



Australian Shipowners Association

Inquiry into Australia's Maritime Strategy

Submission by

Australian Shipowners Association

1. INTRODUCTION

The preamble to the Terms of Reference to the Inquiry indicates that the inquiry aims to develop an understanding of Maritime Strategy. The Terms of Reference refer to, amongst other things, the impact, integration, application and primary roles of Maritime Strategy.

This submission considers:

- the Australian shipping industry, the environment in which it currently operates and the applicatio of that environment to Australia's Maritime Strategy,
- the integration between the Australian shipping industry and the components of Maritime Strategy and
- the key issues impacting on that integration at the time of writing the submission.

It is notable that the White Paper makes no reference to the role of civilian shipping in Australia's maritime strategy. This seems surprising given the crucial role played by shipping in two world wars when attacks upon and casualties amongst civilian shipping was a critical feature of those conflicts.

It is also surprising that the lessons learned from the loss of so many civilian lives in merchant ships in war would be so quickly forgotten. If those lessons have not been forgotten, the White Paper omitted to acknowledge the matter and a Maritime Strategy for Australia should address the role of civilian shipping in support of military activity.

Member of the International Chamber of Shipping, International Shipping Federation, Asian Shipowners Forum

Head Office:
Level 1, 4 Princes Street
Port Melbourne, VIC 3207
Telephone: +61 3 9646 0755
Facsimile: +61 3 9646 2256
E-mail: admin@asa.com.au
Website: www.asa.com.au

PO Box R506
Royal Exchange, Sydney NSW 1225
Level 7, 6 Underwood Street
Sydney NSW 2000
Telephone: +61 2 9258 8009
Facsimile: +61 2 9241 3456

2. THE AUSTRALIAN SHIPPING INDUSTRY

2.1 The Australian-flag shipping industry.

The Australian shipping industry is that sector of Australian economic activity comprising businesses that own and/or control and/or manage shipping, towage and salvage assets; which employ human resources skilled in those areas of business as well as the employment of those with appropriate qualifications and experience to operate ocean-going vessels and towage and salvage vessels.

The Australian-flag shipping fleet consist of around 56 trading vesssels of which about 45 are major ocean-going trading ships.

Most of the Australian-flag fleet is now deployed in domestic trades, the international trading fleet having been for the most part transferred to foreign flags under foreign

ownership under which such vessels may or may not be subject to Australian control.

2.2 The environment in which Australian shipping operates

It is sufficient to say here that the Australian-flag shipping fleet is subject to a legislative regime in Australia which renders Australian shipping uncompetitive in the international shipping industry.

A combination of customs, migration, workplace relations, income tax, ship registration, navigation and other legislation create an uncompetitive regulatory and cost regime for Australians. The barrier to competitiveness for Australian shipping is being Australian.

White Paper Para 6.4 p46 "Our armed forces need to be able to defend Australia without relying on the combat forces of other countries. This principle of self-reliance reflects, fundamentally, our sense of ourselves as a nation."

In contrast to the laudable objective espoused in the White Paper, Australian entities operating ships under Australian law find that Australian law and regulation is a barrier to self-reliance in Australia; Australian law is a barrier to Australia possessing a national shipping capacity .

2.3 The Australian shipping environment and Maritime Strategy

The Australian shipping industry sees itself as a defence industry. Or at least it sees itself as a would-be defence industry if the policy environment espoused in the White Paper extended to Australian shipping.

White Paper at p 98 "There is strong public support for a sound, competitive domestic industrial base as a key element of the national defence effort."
Report of Community Consultation Team: Key Finding

White Paper Para 9.14 p101 " the ability to develop a prosperous and effective Australian defence industry rests with industry itself. The Government will shape the environment in which industry makes its decisions, but will not intervene and shape the market through subsidies."

The Australian shipping industry would welcome a legislative environment which allows it to form part of the "sound, competitive industrial base" and an environment in which the shipping industry could make rational investment decisions without being subject to an anti-competitive legislative framework.

