a fiscal setting that will encourage investment in international shipping is to provide the option of a tonnage tax, combined with other fiscal measures such as accelerated depreciation. A corporate fiscal shipping regime which allows shipowners to either opt for a tonnage tax scheme or the normal corporate tax scheme but with accelerated depreciation enhancements is consistent with the policy adopted by most

<sup>1</sup> For example, Pettersen Strandenes, Siri, *Port Pricing Structures and Ship Efficiency*, Centre for International Economics and Shipping, Norway June 2004

<sup>2</sup> Ramsey pricing is an alternative to cost plus pricing which can be applied where the revenue stream can be differentiated, allowing different prices to be charged against those different streams e.g. international cargo and domestic cargo, or peak and off peak times

shipping nations which aim to encourage investment in their nation's international shipping fleet. Some of the key features could be:

- A tonnage tax scheme for Australian registered vessels similar to the UK/European system but with linkage to a commitment to locally train and employ seafarers;
- A relatively high-level of flexibility for shipowners to enter and exit the two schemes particularly in times of loss-making when the tonnage tax scheme does not allow for the carry-forward of accumulated trading losses, bearing in mind that the shipping industry is highly cyclical with several periods of profits and losses typically occurring during the life-span of a vessel (15 to 25 years); and

5.2.103 Such investment strategies have been introduced by many other shipping nations who have opted for fiscal support measures to support their shipping industries. The second, encouragement of training, is linked to the first, and has been attended to by Governments and shipping companies making efforts in promoting the training and recruitment of seafarers. Because these two factors are mutually supportive they should not be applied in isolation. Therefore we believe when the Government considers fiscal measures for the Australian shipping industry, the training and employment of seafarers should be taken as an integral part of the policy package.

### ***International experience***

5.2.104 The linkage between tonnage tax and training commitment has been the unique feature of British maritime policies since 2000. However, although the Government's policies have managed to reverse the long-term decline of the British merchant fleet, they have not resulted in a matching increase in the recruitment, training and employment of British merchant navy officers to the extent envisaged when the policy was designed.

5.2.105 The effective training of ratings is one of the areas that the UK tonnage tax system failed to achieve. The number of UK ratings had fallen by about 65% between 1980 and 1997. This is largely due to the easy access to low-cost world labour markets, which makes the employment of British ratings in essentially unskilled roles highly unviable.

5.2.106 According to the Minimum Training Obligation (MTO) set up by the UK Department for Transport, the MTO for officers is to train one officer trainee per year for every 15 deck and engineer officer posts of the company's effective officer complement. As most officer training is of three years duration this means that, in principle, a company with Core Training Commitment of one per year will have three officer trainees for every 15 posts in its effective officer complement when it is in its third year in tonnage tax.

5.2.107 However, the MTO in respect of ratings is that companies should review annually at board level the feasibility of adopting each of the ratings employment and development options. These options were agreed by the Ratings Task Force, a tripartite (industry/unions/government) group chaired by the UK Chamber of Shipping.

5.2.108 This recognises that practical and competition considerations make employment and training opportunities for British ratings more sector-specific than is the case for British officers, and therefore that training obligations applying to British ratings need to contain some flexibility. The Alexander Report suggested that a written commitment to training seafaring ratings should be spelt out as a condition for shipping companies' qualification for the tonnage tax. The industry, on the other hand, preferred a non-formal commitment for rating training, with some program scheme such as bringing at least 50 ratings a year into training as officer cadets.

### ***Applicability to Australia***

5.2.109 The Australian shipping industry is confronted with similar challenges. If a proposed tonnage tax is to be tied to ratings training and employment in Australia, it needs to consider what opportunities might exist for training ratings for more skilled roles and to become officers.

5.2.110 Demographic analysis by AMSA has shown that Australia's maritime workforce has a problematic combination of a continuing inadequate and low level of recruitment/training with the high age profile of the existing officer workforce. This situation makes the training and recruitment task particularly urgent. If Australia wishes to build up and maintain a pool of human resources with maritime skills and experience for jobs in both navigational and shore-based sectors, it needs to promote training and employment of seafarers as quickly as possible.

5.2.111 Apart from officer training, the training of ratings should also be linked with the election of tonnage tax. What we propose is a flexible model of training that provides for a holistic career path plan, with multiple entry points, but where the entry point at the Trainee Integrated Rating provides a career stream into both officer and engineer occupations.

5.2.112 The issue of training has also been discussed in the IRAS, which emphasised the need for skilled seafarers for a wide range of occupations in the industry. It also pointed out the need for setting up certain industry forums to progress and enhance career paths and competencies.

### **The significance of seafarer training as part of the revitalisation of Australian coastal and international shipping**

5.2.113 Despite warnings about the global shortage of seafarers that have been circulating in all the major shipping and labour forums over a number of years, the global shipowners have generally taken the easy road and utilised the remaining pools of seafarer labour in first, the Asian region and more recently from the Eastern European countries. However, these pools of labour are now exhausted.

5.2.114 The net result has been a run down of the training infrastructure in a number of maritime centres eg UK (up until it introduced the tonnage tax) and the traditional Asian seafarer supply countries (as the initial pool of Chinese seafarers entered the market). Leaving aside quality issues, the supply of seafarer labour is now acute, particularly in the officer and engineer occupations.



5.2.115 Australia is uniquely placed to not only be part of the solution in turning around the global supply shortage of officers/engineers, but to become a centre of regional training which will by default contribute to the revitalisation of Australian shipping, and reverse the decline in the supply of maritime skills to all those other maritime functions so vital to a maritime and trading nation such as Australia. The land based maritime functions which require a steady supply of seafarer skills include:

- Regulatory agencies such as AMSA and the State/NT marine/maritime authorities;
- Other Government agencies such as Customs, and Departments like Infrastructure and Transport (ATSB) and Resources and Energy, Environment, Immigration which require marine technical skills
- Port authorities
- Shipping operating and ship management companies
- Labour supply firms
- Ship charterers
- Classification societies
- Education and training institutions
- Cargo and freight forwarding companies
- Ships brokers

5.2.116 Australia already has world class infrastructure in Registered Training Organisations such as the Australian Maritime College, the Challenger TAFE, the Hunter Institute, the Maritime Skills Centre, as well as quality teachers for seafarer training. This infrastructure could be much more effectively utilised, particularly by linking with regional maritime training institutes in PNG, Indonesia and in the Pacific Islands.

5.2.117 The MUA believes there are opportunities to reformulate the entry and career pathways for seafarer training that would truncate the time required to train in some circumstances, without compromising quality and which would provide better career options for seafarers, and provide more rounded skill sets for future on shore maritime careers.

5.2.118 We believe the Integrated Rating entry point, subject to minimum entry qualification, could provide a complementary stream to the traditional cadet stream. Similarly, the Integrated Rating entry point, for those with trade qualifications, can also be a part of the career stream into engineering occupations.

### **Reformed taxation to assist Australian seafarers compete in international shipping**

5.2.119 In addition to training seafarers for both the international seafarer market and the domestic seafarer market, policy reform is required to ensure that Australian seafarers, highly regarded in the international market, can compete effectively in the international trade. The key policy initiative required to achieve this outcome is reform of Section 23G of the Income Tax Assessment Act .

5.2.120 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.

5.2.121 The Independent Review of Australian Shipping (IRAS), undertaken by former Transport Ministers the Hon Peter Morris and the Hon John Sharp for the Australian Shipowners Association, found that the existing requirement for Australian resident taxpayers who are seafarers to pay domestic rates of tax on income earned overseas (i.e. working in international shipping) makes them uncompetitive against seafarers from other developed economies. For example, a British seafarer working a minimum of 181 days a year on vessels engaged in international voyages pays no personal income tax, meaning the employer can engage such employees for the actual salary cost.

5.2.122 Other OECD nations such as France, Germany, Netherlands, Denmark, Norway as well as Asian nations such as Singapore and Korea have similar concessionary income tax arrangements for their seafarers.

5.2.123 While Australian law (S23G of the *Income Tax Assessment Act 1936* (ITAA)) provides for concessionary tax treatment for residents working overseas, a technical ruling that seafaring employment on the high seas does not constitute work overseas has ruled Australian seafarers ineligible for such tax concessions, thus increasing their employment cost and rendering them less competitive in international shipping.

5.2.124 The Senate Employment, Workplace Relations and Education Committee, in its report on its inquiry into workforce challenges in the transport industry in 2007 recommended that S23G of the ITAA be reviewed. It said:

*“The committee recommends that section 23AG of the Income Tax Assessment Act 1936 be reviewed, and the meaning of ‘foreign service’ for income tax purposes be clarified so that Australian seafarers are not disadvantaged in their earnings capacity relative to seafarers of other nations when working on foreign-flagged vessels on the high seas.”*

### **The International Bargaining Forum (IBF) – Establishing a Developed Economy Ratings (DER) Fund**

5.2.125 The IBF consists of the International Transport Workers Federation (ITF) and the Joint Negotiating Group (JNG), which is an employers’ group made up of a number of ship management and ship owner associations in Asia and Europe. The IBF agreement arising from negotiations in this forum in 2007 is the newest of the ITF agreements covering seafarers.

5.2.126 At its final meeting in London in September 2007, representatives of the IBF reached agreement on changes to seafarers pay and conditions that took effect on 1 January 2008. The IBF agreements cover some 100,000 seafarers of all nationalities serving on over 4,000 ships.