It should be noted that at the time of writing (October 2002) there is no identifiable government policy that applies to the Australian shipping industry. As shipping is a highly capital intensive and global industry the interface between the Australian shipping industry and a Maritime Strategy is, in the absence of government policy on shipping, one that is influenced more by commercial expedience and obligation to shareholders than adherence to any policy direction which might, if such a policy direction existed, otherwise create strategic obligations on the Australian shipping industry.

The Australian shipping industry would be happy to cooperate with properly considered and agreed strategic policy obligations that might form part of an overall Australian government shipping policy. But there is no such policy.

Consequently this submission is based on outcomes the Australian shipping industry believes would complement Australia's Maritime Strategy and which should form part of an integrated Australian shipping policy framework which should in turn align with Australia's Maritime Strategy.

For those familiar with shipping policy issues, we emphasise at the outset that the object of this submission is NOT to debate issues surrounding cabotage or to seek subsidies.

3. MERCHANT SHIPPING AND AUSTRALIA'S MARITIME STRATEGY

There are four issues which this submission addresses in relation to Australia's Maritime Strategy and the Australian merchant navy:

- the requirement to charter or requisition merchant shipping to provide a military sea-lift capacity in time of emergency,
- the requirement to source qualified, skilled and experienced civilian personnel to operate and manage merchant ships chartered by ADF in a transport support role,
- the requirement to register ships in Australia, and
- the requirement to provide protection for merchant shipping engaged in the international, interstate and intrastate carriage of strategic domestic cargoes from interference or attack by hostile forces.

3.1 ADF chartering of merchant shipping.

Our liaison with ADF and the general stance of the Federal Government in its response to date (October 2002) on the question of shipping policy has indicated that the Australian Government view is that retention of a fleet of Australian-registered trading ships - which could be made available as part of Australia's Maritime Strategy in circumstances of some military crisis is not necessary.

In other words, Australian shipping is not seen by Government as a defence industry.

As a consequence of the government's general policy position on shipping, the Australian shipping industry is and will increasingly turn to Australian-controlled, but foreign registered ships to perform its shipping tasks.

We presume that it is not necessary to argue the case for access to a means of sea transportation that can facilitate military operations, particularly having regard to the fact that:

White Paper Para 6.15 p50 "Substantial military air and sea lift must be available."

Whiter Paper Para 6.42 p56 "We must be able to sustain our forces once deployed.....it needs a capable industry base to draw on for support."

Since the Australian government has (at the time of writing) elected not to take steps to facilitate the retention of a fleet of Australian-registered trading ships in Australian control, there must be a presumption that ships of the appropriate type could be accessed in the open shipping market. In the event of any requirement to lift substantial volumes of materiel over long distances of open sea reliance on high-speed vessels such as HMAS *Jervis Bay* would be inadequate. Resort to large ocean-going merchant ships most closely suited to military sea-lift capacity would be essential.

There is little doubt that ships could be accessed in the shipping market for charter to ADF at a price that reflects the degree of risk to which the ship is to be exposed.

The actual operation of such ships by ADF would be more problematic. As it is standard practice in international shipping circles for ships' crews to be drawn from any of a wide variety of nationalities, it is virtually certain that a ship chartered by ADF in the shipping market would be crewed by personnel drawn from more than one crew-supplying country.

Even on a voyage or short-term charter the foreign crew (and their employer) of a ship chartered by ADF would be understandably reluctant to operate the ship in circumstances in which they would be, or perceive that they would be, at risk.

Insurance arrangements would certainly reflect that risk. Moreover, the employer's regular Protection & Indemnity insurance would almost certainly not extend to injury

sustained by the crew in such service without substantial war risk premiums being paid on both Protection & Indemnity insurance (the crew and the cargo) and Hull & Machinery insurance.

However the likelihood would be that ADF would require the vessel to be at its disposal for a variety of tasks over an extended period. In these circumstances a ship or ships would be bareboat chartered.

A bareboat charter is an arrangement whereby the owner of the ship contracts to provide the use of the ship to the charterer for a prescribed period of time. During the period of the charter it is the responsibility of the charterer (ADF) to provide crew, fuel, stores and maintenance for the ship.

In a situation where a ship is chartered to the ADF for use as transport support for some Australian military activity, it would be most likely that Australians would be expected to crew and operate the vessel.

This would not be a problem were it not for the shrinking base of maritime skills in Australia, a factor which can be readily overcome.

3.2 Crewing, operating and managing large merchant vessels.

The problem to be overcome stems from the fact that since 1995/96 there has been significant disinvestment in Australian-registered shipping. Figure 1 shows clearly the degree of net disinvestment in the Australian shipping industry in that period.

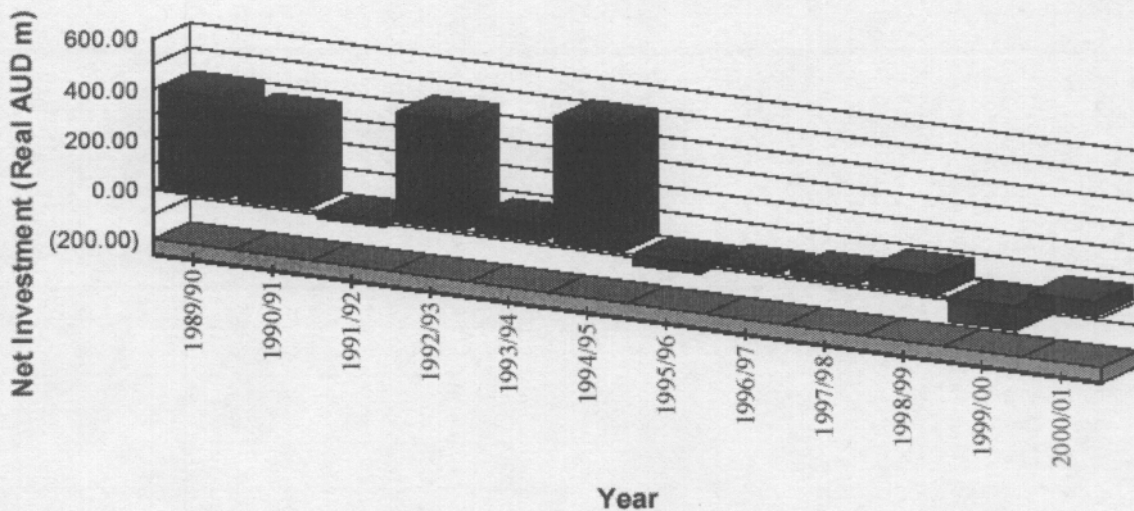


Figure 1: Net Investment in Australian Shipping 1989/90 – 2000/01

Figure 2 shows a continuing reduction in the number of Australian-registered merchant ships and a continuing increase in the number of foreign-registered vessels operated by Australian companies. Some of the foreign registered vessels would be manned with Australian crews, most are not.

Consequently there is a continuing decline in demand for young Australian men and women to be trained for a lucrative and productive career in the Australian seagoing industry.