5.2.127 The 2007 IBF agreement includes: (i) an 8% increases in wage levels over 2 years; (ii) changes in contractual clauses to reflect the provisions of the ILO

Maritime Labour Convention; (iii) a number of important changes to IBF systems and structures; and (iv) the establishment of a Developed Economy Ratings (DER) Fund.

### ***DER Fund - Developed Economy Ratings Fund***

5.2.128 An important and breakthrough feature of the 2007 IBF Agreement is the establishment of a DER Fund (which will be established as 2 separate Funds, one for Europe and one for Asia). The monies from the Fund are available to encourage companies to offer employment to seafarers from traditional developed maritime nations like Australia who have suffered major job losses in international seafaring during the past two decades as a result of the higher cost of their national seafarers in the international trades, where Ratings are predominantly sourced from lower wage developing economies.

5.2.129 The 2007 IBF Agreement requires that for every seafarer employed by an IBF employer, US\$10 per month per seafarer is to be paid as an international levy into the DE Fund to support the employment of developed economy seafarers. Terms and conditions of the use and management of the fund are currently being finalised. It is expected that the Asian DER Fund will accumulate approximately US\$10M per annum, for allocation to shipping companies who agree to employ developed economy ratings.

5.2.130 Australian will be a part of the Asian DER Fund. It is the objective of the MUA to seek to access monies from the Fund to support one or both of two elements of Australia's international shipping: (i) the expanding LNG trade; and (ii) the iron ore and coal trade.

5.2.131 As the labour related operational cost differential between an Australian crewed vessel and an internationally crewed vessel is generally regarded as being in the order of \$2m per annum, we believe the DER Fund could potentially result in up to 5 ships being encouraged back into the Australian flag under a DER Fund wage subsidy.

5.2.132 However, if S23 G of the ITAA is amended as we propose, the wage cost differential will be even lower, and could therefore result in more than 5 international foreign flagged ships being encouraged to join the Australian flag.

5.2.133 The key point is that there are a range of innovative solutions available to assist in establishing the conditions for greater Australian seafarer participation in international shipping and for a significantly higher number of foreign flagged Australian vessels to become Australian flagged.

### **Benefits of increased investment in Australian shipping**

5.2.134 The National Institute of Economic and Industry Research report, *Australian Coastal Shipping: its Future Role*, models the effect on the national economy of a proposal to increase investment in Australian shipping, using government funds essentially as a transfer of funds which would otherwise be invested in land transport infrastructure. The report found that, for selected opportunities, investment in shipping rather than land transport has potential to yield a significant dividend in terms of enhanced gross domestic product.

5.2.135 The modelling indicates that investment in shipping passes the cost-benefit test with flying colours. By reducing freight rates it benefits shippers with lower costs, and by reducing capital costs it generates funds which governments can spend to better effect than by amplifying land transport capacity. The report found that an investment of \$62 million in ships could potentially yield a discounted GDP return, over 30 years, of \$2,800 million, provided the infrastructure investment savings are wisely spent.

5.2.137 The overarching conclusion is that selective investment in coastal shipping is likely to yield considerable national interest benefits.

### **5.3 Assess strategies for developing an adequate skilled maritime workforce in order to facilitate growth of the Australian coastal shipping sector**

#### **Decline of the maritime skills base**

5.3.1 As we have previously submitted, one of the major consequences of the decline of Australian shipping has been the decline in availability of a supply of skilled and qualified seafarer labour to meet seafarer demand, in all sectors of the shipping industry.

5.3.2 While there is currently a global shortage of qualified seafarers, particularly in the officer and engineer occupations, Australia also suffers from a shortage of ratings. The demand for ratings has become particularly acute as the offshore oil and gas industry expands, in line with the boom in the resources sector generally.

5.3.3 However, designing a policy response to ensure that there is a flow of sufficiently qualified seafarers to meet demand is only part of the required policy response, as it is more than just a labour demand and supply issue in the domestic shipping industry. The policy response needs to be cognisant of the linkages between domestic and international shipping, between the bluewater and offshore sectors, and of the seafarer licensing arrangements that apply, in compliance with Australia's IMO treaty obligations.

#### **Seafaring is a unique set of occupations in Australian industry context**

5.3.4 There are a number of unique features of the seafaring occupations that need to be understood in considering policy responses to address the seafarer labour shortage in Australia. These include:

- The fact that seafaring is not a readily transferable skills set within the domestic economy, though it is transferable in the international seafaring labour market:
  - This means that it is important not to oversupply the domestic market with seafarers, particularly ratings, as their prospects of gaining employment in other onshore industries, based on their maritime qualifications, is limited;
- The requirement for reasonably extensive sea time experience and competency assessment as part of the core training to gain seafaring qualifications and licences, which in turn is dependent, at least in part, on the

number of available berths on vessels, and the number of supernumerary trainees or cadets that a vessel Master can manage;

- The labour hire arrangements in the industry whereby seafarers are often supplied to vessel operators by specific labour supply companies, or alternatively, a vessel and crew may be supplied to a client as a package under contract. This means that the actual employer of seafarers may be one or even two steps removed from the primary source of demand for seafaring labour, and hence the matching of supply and demand, both numerically and chronologically, is unsynchronised
  - A consequence of the labour hire practices in the industry is that the actual employer of labour, dependent on winning contracts in a highly competitive market, may not know their labour demand for a particular period until close to the time when the seafarers are required to crew up a vessel, and certainly not in time to train or retrain seafarers in time to meet the principal's contract requirements:
    - In our view this means that the clients who contract with the companies supplying seafarers (or vessels and seafarers as a package) must become much more involved in supporting and participating in planning and funding strategies to meet future seafarer demand. While some indigenous companies like Woodside are committed to this process, some foreign companies such as ConocoPhillips, ExxonMobil and Inpex have resisted overtures to participate. This issue will need to be addressed by the Inquiry.

5.3.5 The supply and demand issue and the entry and qualifications issue is further complicated by the maritime regulatory arrangements in Australia, which respond to the Commonwealth–State jurisdictional delineation under the 1997 Offshore Constitutional Settlement. Under that intergovernmental agreement, crew qualifications, minimum safe manning and crew complement issues on vessels engaged in intra-State trade are regulated by State marine/maritime authorities, while these same issues on vessels on inter-State or on international voyages are regulated by a Commonwealth authority (AMSA).

5.3.6 At present there is as yet no nationally consistency standards applying across the States and NT on these issues, let alone consistency and seamless arrangements between the States and Commonwealth:

- This is one of the reasons why we have proposed a move to national vessel safety regulation for all commercial vessels;

5.3.7 Furthermore, the publicly available data on seafarer training outcomes (commencement, completion and streaming to employment) is woefully inadequate, making it difficult to assess current employer and Registered Training Organisation (RTO) performance, let alone plan for the future. For example, National Centre for Vocational Education Research (NCVER) data does not correlate with data provided by RTOs delivering integrated rating training in relation to seafarer training outcomes, while DEEWR data sources for determining skills in demand do not match the industry's identified critical shortages analysis for certain seafarer occupational categories.

## MUA projected demand for seafarers

- 5.3.8 Notwithstanding these deficiencies, MUA research indicates that Australia will need to train in the order of 500-1,000 ratings over the next 10 years to meet expected additional demand and about 1,000 over that same period to replace wastage, much of which will occur due to the age profile of current seafarers.
- 5.3.9 Data compiled by the MUA shows that the three RTOs delivering Trainee Integrated Training (the Australian Maritime College, Challenger TAFE and Hunter TAFE) commenced 108 trainees in 2007. With a completion rate of approximately 80%, and an employment retention rate in the rating occupation after year 1 of approximately 75%, this data suggests that the commencement rate is far too low to meet future demand, and to replace wastage.
- 5.3.10 The Rudd Government commitment to stabilise and lift the standing and authority of the industry skills councils now provides a clear focus for undertaking sector environmental scans to identify training demand and to establish clear entry points and multiple career paths for seafaring occupations, and to ensure that RTOs are tendering for training delivery at a level which matches industry's best predictions on demand.
- 5.3.11 The fact remains however, that our base level data for undertaking labour market and career path planning is poor. It is for this reason that the MUA is currently seeking research funding to undertake a research project aimed at:
- Reviewing of the adequacy and quality of NCVER data which is being relied upon by Government for labour market analysis and planning for the funding of skills in demand in the shipping industry (this would analyze: (i) commencement and completion data (for both the on and off the job component of seafarer training) collected by NCVER, and match this against data supplied by Registered Training Organisations (RTOs) that deliver Trainee Integrated Rating training (TIR); (ii) analyse the off and on the job training component of TIR training in terms of commencement and completion; and (iii) retention in seafarer employment using the TIR qualification;
  - Analysing the availability of ship's berths for on the job training and identify any weaknesses or rigidities in the system of finding, allocating and funding of berth placements for completion of on the job training, including addressing the alleged bluewater/offshore poaching issue, and identify possible models for maximizing the allocation of berths to meet industry wide training needs;
  - Analysing labour demand for seafarers in each of the segments of the Australian seafarer labour market up to 2020; and
  - Comprehensively analysing and documenting a model for entry point and career pathways across both the State regulated and Federally regulated segments of the shipping industry – this would start to address the streaming options from General Purpose Hand (GPH) and TIR into engineering occupations, officer occupations, production occupations (offshore) etc – not just in the top end sectors like blue water and oil & gas but in ferries, charter boat, cruise vessel and dive tourism segments of the shipping industry.