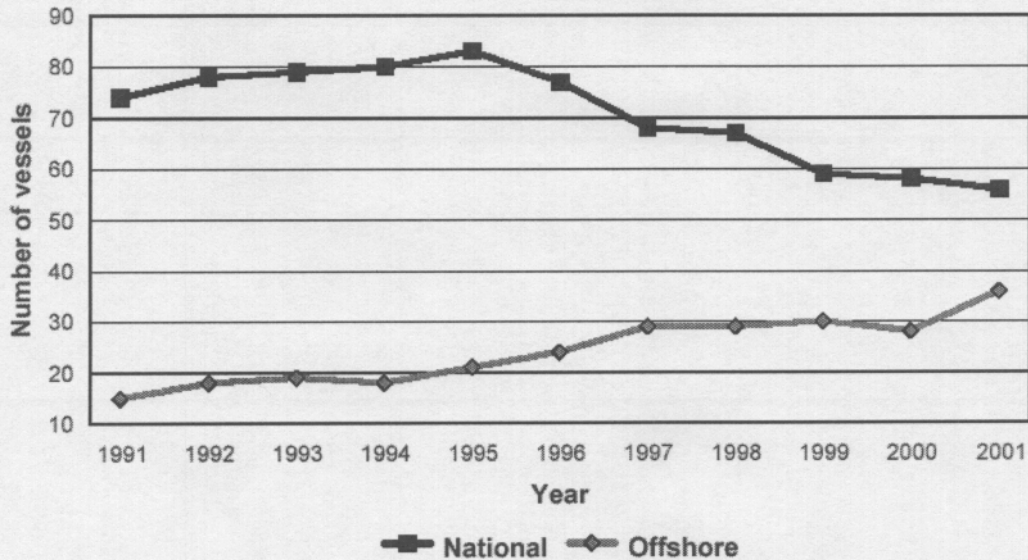


Figure 2: 1991 – 2001 National Vs Offshore Registration for Australian Controlled vessels

The following table shows the number of Australian-registered vessels and the number of Australian officers, both deck and engineer, in the seagoing fleet required to man the stock of vessels.

	'91	'92	'93	'94	'95	'96	'97	'98	'99	'00	'01
Vessels	74	78	79	80	83	77	68	67	59	58	56
Officers Required	1088	1147	1162	1176	1220	1132	1000	985	867	853	823

Table: 1991 – 2001 - Requirement for Seagoing Officers

The table shows that the number of officers required to man trading ships has dropped markedly. Not surprisingly, ship operators have almost ceased training young Australians as ships' officers. As the number of jobs at sea continues to diminish, so the availability of qualified Australians to operate ships will diminish.

There is also a demand for persons with seagoing qualifications to take up positions ashore. There are many occupations such as harbour pilots, tug masters, cargo planners, marine surveyors, ship managers, container terminal operators and marine engineering in which seagoing qualifications are either mandatory or highly desirable.

Increasingly, the ADF could not expect to find a ready supply of suitably qualified Australians to operate large merchant ships in ADF support operations; *unless, that is, one discriminatory item of legislation were to be changed.*

3.3 The Income Tax Assessment Act

Section 23AG of the *Income Tax Assessment Act 1936* provides concessional tax treatment for Australian residents working in a foreign country: this makes employment in such circumstances attractive both for the employer and the employee.

Incredibly, Australian residents working in foreign service but whose place of work is a ship at sea do not enjoy concessional tax treatment under Section 23AG of the Act because service in a ship at sea is not deemed to be service in a foreign country. This makes employment in such circumstances unattractive for both the employer and the employee.

This extraordinary anomaly could be readily be rectified by minor changes to the Income Tax Assessment. The Federal Court has determined that in the terms of Section 23AG of the *Income Tax Assessment Act 1936* service in a vessel in international trades on the high seas by an Australian-resident taxpayer does not constitute service in a 'country outside Australia' and therefore does not entitle Australians who are seafarers to the same tax treatment as Australians who work other than at sea.

This discriminatory anomaly substantially reduces the cost-effectiveness of Australians offering for jobs in the international shipping industry and removes an otherwise substantial incentive for Australian employers to recruit and train young Australian men and women as ships' officers.

White Paper Para 9 p4 the White Paper ...underlined the Government's commitment to ensuring the Defence Force will be an attractive career for young Australians.

If this tax anomaly were removed, young Australians could readily be recruited for training as ships' officers and could pursue lucrative careers at sea. Such people would then be available for other jobs ashore requiring seagoing qualifications as well as for the ADF if required.

As an example, a UK master of a crude oil tanker can earn UKP 50,000 tax free under UK law and receive a "one-on-one-off" leave system under a contract of employment from certain foreign employers. Australians cannot compete for such jobs because under Australian tax-law such salaries are fully subject to Australian tax.

White Paper Para 6.47 p57 "the Government has sought at all times to provide the maximum capability at the lowest possible cost by seeking the most cost-effective solutions available."

One absolutely straightforward and cost-effective means of contributing to an enhanced Australian Maritime Strategy would be to rectify the anomaly in Australia's Income Tax Assessment Act and provide ADF with an enhanced capability by encouraging Australians to obtain seagoing qualifications which could then be accessed for the operation of large merchant ships chartered by ADF for military transport support in an emergency.

If such employment opportunities were increased then disposable incomes would be repatriated into Australia by seafarers who might otherwise evade tax or engage in less lucrative employment: the outcome for the Treasury would have to be neutral or near neutral in revenue terms.