## The pre-conditions to address the emerging seafarer labour shortage

5.3.12 Based on such research, combined with other sources of training demand intelligence available to the Transport and Logistics Industry Skills Council, and in the context of the Rudd Government's training programs, and industry support measures, we believe that the industry should be in a position to address its training requirements in a systematic way into the future.

5.3.13 However, that optimism is predicated on industry being prepared to lift its performance in areas such as:

- Ensuring greater coordination and cooperation between seafarer supply and ship management companies on the one hand, and those companies that award them contracts on the other, in planning to meet labour demand requirements, to ensure qualified seafarers are available to meet that demand and to assist in funding that demand;
- Retaining a commitment to engage trainees as employees at the point of commencement of training, so that trainee travel, accommodation (where necessary) and wage costs are met during training; and
- Lifting their commitment to making ship berths available, including for trainees of other companies, to ensure sea time can be attained (and commenced to coincide as close as possible with completion of off the job training).

5.3.14 Should such industry commitment not be forthcoming, we believe that a Government chaired task force, or tripartite body, involving the key Departments of Infrastructure and Transport, Resources and Energy, DEEWR and the T&L ISC, along with industry stakeholders and key seafarer RTOs be formed to examine more innovative models to address seafarer training and skill development. One of the models might include establishment of an industry wide training fund to address key barriers to training, obtained from all stakeholders who are the beneficiaries of the supply of skilled labour:

- In addition to the issue of provision of seagoing ships berths for gaining on the job training experience and competency, the other key issue at present is the attraction and retention of teachers.

5.3.15 The MUA has strong confidence in the industry's key skills council (the Transport & Logistics Industry Skills Council) to positively respond to the new Rudd government agenda for skills councils. However, we still believe there is a place for State and NT based industry skills advisory bodies given the overlay of both a State based and Commonwealth based training delivery and funding system as currently exists.

5.3.16 The MUA is also strongly committed to the competency based training system in place for ratings training. We are committed to continue to work with employers, the T&L ISC, the RTOs delivering seafarer training and licensing bodies (principally AMSA) to identify flexibilities in training delivery, provided always that the outcomes deliver a competent seafarer with skills and experience to undertake seafaring functions in a proficient and safe manner, having regard to the environments in which vessels operate.

- 5.3.17 It follows that the Union is supportive of the Maritime Training Package, recognising however that there are aspects to seafaring occupations where the competencies derive from other Training Packages eg some offshore skills require Units of Competence to be drawn from Chemical, Hydrocarbons and Oil Refining Training Package developed by the Manufacturing Industry Skills Council, while some competencies in the recreational dive tourism and passenger ferry sector will derive from the Hospitality Training Package developed by the Service Skills Australia Skills Council. This overlap means that the principal industry skills council (the T&L ISC) and the RTOs needs to be flexible and collaborative in their approach to assisting the industry deliver competency based training programs that met the needs of the industry employers and seafarers. The output should be portable skills across employers and across State/NT borders, and competencies which contribute towards attainment of a national recognised qualification under the Australian Qualifications Framework.
- 5.3.18 The MUA regards the licensing arrangements, managed at the national level by AMSA, as critical to the safe and proficient operation of vessels to IMO standards. This position does not represent a lack of confidence in the delivery of seafarer training by RTOs, nor a lack of confidence in the competency based system of training. Rather, it represents support for a quality assurance support mechanism that integrates the IMO standards of performance with the CBT training system to deliver highly qualified seafarers in whom employers, crew supply companies, ship operators, marine insurers and regulatory authorities can have the utmost confidence that the ship is safe to go to sea, and that the crew are competent to best manage the full range of operating conditions in the isolation of the sea.
- 5.3.19 It is important to recognise that the training for seafarer occupations is not only for seagoing occupations. This training is also equipping the industry with skills and experience in a range of on-shore occupations, in maritime regulatory agencies, in OHS regulatory agencies, in pilotage, in port authorities, in ship management companies etc.
- 5.3.20 A study undertaken by Thompson Clarke Shipping Pty Ltd entitled *The Availability of Professional Maritime Skills in Australia to Provide Vessel Survey Services*, commissioned by AMSA in 2002, concluded, in relation to demand for maritime skills in shore based positions, that trainees intake numbers would not match demand, leading to a serious skills shortage and increased competition for such skills among employers.
- 5.3.21 One other urban myth that we would like to explode is that there is a shortage of new entrants to undertake Integrated Rating training. This is not the case from MUA experience. In fact there are more applicants for training places (and hence new employment opportunities) than there are places available.
- 5.4 Consider the effect of coastal shipping policy on the development of an efficient and productive freight transport system, taking into account issues such as environmental and safety impacts and competitive neutrality between coastal shipping and other modes of transport

### **The role of shipping in a national freight transport system**



- 5.4.1 It is the view of the MUA that a revitalised coastal shipping policy and a heightened understanding by shippers in particular of the potential of shipping as a competitive freight mode will be central to the development of an efficient and productive freight transport system.
- 5.4.2 In a condensed submission to the National Transport Commission (NTC) in developing a National Transport Policy Framework, including a National Infrastructure Plan, as requested by Minister Albanese in the lead up to the ATC meeting on 29 February 2008, the MUA made the following points:
- Maritime transport must be considered on an equal footing with all other transport modes in development of a national transport policy framework, and should be included in a national infrastructure plan.
  - In particular the revitalisation of the Australian coastal shipping industry as both a national strategic industry sector and as a potential major contributor to carriage of the national freight task, must become a national policy objective.
  - Improved integration among ports and improved strategic planning for Australian ports, particularly container ports and break bulk ports (as distinguished from bulk commodity ports), along with national regulatory and planning consistency for the ports sector, should be a national priority.
  - Any national transport policy framework should be guided by a number of underpinning principles, aimed at improving allocative efficiency. These should include:
    - Competitive neutrality, or where that is not possible in the short to medium term, adoption of countervailing policy measures to replicate competitive neutrality;
    - Consistency in application of national regulatory and planning principles across all freight modes; and
    - Integration of externality costs into regulatory pricing decisions and cost benefit analyses for transport planning.
  - A national transport policy framework, including a National Infrastructure Plan, must take a long term view of the role transport can play in reducing greenhouse gas emissions by promoting and adopting policy measures that support the most greenhouse efficient transport modes where there is genuine contestability between modes.
  - Reform the planning and strategic frameworks for prioritising key national infrastructure under Infrastructure Australia i.e. reform Auslink to widen its scope to cover all transport infrastructure and reform the Corridor Strategy planning framework.
  - Some of the specific maritime transport policy objectives should be:
    - Retention of a robust national maritime cabotage regime i.e. accept the sovereignty of Australia's coastal waters and the national interest imperatives by applying the same standards in terms of labour law, corporate and tax law, OHS law, environmental law etc as apply onshore;

- Adoption of a fair and transparent system for meeting shippers needs by the use of foreign ships in the absence of Australian ships to carry coastal freight i.e. reform the coastal shipping permit system;
- Adoption of targeted industry assistance and innovation policy to support investment in Australian ships i.e. recognise the shipping industry as a national strategic industry in terms of its contribution to national security, national defence and economic security;
- Priority focus on addressing the emerging seafarer labour shortage – currently a market failure;
- Reform of key maritime legislation, such as the Navigation Act, Shipping Registration Act and Seafarers Rehabilitation and Compensation Act;
- Establish a single national ship safety regulatory regime for commercial vessels;
- Adjustment to both corporate and seafarer taxation to remove anomalies disadvantaging Australian shipping and Australian seafarers;
- The inclusion of domestic shipping requirements into port planning, port regulatory arrangements and port pricing practices;
- Ratification of the ILO Consolidated Maritime Labour Convention and other key ILO Conventions not yet ratified by Australia;
- Consistent application of standards emanating from ratified IMO Conventions across all maritime operations in Australia, including in the offshore oil and gas sector; and
- Include shipping in the national emissions trading scheme from the outset.

5.4.3 Two issues are central to the repositioning of shipping as a competitive and attractive freight mode in the context of developing an integrated national freight transport plan or system.

### **Competitive neutrality**

5.4.4 First, there must be a commitment to the principle of competitive neutrality between all freight modes, and that competitive neutrality must be transparent and measurable. It is our view that there is at present a lack of genuine competitive neutrality between modes. We base this view on work undertaken for the MUA by the National Institute of Economic and Industry Research in 2007.

5.4.5 That report concluded that on a whole-of-system basis, publicly provided infrastructure costs are under-recovered from land transport modes through road user charges (in the case of heavy road vehicles) or through freight pricing (in the case of rail) in circumstances where these modes compete with coastal shipping (the complete argument is outlined in **Attachment A**).

5.4.6 We put the view that it will take considerable time to move to a position where road infrastructure costs are fully recovered, even with incremental changes to road user charges such that competitive neutrality is seen as an objective to be achieved over time. Given the difficulty of achieving such as policy objective, it might be a more appropriate policy response to adopt countervailing policy measures for shipping with a view to replicating competitive neutrality by providing innovation support to the shipping industry up to an amount equivalent to the difference between the actual recovery of

road and rail infrastructure costs (the capital component) versus the real capital cost of providing road and rail infrastructure.

- 5.4.7 We believe such a policy response would more than offset the costs of offering accelerated depreciation or forgone revenue to Government from a tonnage tax in the Australian context.

### **Shipping exhibits positive greenhouse emissions credentials**

- 5.4.8 The second major issue that is now a headline policy driver in developing an efficient and sustainable national freight transport plan is the greenhouse credentials of the various transport modes.

- 5.4.9 In this regard, we believe all the national and international evidence points to shipping as the least energy and emission intensive of all transport modes.

- 5.4.10 It is our position however, that there is no need to pit one mode against another in the debate over the greenhouse credentials of the competing transport modes. The designers, manufacturers, owners, operators and users of each mode have to work hard to improve the emission and energy intensity of that mode. Furthermore, the growth in trade volume will mean that all modes will gain a fair proportion of the available growing volume of trade.

- 5.4.11 We submit that subject to their being genuine competitive neutrality between modes (even if achieved through the countervailing measures we propose), that all transport fuels are included in an emissions trading scheme, and that there is a proper appreciation of shipping's greenhouse credentials, then mode choice will benefit shipping in the medium to longer term, in markets (or corridors) where shipping is a genuine alternative or where there is a contestable market.

### ***What then are the greenhouse credentials of shipping?***

- 5.4.12 Based on data compiled for the MUA by Andrew Macintosh (*Climate Change and Australian Coastal Shipping*, Australia Institute, October 2007) the National Greenhouse Accounts record the transport sector as accounting for approximately 15% of Australia's greenhouse emissions. Similarly Macintosh reports that the Bureau of Infrastructure, Transport and Regional Economics (BITRE) has concluded that approximately 64% of transport emissions are passenger transport related while 36% are freight transport related. The net position is that freight transport emissions account for approximately 6% of Australia's emissions (Macintosh, Pvi).

- 5.4.13 The overwhelming majority of freight emissions (84%) are attributable to road transport. The minority of freight transport emissions are attributable to shipping (4%), while some 15% are attributable to rail freight transport (Macintosh, Pvi).

- 5.4.14 In addition, of all the freight transport modes, shipping is the least energy and emission intensive, illustrated by the data in Table 2.

### **Table 2: Energy and emission intensity of freight transport modes, 2005**

Mode	Energy intensity (MJ-FFC/tkm)	Emission intensity (g CO <sub>2</sub> -e/tkm)
<b>Road transport</b>		
Light commercial vehicles	21.07	1,532
Rigid trucks	2.95	209
Articulated trucks	0.98	71
<b>Rail</b>		
Hire and reward	0.32	24
Ancillary	0.09	6
<b>Coastal shipping</b>	0.17	15

**Source:** Macintosh A, *Climate Change and Australian Coastal Shipping*, Australia Institute, October 2007

5.4.15 Furthermore, shipping requires no infrastructure and therefore no infrastructure expenditure (though we acknowledge that it requires more complex terminal facilities than road, and to a lesser extent, rail). Significantly, shipping currently attracts no transport infrastructure or industry policy program support in Australia. This contrasts to the massive public funding support for road and rail infrastructure in Australia. When this level of public subsidisation is combined with the lack of a comprehensive user pays model of infrastructure charging, the result is that shipping is placed at a relative competitive disadvantage in the modal mix.

5.4.16 In addition, shipping is currently the subject of globally driven and mandatory abatement measures emanating from decisions of the International Maritime Organisation (IMO). The shipping industry has demonstrated that it has been prepared to work closely with Governments across the globe as well as with international institutions like the IMO to adopt specific measures to address market failure in this area. The abatement mechanisms adopted are not market driven, but are target driven, and are leading to considerable leaps forward in innovation and technological adaptation.

### ***Developments in the IMO***

#### *Prevention of air pollution from ships*

5.4.17 The Marine Environment Protection Committee (MEPC) of the IMO has endorsed a proposal by the Secretary-General to commission a comprehensive study, by an informal cross government/industry scientific group of experts, to review the impact on the environment, on human health and on the shipping and petroleum industries, of applying any of the proposed fuel options. The objective is to adopt strategies which reduce SO<sub>x</sub> and particulate matter generated by shipping and the consequential impact such fuel options could have on other emissions, including CO<sub>2</sub> emissions from ships and refineries, taking into account the availability of CO<sub>2</sub> abatement technologies.

5.4.18 The group has already begun its work with a view to reporting progress to MEPC in March-April 2008 (to be attended by a high level Australian delegation, from both the Department of Climate Change, Department of Transport and Australian Maritime Safety Authority).

- 5.4.19 The MEPC working group on air pollution continued work on reviewing MARPOL Annex VI and the NOx Technical Code, following preliminary work undertaken by the ILOs Bulk Liquids Group (BLG) Sub-Committee, which developed a number of options for revising the regulations in relation to the emissions of NOx, SOx, volatile organic compounds and particulate matter.
- 5.4.20 The IMO aims to have the draft amendments approved at MEPC 57, in the Spring of 2008, and to adopt them at MEPC 58, in the Autumn of 2008. The amendments to MARPOL Annex VI could then enter into force 16 months after adoption, in accordance with the tacit acceptance procedure stipulated in Article 16 of the MARPOL Convention.
- 5.4.21 The International Transport Workers Federation (ITF), to which the MUA is affiliated, put a submission to the ILOs Marine Environment Protection Committee at its meeting on 31 March 2008. The ITF argued for a move to distillate (marine fuels) as the best way to achieve more environmentally responsible shipping.

*Ships' fuel sulphur content continues downward trend*

- 5.4.22 The IMO also has a ships' fuel sulphur monitoring programme. It revealed that the average sulphur content for the year 2006 was 2.59%, a reduction from the 2005 average of 2.70%. The three year (2004-2006) rolling average was 2.66%, a slight reduction from the previous year's rolling average of 2.70%.

*Update of the 2000 IMO Greenhouse Gas (GHG) Study*

- 5.4.23 The IMO has also decided to update its 2000 IMO GHG Study. The study will cover current global inventories of GHGs and relevant substances emitted from ships engaged in international transport; any methodological aspects and future emission scenarios; identify progress made to date in reducing GHG emissions and other substances; identify possible future measures to reduce emissions of GHGs and undertake a cost benefit analysis, including environmental and public health impacts, of options for current and future reductions in GHG emissions and other relevant substances from international shipping. Finally, it aims to identify the impact of emissions from shipping on climate change. The aim is to submit the updated study to the 59th session of the MEPC.

**Barriers to lower emission freight opportunities**

- 5.4.24 The MUA strongly supports the inclusion of emissions from transport fuels used in freight transport in a national emissions trading scheme (ETS), and that inclusion occur from day one of the operation of a national ETS.
- 5.4.25 However, on the basis of the best available Australian data (Macintosh P61, supported by ACIL Tasman, Garnaut Forum, Feb 2008) a carbon trading price in the order being considered as the likely price in the Australian context, at least initially, would only increase the price of transport fuel by around 4-7 cents a litre. Given the fuel price elasticity data, this fuel price is unlikely to result in either a reduction in overall freight carried, or a significant mode shift to more emission efficient transport modes, even in highly contestable freight markets.

5.4.26 It may result in a gradual shift to more fuel efficient models and technologies within each mode however, and that would be a good thing. However, given the predicted growth in demand for freight transport, which suggests for example a tripling in Australia's container freight trade over the next 25 years (see Meyrick and Associates, *International and Domestic Shipping and Ports Study*, May 2007, produced for the Australian Maritime Group), an ETS by itself does not appear to provide the complete solution to reducing Australia's emissions from freight transport in the decades ahead.

5.4.27 The MUA believes there are a number of important complementary policy measures that will be required in the Australian context to ensure that freight transport contributes to greenhouse gas emission reduction. We address in the following sections, the measures and opportunities relating to shipping.

***Removing the competitive disadvantage of Australian shipping relative to international shipping in the Australian coasting trade***

5.4.28 Although fuel purchased in Australia or used in Australia by international shipping is currently excluding from the accounting requirements in accordance with internationally agreed protocols, the MUA believes that the fuel purchased by, or used in, ships granted both single voyage permits (SVPs) and continuing voyage permits (CVPs) to engage in the coasting trade under section 286 of the *Navigation Act 1912* should be accounted for in Australia by Australian business entities.

5.4.29 We put this view because the granting of such permits in effect brings those ships and therefore their operations within the realm of the Australian shipping industry, and for all intents and purposes, those ships are part of the Australian freight transport system while operating under permit.

5.4.30 We believe the permit applicant in such circumstances should be required to include the fuel used by, or purchased for such ships, in their emissions reporting.

5.4.31 It should be noted that the international ships to which permits are granted to trade on the Australian coast are invariably ships from Flag of Convenience (FOC) registries, and that they are often flagged in those registries, which are globally recognised as the weakest regulators, for the very purpose of avoiding compliance with new IMO abatement and other measures. In other words, such vessels will invariably be the worst polluting ships. We put the view that as part of Australia's commitment to the international task of reducing emissions, that it establish a coastal shipping regime that is identical to the regime applying on the mainland, and that to the extent Australia has legislative reach over its coastal waters, it exercise such power to reduce emissions.