3.4 The Shipping Registration Act

Australian shipowners can, at least in part, adapt to the Government's vacuum in relation to shipping policy by transferring the registration of their ships to foreign registers which do confer certain fiscal benefits to shipowners – a practice which is widely adopted throughout the world.

But the *Shipping Registration Act 1981* provides that every Australian-owned ship is to be registered in Australia. As the Shipping Registration Act stands, it would be necessary for ownership of a ship to be transferred to a business outside Australia in order to escape the obligation to register the ship in Australia.

In this case, both the benefit to Australia of the registration of the ship and the benefit to Australia of the business of ownership of the ship would be lost to Australia.

The former is a natural consequence of the Government's position in relation to fiscal measures not being made available under the Australian ship registry, the latter is an unfortunate and presumably unintended consequence of the operation of the Shipping Registration Act.

The Shipping Registration Act was reviewed in 1997. We understand the recommendations of the review included a proposed change to Section 12 of the Shipping Registration Act as a result of which it would no longer be mandatory for an Australian ship owner to register his or her ship in Australia.

It is strongly suggested that an amendment to the Shipping Registration Act to remove the obligation on an Australian shipowner to register ships in Australia form part of the Government's current deliberations in relation to maritime policy.

The amended ship registration arrangements in combination with the amended taxation arrangements would facilitate expansion of Australian controlled and manned shipping.

4. AUSTRALIAN SHIPPING AND MARITIME STRATEGY

4.1 Military protection of civilian strategic maritime assets.

The White Paper and the question of Maritime Strategy seems to be silent on the question of protection of merchant shipping in circumstances of a defence emergency.

White Paper Para 6.30 p53 "Australia will maintain maritime capabilities – mostly air and naval forces – that can defend Australia by denying our air and sea approaches to any credible hostile forces."

White Paper Para 8.39 p85 Air capability "...will also have the capability to provide air defence and support for deployed ground and maritime forces in our immediate region."

White Paper Para 8.53 p88 "The Government's primary goal for our maritime forces is to maintain an assured capability to detect and attack any major surface ships, and to impose substantial constraints on hostile submarine operations, in our external maritime approaches ...(and)...to protect Australian ports from sea mines..."

Unless reference to protection of our sea approaches includes ensuring the safe passage of commercial shipping within and to and from Australia, then the question of the provision of protection to commercial shipping has not been taken into account.

In contrast, the "Force Structure Review" (Department of Defence, 1991) at page 19 said:

"Protection of shipping, offshore territories and resources are potentially most demanding tasks, requiring the deployment of forces over extended distances. Submarines and patrol boats can make some contribution, and F-111Cs and F/A – 18s can also assist, but the major burden will fall on destroyers, frigates and maritime patrol aircraft."

4.2 Australia's domestic shipping task

Yet one-third of Australia's interstate and intrastate transport task on a tonne-kilometre basis is undertaken by sea. Major industrial supply chains utilising iron ore, bauxite, manganese, zinc, petroleum products, gas, cement, gypsum and many other materials rely on Australia's interstate and intrastate shipping. Eighty-five per cent of this task is undertaken by Australian vessels, but increasingly, foreign vessels are participating in Australia's domestic sea transport task.

The nature of the Australian and foreign ships servicing Australia's interstate transport industry is very unusual by world standards. In most countries, coastal trades are performed by vessels that are much smaller than those found in Australia.

In Australia, the steaming distances and volumes of cargo are such that ships of sizes normally used in international trade are used in Australia's domestic trades; accordingly they are large, more vulnerable and each unit of shipping is, by nature of its size, a more valuable strategic asset. These ships vary from 40,000 tonne tankers carrying petroleum products from, say, south-east Australian ports to Queensland ports, to 150,000 tonne bulk carriers carrying iron ore from Port Hedland to Port Kembla.

By way of example, Tasmania is linked to the Australian mainland by seven vessels operating between Melbourne and northern Tasmanian ports operated by four different companies. These ships maintain a highly competitive, reliable and efficient service across Bass Strait. These ships would be highly exposed in an area that is almost as far from the northern air bases as it is possible to be and still be in Australia.