***Revitalising Australian domestic shipping to improve its competitiveness***

5.4.32 One of the most important implications that will arise from a revitalisation of the Australian domestic shipping industry is that it will result in the decommissioning of old, inefficient vessels in the domestic fleet and their replacement by state of the art efficient vessels. Ship engine technology and

hull design have advanced dramatically in the last decade, such that fuel efficiency is up to 30-40% better today than just 10-15 years ago.

- 5.4.33 A second important implication to arise from the revitalisation of Australian shipping is that it will potentially provide shippers with a reliable and service oriented alternative to other transport modes. Choice of mode in a competitive environment will be the critical factor in the success of an ETS in reducing emissions in the Australian freight transport sector.
- 5.4.34 It is clear from research undertaken by the National Institute of Economic and Industry Research (Manning, 2007 Ch 5) for the MUA that shipping is highly competitive, despite the inequities in infrastructure pricing and the limited scope of Government infrastructure programs such as Auslink, in certain corridors over hauls greater than 1,000 kms, which in the Australian context, includes much of our inter-capital city freight routes. Coastal shipping is currently undertaken at marginal cost and can therefore offer domestic rates at a discount to rail of up to 50% between Melbourne and Perth, and Melbourne and Brisbane (Meyrick, P136).
- 5.4.35 The Meyrick report (*International and Domestic Shipping and Ports Study*) also identified a set of factors that will be necessary to underpin the success of shipping as an alternative transport mode for shippers. Meyrick noted that coastal shipping can become a viable option for significant annual freight volumes if the critical mode choice factors of price, reliability, availability and transit times are pushed towards market competitive levels relative to rail. As a starting point, there needs to be close to peak reliability for sea to have grounds for mode share gain. Reliability upwards of 90% is likely to be required in order for shipping to gain market trust as a market alternative.
- 5.4.36 Through natural advancement in shipping technologies, ship transit times are likely to be reduced. Mode share tends to be highly correlated with transit times which is seen as a significant point of current differentiation between rail and sea. Meyrick concluded that shipping can realise substantial mode share through minor streamlining in transit times of 10 to 20%. This means in practice deploying vessels with service speeds of around 21 to 25 knots instead of the more standard 18 to 20 knots.
- 5.4.37 Another important success factor is the securing of a fixed, ideal day berthing windows at the main Australian international ports. Without this, it is very hard to provide the level of quality of service required and be attractive for shippers. The solution is to ultimately construct dedicated berthing facilities and connecting infrastructure in the main ports for domestic container shipping services. The MUA believes this will be an important issue for *Infrastructure Australia* in the context of its audit of ports, and ultimately in the new national consistency in regulatory arrangements for Australian ports that we expect will emerge from the work of *Infrastructure Australia*.
- 5.4.38 Availability of shipping services is a mode choice factor directly within the control of operators for immediate returns in mode share. The number of services between cities needs to be increased to compensate for the lag in transit times. In terms of say container shipping, deployment of two services within the same week provides the needed flexibility for customers and creates a substitution effect for longer travel time. Coastal operators need to

complement improvements in critical mode choice factors with significant investment in integrated infrastructure and domestic-sized equipment (as can be evidenced by successful coastal operators in Europe which have moved away from the limitations of international sea containers to the use of containers matching road trailers – there are vessels with cell guides specially designed for large trailer size containers).

- 5.4.39 To provide door-to-door service for customers, the operator needs to ensure that ports are equipped with loading and unloading machinery for domesticised equipment. These facilities need to be integrated with road freight docks to transfer cargo to trucks efficiently and securely. Furthermore, the ports will need to increase their customs controlling areas and docking berths to account for increased coastal shipping traffic. Investment in infrastructure must support the decision to compete with rail for mode share in order to be able to provide a reliable service when volumes increase.
- 5.4.40 Meyrick concluded that given the nature and direction of Australia's coastal cargo-flows, there exists the opportunity for an innovative operator (entrepreneur/investor) to create a market by combining domestic containerised flows (using domestic-sized equipment) with bulk and/or breakbulk cargoes using "combi/multi-purpose" vessels.
- 5.4.41 To create the conditions for these success factors to materialise will require in our view a set of fiscal policies that support investment in Australian ships. The MUA has commissioned new research on fiscal policy measures to support investment in Australian ships. That work is not yet completed. However, it is examining international practice, and has identified concepts such as the tonnage tax, asset depreciation, capital grants, and ship mortgage and leasing arrangements as among the available instruments that are in widespread use by Governments throughout the world to assist domestic shipping industries.
- 5.4.42 Once the MUA report is completed, we will provide further advice to Government on the policy instruments that could support new investment in efficient shipping.
- 5.4.43 The Government's announcement of a review of shipping policy and regulation is a critical step in the revitalisation of Australian shipping. The Government clearly had the environmental opportunities in mind when it drafted term of reference 4 (see Attachment B). The review will also provide the opportunity to consider issues of competitive neutrality across all modes, as well as the opportunities for expansion of the new Auslink program that will undoubtedly emerge through the work of *Infrastructure Australia*.
- 5.5 Consider the implications of coastal shipping policy for defence support, maritime safety and security, environmental sustainability and tourism**

### **The relationship of the merchant navy with national security and national defence**

- 5.5.1 Despite the contribution which the merchant navy has made to growing and defending the nation, the recognition does not currently seem to exist in mainstream popular consciousness in Australia. In fact serving merchant



seafarers at times of war battled for many years for full medical and other benefit recognition for their contribution.

- 5.5.2 However, the announcement by the Hon Julia Gillard, Deputy Prime Minister, on 9 April 2008 that Australia would henceforth recognise Australian Merchant Navy Day on 3 September each year is a significant acknowledgement and recognition of the past role of the merchant navy.
- 5.5.3 The past Australian situation contrasts markedly for example with the situation in the US, our key defence ally and a key trading partner, where there is a bipartisan support for, and high level acknowledgement of, the important role of the US merchant marine. The US Government has long recognised its merchant navy through a Merchant Navy Day which is held in much the same regard as Anzac Day in Australia.
- 5.5.4 The Australian merchant navy and merchant seafarers have played a crucial role in a number of the armed conflicts that Australia has been involved in over the past century, including both World Wars, in the Korean conflict and during the Malaysian Emergency.
- 5.5.5 Of the seventy six merchant ships lost in Australian waters to mines, torpedoes, shelling and bombing, during the Second World War, twenty nine were Australian.
- 5.5.6 Australian seafarers killed on these merchant vessels in Australian waters numbered 1 in 8 in total. The number of Australian merchant seafarers lost on all the oceans whilst serving the nation will probably never be known.
- 5.5.7 Former Defence Chief Major General Peter Cosgrove, formally thanked the MUA and its members for the contribution its members made in supporting the post independence mission to Timor. In a letter to John Coombs of 15 October 1999, Major General Cosgrove noted that in supporting the INTERFET Force deployment in East Timor:

*“Many civilian ships have carried valuable people, equipment and supplies to the deployed forces, without which our logistic build up would have been severely hampered”.*

- 5.5.8 What this demonstrates is that merchant seafarers and the merchant marine still remains a prominent resource alongside the armed services in humanitarian missions, such as in Timor Leste, as well as in armed conflicts
- 5.5.9 The 2004 report of the Joint Standing Committee on Foreign Affairs, Defence and Trade recognised the importance of the merchant fleet to national defence and noted the implications of an over reliance on foreign ships, where it stated that:

*“Defence, in delivering a maritime strategy may need the support of merchant shipping to achieve its objectives.”*

- 5.5.10 The Royal Australian Navy's Australian Maritime Doctrine of 2000 states, in relation to Maritime Logistics, that:

*Australia's strategic circumstances reinforce the truism that sea remains the principal medium for the movement of large quantities of material. This means that much logistics effort, whether directed towards maritime combat forces or not, will be by sea. Shipping must thus be considered a joint logistic asset. Its protection may well become a critical issue within a campaign that has few other apparent maritime dimensions."*

5.5.11 It further states, in relation to Ships Taken Up From Trade, that:

*Support capabilities can be improved by taking merchant ships up from the trade and converting them to the extent required by the operation. These vessels cannot replicate the capabilities of built for the purpose replenishment units, but they can play a vital role in maximizing the capacity of the latter by acting as resupply units between shore bases and the operational area. If vessels are to be taken up from trade, then mechanisms need to exist for their identification within a national register and charter or requisitioning. In these circumstances the possession of a substantial national merchant fleet can be an important strategic advantage. Merchant vessels can also be deployed to provide sea lift for the movement of land forces and their logistic support. Nations with smaller merchant fleets may be forced to purchase or charter ships for these purposes from overseas sources, an expedient which can be difficult to achieve in emergencies."*

5.5.12 In a Navy submission to the Shipping Reform Working Group in 1999, Navy stated that:

*".....it would argue that an indigenous Australian shipping industry represents a national capability that is important to Australia's maritime security. The industry is a critical part of the national defence infrastructure and the ADF draws naturally upon its skills and resources in pursuit of its mission: To promote the security of Australia and to protect its people and its interests. Defence's capability to do so would be diminished in the absence of a viable and efficient shipping industry."*

5.5.13 The US *Merchant Marine Act 1920*, commonly referred to as the Jones Act, gives practical, program and resourcing support to the US merchant navy in recognition of its important role in national security and national defence. In essence, the Jones Act requires that a strong merchant marine be sustained in the US national interest.

5.5.14 The Jones Act not only ensures US coastal cargoes are carried on US flagged vessels, but it requires those vessels to be built in the US to US standards and which must be crewed by US seafarers.

5.5.15 As an example of the practical effect of the Jones Act, its principles were applied in 2006 when President Bush signed into law the *Coast Guard and Maritime Transportation Act of 2006* which provides for developers of Liquefied Natural Gas (LNG) import facilities to get a higher priority in planning and operating approvals if they agree to be supplied by US flagged LNG tankers.

5.5.17 The implication is that high value, high significance cargoes should be transported in secure ships, with secure crews, in the national interest.

5.5.18 The US position was again articulated in a media release of 18 May 2007 to proclaim National Maritime Day 2007. In that media release President Bush said this:

*“America has a proud maritime history, and the United States Merchant Marine has played a vital role in helping meet our country's economic and national security needs. On National Maritime Day, we honor merchant mariners for their dedication to promoting commerce and protecting our freedom.*

*During times of peace, the US Merchant Marine helps ensure our economic security by keeping the oceans open to trade. Ships operated by merchant mariners transport goods across our Nation's waterways and on the high seas around the world to connect American businesses and consumers with valuable foreign markets and commodities. The skill and expertise of merchant mariners facilitates trade and helps to strengthen our economy.*

*In times of war, the Merchant Marine is the lifeline of our troops overseas. By carrying critical supplies, equipment, and personnel, merchant mariners provide essential support to our Armed Forces and help advance the cause of freedom”.*

5.5.19 Following some robust exchanges between the MUA and the former Minister for Defence in 2006, we have been invited to participate in the Australian Maritime Defence Council (AMDC) as an observer. The AMDC provides a forum where contemporary merchant marine and Navy interface issues can be discussed. We believe that the maritime unions, like the shipping employers, should be full members of AMDC.

5.5.20 One of the issues currently being considered within AMDC is the issue of the protocols for the boarding of merchant ships by military personnel. It is important that merchant seafarers, as well as Defence personnel are familiar with each others requirements and operating procedures. The AMDC is an ideal forum to settle these issues.

### **Maritime security**

5.5.21 The attack on the World Trade Centre in 2001 provided the impetus for the International Maritime Organisation (IMO) to seriously focus on maritime and port security. The result was an amendment to the Safety of Life at Sea (SOLAS) Convention establishing the International Ship and Port Facility Security Code (ISPS Code).

5.5.22 The MUA has been constructive participant in implementation of the ISPS Code in Australia, through the passage of the *Maritime Transport Security Act 2003* (later amended to become the *Maritime Transport and Offshore Facilities Security Act 2003*) and regulations.

5.5.23 The MUA maintains an important position on the Maritime Industry Security Consultative Forum (MISCF) and sits on the Maritime Transport Security Working Group along with the Federal Government and industry.

- 5.5.24 Another important initiative in which we have been a willing participant is the establishment of Port Security Committees which have been set up in virtually all Australian ports. These Committees comprise employers, the MUA, the Federal Office of Transport Security and State Government representatives. They play an important role in monitoring and advocating security at each port.
- 5.5.25 All these measures have dramatically improved port security, at least on the landward side.
- 5.5.26 However, port security is really only as good as the security of the vessels that enter those ports or the security of the cargo on board those vessels.
- 5.5.27 This is why we have been arguing for some years that there remain weaknesses in Australia's security at the ports. I will briefly document the weaknesses we have identified.
- 5.5.28 Firstly, lack of Australian ratification of ILO Convention 185. We remain hopeful that we can convince the Government to ratify International Labour Organisation (ILO) Convention 185 - Seafarers' Identity Documents Convention (Revised), 2003.
- 5.5.29 It is the view of the MUA that Australia's lack of commitment to this ILO Convention limits its moral authority in the international maritime industry to require high level background checking of foreign crews.
- 5.5.30 If Australia is not prepared to establish a seafarers database and provide biometric recording of its own seafarers (as required by the Convention), it cannot expect to impose more rigorous standards on foreign seafarers wishing to visit Australia on international shipping.
- 5.5.31 Second, the introduction of the Maritime Crew Visa (MCV). The MUA has held concerns over the introduction of the MCV which will cost Australian tax payers \$100 million dollars and has the potential to dilute the effects of the MSIC card and national security when used to replace Australian background checked workers on coastal voyages.
- 5.5.32 The MUA is of the view that the implementation of the MCV does not adequately plug the current security weakness that allows foreign seafarers to enter Australian waters and ports with security and background checks which do not match the standards applied to Australian seafarers and port workers. This is particularly so in relation to foreign seafarers employed on board ships to which a coastal trade permit has been issued.
- 5.5.33 Third, the state of the Australian shipping industry. The decline of the Australian domestic shipping fleet has created a significant weakness in maritime security. It is widely recognised that domestic shipping fleets provide nations with an important security shield.
- 5.5.34 Australian ships and crews also provide an important surveillance function – well documented in relation to the reporting of illegal fishing vessels in our northern waters.

5.5.35 Australian crewed and flagged ships are unquestionably the safest mode of transporting cargos around our coastal zone, and in doing so will maintain high standards of national security.

## 6. The MUA commitments

6.1 The MUA, as the principal union representing seafarers in the Australian maritime industry, along with the other maritime unions, has in the past and will continue to participate in national and international initiatives aimed at improving the competitiveness and productivity of the Australian shipping industry.

6.2 Below we outline the most important of those initiatives to provide a perspective on the positive and constructive approach which we have played and will continue to play in supporting our industry, and to demonstrate our legitimacy, our professionalism and our national interest credentials.

6.3 Firstly, we restate our rock solid commitment to collective enterprise bargaining, which has delivered to shipping employers wage stability and Consumer Price Index (CPI) tracked wage movements over the last decade.

6.4 In other words, our commitment to collective agreements, and the discipline we have exercised among the workforce (our membership), in a period of labour shortages where we could have extracted so called market rates, has been a significant factor in maintaining competitiveness and productivity in the Australian shipping industry.

6.5 We have maintained this discipline and have not been tempted by the same unethical principles that have characterised the executive pay spiral and some of the AWA segments of the labour market because we firmly believe in the importance of sustainability of the labour market.

6.6 We recognise that forcing up the price of labour on a short term basis can be illusory in terms of income security and job security, and ultimately, in terms of net gains for workers, over the working life cycle. We firmly believe that life-long approaches to wealth generation by wage and salary earners is better served by stability and sustainability, in both employment and income, over the entire employment life cycle.

6.7 We therefore have no interest in jeopardising long term sustainable development of the maritime industry by short term exploitation of a particular labour market.

6.8 However, such restraint on the part of workers and unions must be accompanied by visible and concrete actions on the part of employers to investment in training and workforce development, genuine career pathing and to cooperative labour relations.

6.9 It is also predicated on supportive Government policy that respects internationally agreed rights, such as the right to organise and be represented by a trade union, the right to decent work (as defined by the International Labour Organisation), and on Government policy that addresses social justice

issues such as housing affordability, protecting the environment, provision of reliable and affordable public transport, child care and education.

- 6.10 These are surely the foundations of a healthy social democracy, particularly one endowed with such a richness of resources and agricultural land as ours.
- 6.11 We remain committed to sustainable approaches to addressing labour market issues – supply, quality and price – subject to the provisos we outline.
- 6.12 Secondly, the MUA remains committed to negotiating collective agreements which contain productivity benefits and ship performance improvements. Some examples of the unions' partnership approach to date have been:
- Reductions in crew complement, achieving world's best practice, often only limited by the higher crewing required on less efficient and older vessels where safe operations requires higher crew complements.
  - Acceptance of the need for foreign riding gangs in some circumstances eg in the LNG tanker trade, to undertake routine shipboard maintenance aimed at achieving better labour productivity and enhanced ship performance.
  - Greater flexibility in the use of available labour, such as multi-skilling of the crew and improved rostering (noting the Australian Integrated Rating is already the most multi-skilled of all the worlds qualified ratings).
  - A strong commitment to training, qualification levels and overall workforce development.
- 6.13 Typical shipping collective agreements we negotiate commit the parties to:
- Operate the Australian crewed fleet to a high standard of efficiency, in a viable and competitive manner, ensuring a high level of customer service.
  - Address cost issues and improve the viability of the operation.
  - Continually review the agreement, and all workplace practices in order to develop and adopt a culture of continuous improvement.
  - Consult regarding the setting of productivity targets to be achieved throughout the life of the agreement, based on competitive benchmarks, to ensure the viability of the business.
  - Maintain a supply of skilled labour by ongoing recruitment of Trainee Integrated Ratings.
  - Adopt an individual crew member performance appraisal system.
  - Adopt a team-based approach to work, with each employee working to the level of their classification, training, competence, certification and applicable legislation in a co-operative effort, to ensure the safe and efficient operation of the vessel.

- Better programming of work through the use of shipboard operations committees.
  - Participation in regular productivity reviews so that appropriate measures aimed at improving and recording the efficiency of the fleet collectively, and individual vessels in a fleet will be developed and implemented. These measures include, but are not limited to:
    - introduction of vessel performance targets;
    - projects to enhance teamwork; and
    - the achievement of compensation and medical targets.
- 6.14 Third, we continue to work closely with the Australian Maritime Safety Authority (AMSA) in relation to the issuing of minimum safe manning certificates, often agreeing to conditional clauses that allow ships to sail for limited periods with skill sets that are only suitable for a short term. This allows the operator to meet commercial requirements in cases of emergency or of unexpected crewing deficiencies.
- 6.15 Fourth, we have in place an agreement with the Maritime Union of New Zealand, and are negotiating with the UK Rail, Maritime and Transport Union, for a program of seafarer labour exchange to assist the industry meet peaks in labour demand.
- 6.16 Fifth, we are working with the industry on development of drug and alcohol policy aimed at eliminating the potential for a worker to take their place in the workforce when they are not fit for work and could place themselves and others in danger whilst at the same time recognises the legality of a range of drugs in society.
- 6.17 Sixth, we have established close working relationships with not only the other domestic maritime unions but all the domestic transport unions, through establishment of the Transport Unions Federation (TUF). This alliance promotes a cooperative relationship with employers and enables us to more coherently address policy and industry wide issues. Employers welcome such collective approaches on key issues.
- 6.18 Internationally, we actively implement the ITF Flag of Convenience (FOC) campaign, aimed at eliminating sub-standard ships and sub-standard labour relations on ships in trading with Australia. In a truly global industry operating within a global labour market, all steps that can be taken to raise the floor at a global level are steps towards ensuring there is fair competition in that market, particularly important in evening out the imbalances between cost structures in the developed and developing nations. Just to illustrate the extent of labour exploitation in international shipping, ITF FOC Inspectors have recovered US\$70.7M in underpayment of wages for international seafarers over the last 4 years alone – and that just from the ones where a complaint has been lodged and follow up action has been successful.
- 6.19 In addition, the MUA is committed to be an active participant in the International Bargaining Forum (IBF) negotiations, which in September 2007 concluded the third international collective seafarers agreement. The IBF is a negotiating forum between the International Transport Workers' Federation

and peak global shipping associations represented by the Joint Negotiating Group (JNG – comprising Japanese, Korean and European shipowners). The Agreement covers more than 3,500 vessels employing more than 100,000 seafarers worldwide.

- 6.20 In addition to an 8% wage increase over two years, the 2007 Agreement provides for a \$10 per month levy per seafarer on vessels operated by members companies represented on the JNG. The money will be paid into a special fund which will be used to subsidise work for seafarers from traditional maritime nations (developed economy ratings) like Australia, whose seafarers have been costed out of the global market in recent decades. The result is that Australian seafarers will have greater opportunity to work in Australia's international shipping trade.
- 6.21 As a parallel development, again to help offset the crew cost differential between Australian crews and crews from developing nations, we will argue for reform of the income taxation arrangements for Australian seafarers working in international trade, so that income earned while on the high seas is treated as foreign earned income. Together with the new IBF agreement, this reform will add considerably to the opportunities for Australian seafarers in the international trades.
- 6.22 We recognise the IBF Agreement as a major breakthrough in job security for Australian seafarers, with shipowners recognising the importance of seafarers from Europe, Japan, Australia and America being included in trade between nations. It means that as new exports markets open up, such as LNG sales to Japan and China, Australian seafarers can play a greater part in that trade.
- 6.23 Importantly, the agreement also adopts many of the provisions of the ILO Maritime Labour Convention, which means those provisions will become operational years before they would normally have come into force.
- 6.24 The International Maritime Employers Committee, in a media release of 22 October 2007 stated that that the IBF system had managed once again to deliver an outcome that represented best practice in the industry and a series of measures that would benefit both seafarers and maritime employers.
- 6.25 Again, the significance of these developments is that they level the competitive playing field internationally, while at the same time minimising labour relations risk in international shipping.
- 6.26 It is significant that the Meyrick report (*International and Domestic Shipping and Ports Study*) highlighted a report prepared exclusively for the AMG by Thomson Clarke – Coastal Shipping Case Studies (June 2002) - which shows that the cost penalty of an Australian crew versus a foreign (ITF) crew is quite small, estimated as follows:
- for small coastal vessels (5,500-8,700 DWT) on the studied Australian coastal routes is an additional 10-15% of the total voyage cost; and
  - for a handy size bulker (28,000 DWT), an additional 5-6%.



- 6.27 When you contrast that small cost differential, which is becoming relatively less significant as other transport costs rise (eg fuel, port charges, emissions trading schemes, security etc) with the actual freight cost, the conventional wisdom about the alleged competitive disadvantage of Australian shipping simply does not add up. Just to illustrate further, the Maritime International Secretariat Services Limited (MARISEC – a body formed by the International Chamber of Shipping (ICS) and the International Shipping Federation (ISF)) has published a table of typical freight costs for highly traded products.
- 6.28 The MARISEC data shows that the typical cost of transporting a tonne of iron ore from Australia to Europe is about US\$12. Some typical costs for other products, on a shipment from say Asia to Australia, are: a TV worth \$700, shipping cost \$10; a kilo of coffee worth \$15, shipping cost \$0.15; and a can of beer worth \$1, shipping cost is \$0.01.
- 6.29 Given these facts, employer business strategies that focus on finding competitive advantage through wages and conditions competition will simply not work.
- 6.30 The MUA commitment is to work with Government and industry to ensure that wherever we can influence efficiency and productivity improvement, we will be a willing partner in the context of agreed foundations that respect decent work and a fair go for Australian seafarers.

**Attachment A - National Competition Policy and cost recovery****Extract from National Institute of Economics and Industry Research (NIEIR) report to MUA entitled Australian Coastal Shipping: Its Future Role, June 2007****National Competition Policy and cost recovery**

In the various debates that resulted in National Competition Policy it was argued that government services should be provided on business lines and financed from user charges, except where there were strong social reasons for doing otherwise.

Because there was no difference of principle between government and private services, user charges should fully recover capital costs, just as they do in private business. Capital costs include maintenance, depreciation and the opportunity cost of capital (or normal profit). Where possible, public businesses were to be privatised. Infrastructure investment was only to be undertaken when it met a hurdle rate of return: in other words, the assumption was that there would be full capital cost recovery for all infrastructure investments, and that insufficiently profitable investments would not be undertaken. However, as already noted, in the absence of a toll system which charges vehicles for their use of each road it proved impossible to apply this criterion to road investment. As a consequence, the attempt to apply it to rail infrastructure failed.

National Competition Policy resulted in two major rail reforms.

- Rail freight operations were corporatised and in the main privatised. All costs were to be recovered from user charges. (There has been some use of Community Service Obligation payments to subsidise rail freight, but none for the freight flows competitive with coastal shipping.)
- Except in Queensland, Tasmania and provincial Victoria, rail infrastructure was corporatised separately. In principle, all costs were to be recouped from user charges, but in practice this has been possible only for lines carrying heavy mineral traffic. On all other lines the capacity of rail operators to pay for infrastructure has been capped by the requirement to quote freight rates competitive with road.

The unpalatable truth is that, on the current terms of competition, rail services can be maintained only when infrastructure costs are under-recovered. Political decisions to retain services (backed up by calculations of savings in road and environmental costs) led the return from private to public ownership of rail infrastructure in Tasmania, New Zealand and Victoria. Subject to oversight by a panoply of competition authorities, rail track owners can set prices which reflect the costs they perceive to be imposed by individual users, but they remain dependent on public grants for a significant proportion of their investment finance.

By contrast, National Competition Policy had very little effect in the roads sector. As before, road transport is provided by competing private businesses which recoup their costs from user charges – the same as now applies to rail operations. As before, infrastructure is paid for out of government budgets, and, apart from a few metropolitan toll roads irrelevant to the present study, roads remain free to the user. As regards road cost recovery, governments have become schizophrenic. Their transport administrations treat vehicle registration fees and fuel taxes as road user charges, while their treasuries continue to treat them as taxes.

Recognising the argument that heavy vehicles cause higher costs than others, the National Road Transport Commission (NRTC, later NTC) was founded to determine the costs of road use by heavy vehicles and to recommend how these costs should be recouped. As a result of its recommendations, in 1995-96 registration charges for heavy vehicles were increased and a portion of fuel tax revenue was notionally identified as a user charge. However, these charges were paid into consolidated revenue as before.

For a while, Commonwealth taxation policy seemed to concur with the logic of fuel taxes as a road user charge. If fuel taxes are a user charge, it makes sense to rebate them for off-road use, and this was done. However, it does not then make sense to extend the rebate to all fuel tax paid by businesses (as has now been done with the exception of the notional heavy-vehicle charge). Though households still pay fuel tax (except for households running CNG-fuelled vehicles), business operators of light vehicles pay nothing, while operators of heavy vehicles pay 20 cents a litre.

The inadequacies of fuel taxation as a user charge were further emphasised in 2005. The NTC recommended that the revenue required for cost-recovery had increased and that charges should go up accordingly, but the conclave of Commonwealth and State transport ministers which has to approve such increases disagreed. One of the reasons for postponing an unpalatable decision was that the Productivity Commission (PC) was conducting an inquiry into road and rail freight infrastructure pricing.

In December 2006 the Productivity Commission released its report. By coincidence, perhaps, the New Zealand Ministry of Transport had recently released the report of an inquiry into the same topic, prepared by Booz Allen Hamilton (BAH). Though the New Zealand report was released in 2005, it is not referenced in the Productivity Commission's report. Despite this, it is instructive to compare the two reports.

#### 4.3.3 A cross-Tasman comparison

**Table 4.1 Road freight revenue and costs; estimate for the total national road system, cents per tonne-kilometre**

	New Zealand	Australia	
		Articulated truck	B-double
Revenue	2.6	0.7	0.44
External costs			
Roads (fully allocated)	5.1	0.7	0.62
Crashes, environmental costs	1.4	FR	FR
Recoverable costs	4.0		
Attributable costs		0.6	0.56

*Note:* FR: no estimate attempted. Recommendation for Further Research.

*Source:* Australia: Productivity Commission 2006 Table 5.2 (costs and revenue per litre of fuel consumed); adjusted for kilometres per litre and average payload from NTC 2005 Table 13 – payload assumed to be 66 per cent of gross for an articulated truck and 72 per cent for a B-double.  
New Zealand: Booz Allen Hamilton 2005 p 47 (HCV2) and tonne-km estimate from Table D2, converted to AUD at the rate 1.16NZD = 1AUD. Revenue and fully allocated cost further reduced by 7.6 per cent to remove the effect of the finance of accident compensation from fuel taxes – see Table B13.1.

The data in the Australian columns is the basis for the Productivity Commission's finding that 'heavy trucks have been more than paying their way in aggregate under the PAYGO system administered by the National Transport Commission. However, cost allocations have been 'conservative' and are being reviewed. The recent surge in road spending makes it likely that heavy vehicle charges will need to rise.' (p. xxvi)

On the basis of the first column in the table, the New Zealand study comes to a rather different conclusion. 'The broadest estimate of total provider/external costs is... just over double the current charges... The 'social cost recovery' (i.e. the ratio of charges; provider/external costs) is significantly greater for cars than for trucks.' Not only do the conclusions differ, but the absolute levels differ as well, both as to revenues and costs. In New Zealand both costs and revenue per net tonne kilometre are reported to be higher than in Australia. In New Zealand trucks pay a Road User Charge (a tax on vehicle kilometres travelled graduated by load rating) in lieu of a diesel fuel tax. Truck owners also pay registration fees, but nearly two-thirds of these go to accident compensation. The data in Table 4.1 has been adjusted to allow for this. Even after these adjustments, it is surprising to find that roads appear to be much more costly in New Zealand than in Australia.

A first difference is that the New Zealand consultants have included an estimate for external costs – those imposed on third parties. The Productivity Commission has declined to take a position here, though the generality of studies concurs with Booz Allen Hamilton that trucks impose appreciable costs in pollution, emissions and crashes. We will, however, defer consideration of these costs, and concentrate on those borne by the providers of the road system – where, per net tonne kilometre, New Zealand costs are estimated to be approximately seven times those in Australia. It is possible, of course, that New Zealand's earthquakes and mountains cause the difference in provider costs, and it may also be that there are hidden differences of data definition. However, it is unlikely that differences of geographic setting cause such a dramatic difference in costs. A more plausible explanation arises from differences of costing methodology.

The obvious methodological difference is that the New Zealand study used conventional accounting: it estimated maintenance costs and allocated them to vehicle classes, and estimated capital costs, took a rate of return, and allocated this to vehicle classes. It supplemented this work by detailed case studies of number of particular freight and passenger flows. By contrast, the Productivity Commission undertook no original research. Instead, it satisfied itself that the National Transport Commission's 'paygo' approach was valid, and on this basis adopted the NTC estimates.

The paygo approach is also used by the Ministry of Transport in New Zealand, and Booz Allen Hamilton were accordingly well aware of its virtues and shortcomings. Their report states that 'if asset lives are long and are depreciated geometrically at the discount rate ( $d$ ) rather than on a straight line basis, and network expenditure is in a steady state, then the discounted replacement cost of the network is  $1/d$  times the annual capital expenditure and 'paygo' will give the same capital charge as applying a cost of capital ( $d$ ) to the discounted replacement cost.' This is the equivalence which allowed the Productivity Commission to accept the NTC's calculations. By contrast, Booz Allen Hamilton were critical of 'paygo' on the ground that 'in circumstances where the level of investment varies over time, this method is neither fair nor efficient: on average users will be over-charged if the network is expanding and under-charged if it is running down.' (p12) In addition, 'paygo' 'applies little pressure on road authorities to improve productivity or investment planning', since they can recover whatever costs they care to incur. In principle, the Productivity Commission agrees with these criticisms (p. 73, 75, 88).

Using conventional accounting methodology, Booz Allen Hamilton calculated that road system provider costs (excluding police and administration) amounted to approximately NZ\$3.3 billion in 2001-02, divided into capital costs 77 per cent and current costs (mainly maintenance) 23 per cent. The report does not highlight the difference between this estimate and its 'paygo' equivalent, but an estimate of 'paygo' expenditure equivalent to the Australian definition can be calculated from Table B2.2, including the deduction of local authority road spending financed from rates (this is also, in effect, deducted in the Australian measure of 'paygo'). At NZ\$0.8 billion, the 'paygo' estimate is only a quarter of the conventional accounting cost estimate.

Even if road expenditure financed from rate revenue is included, the 'paygo' estimate does not rise above a third of the conventional estimate. One does not have to go very far to find the cause of the difference: capital expenditure is only one-third of the 'paygo' total, whereas it comprises 77 per cent of the conventional accounting measure. In other words, the conditions under which 'paygo' and conventional accounting are equivalent are not met. The New Zealand network is not expanding steadily. It is mature, with capital inherited from the past outweighing current additions.

The obvious question is whether this conclusion is transferable to Australia. The NTC bases its work on reported total road expenditure without inquiry as to whether the expenditure is for capital or current purposes. Pender (1999 p 20) observed that, in the 1990s, expenditure on rural roads in Australia was 58 per cent current and 42 per cent capital – a higher ratio of capital spending than in New Zealand, but still an indication that capital expenditure may be less than required for equivalence between conventional accounting and the 'paygo' methodology. For the mid-1990s, Pender's calculation is that 'paygo' underestimates conventional accounting costs for the use of Australian roads by trucks by 35 per cent, and rather more severely for cars.

Though it did not attempt to provide an alternative to the NTC estimates, the Productivity Commission did note that some road authorities feel that they are falling behind with maintenance, and that they are not adding to the system in accord with demand (p. 261).

A further area of contention concerns the allocation of total costs to traffic classes. Roads carry a great variety of traffic. This makes it very hard to allocate costs, either at the system level or at the level of the individual road. Various rules of thumb have been applied, including allocation by the following rules.

- Vehicle kilometres travelled (VKT) loads most costs onto private cars, since they are responsible for most traffic.
- 'Private car units' are calculated by weighting VKT by the typical amount of road space used by a vehicle in motion. By comparison with the unweighted estimates, it loads more costs onto large vehicles. This is of most relevance in areas where road amplification is being considered to relieve congestion.
- Equivalent standard axle loads shifts even more costs onto heavy vehicles, reflecting the 'fourth power rule' – maintenance costs and pavement construction costs to stand the pounding of heavy loads both rise rapidly with axle loads.

So long as costs are distributed across mixed traffic classes, argument will persist as to which of these principles is relevant. Though it endorses the NTC calculations, the

Productivity Commission notes arguments that the NTC is lenient to trucks (pp. 105-7). It is difficult to avoid a conclusion that current heavy vehicle charges under-recover costs on a whole-of-system basis, probably considerably.

On the rail side, it has been much easier to conclude that inter-capital rail services do not fully recoup capital costs. Unlike roads, the rail system uses conventional accounting, so it is not hard to assess the deficiency of its cost recoveries, or to note its dependence on government grants for upgrading its line-haul infrastructure. We do not have to seek far for the reason. Both the Productivity Commission in respect of Australia (p. 129), and Booz Allen Hamilton in respect of New Zealand, have found that, for major freight flows, the main determinant of rail freight rates is road freight rates. So long as they can cover train operating costs, rail administrations tend to set their freight rates to maintain or increase market share vis a vis road – the sole exception in Australia being export coal. Under this ceiling, they find that they do not earn enough to make a commercial return on infrastructure capital.

## Conclusions

So much for whole of system estimates of cost recovery for land transport line-haul infrastructure. The National Transport Commission, on the basis of 'paygo' estimates, argue that, at least until the rejection of its Third Determination, road freight transport has paid its infrastructure costs – even if B-doubles haven't. (This is a significant admission, since B-doubles are the vehicles most directly competitive with coastal shipping.) The Productivity Commission has backed this estimate, but the backing is very much at the theoretical level – it has not checked the accuracy of the NTC's assumptions. It also agrees that there is under-recovery for B-doubles, and under-recovery will increase the longer it takes to implement the Third Determination.

The NTC's conclusion rests on a large number of contestable assumptions, the most critical of which is the proposition that the 'paygo' approach yields the same result as the application of conventional accounting rules. By comparing the NTC results with a contemporary study from New Zealand, we cast considerable doubt on this assumption. In addition, we noted that many other judgements incorporated into the NTC's methodology have been criticised as minimising the costs attributed to heavy road transport.

By contrast with road transport, the rail industry admits that its charges do not cover all long-run costs, and the Productivity Commission agrees.

At this point it would be convenient to conclude that, on a whole-of-system basis, costs are under-recovered from land transport which potentially competes with coastal shipping – thus validating the assumption with which this chapter began. However, these all-of-system results do not tell us much, since coastal shipping is in competition with land transport on no more than a limited selection of routes. Whole-of-system comparisons are not directly relevant. What matters is line-haul infrastructure costs on directly-competitive routes, and in particular the effect of any under-recovery on infrastructure investment.