These vessels are all regular merchant vessels – they spend much of their time in relatively isolated waters yet they maintain industrial supply lines that would be vital to Australia in times of a security crisis.

White Paper Para 8.46 p87 "Australia's forces for maritime operations give us the ability to deny an opponent the use of our maritime approaches, and allows us the freedom to operate at sea ourselves....the ability to operate freely in our surrounding oceans, and to deny them to others, is critical to the defence of Australia."

If this emphasis on maintaining the freedom to operate at sea includes safe and free passage by commercial shipping then a maritime strategy should say so in clear and unequivocal terms.

4.3 The nature of Australian coastal shipping

The increasing incursion of foreign shipping into Australia's interstate transport industry creates a growing problem for ADF in a national emergency.

Figure 3 below demonstrates the growing incidence of foreign vessels in Australia's domestic trades arising as a consequence of a raft of Australian legislation which imposes costs on Australian ship operators but which do not apply to foreign ship operators. Foreign ship operators, whilst providing cost-effective shipping on an increasing scale, utilise the vagaries of the Customs Act to avoid their ships being deemed imported into Australia.

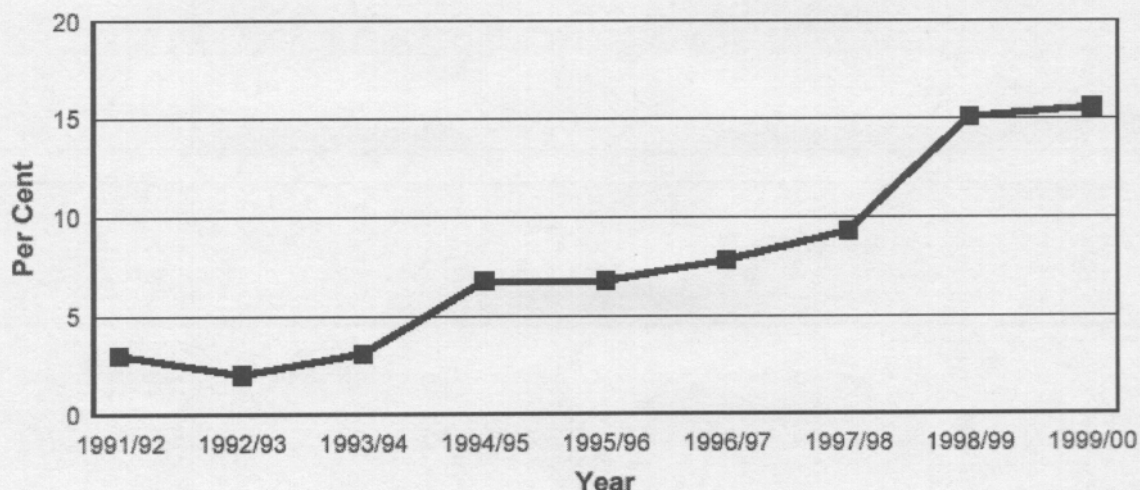


Figure 3: 1991/92 – 1999/00: Proportion of Australian Interstate and Intrastate Sea Freight Trade Undertaken by Foreign Vessels

By using ships that are not deemed imported into Australia, foreign operators avoid costs and liabilities arising under the Migration Act, the Workplace Relations Act, the Navigation Act 1912, The Seafarers' Rehabilitation and Compensation Act, the Occupational Health and Safety Act, the Customs Tariff Act and the Shipping Registration Act.

What has the use of foreign shipping in Australia's coastal trades to do with ADF protection of merchant shipping?

The overwhelming likelihood is that foreign shipping would desert Australian waters if ships were at risk of damage or sinking from maritime interdiction. This would leave Australian ships to maintain the flow of raw materials around Australia which in turn supports major industrial activity which would be essential to ADF in an emergency. These ships would require military protection to maintain the supply of essential raw materials within Australia.

Australia's Maritime Strategy must address this issue.

5. CONCLUSION

5.1 Australia's Maritime Strategy should consider the implications of a requirement to charter or requisition merchant shipping to provide a military sea-lift capacity in time of emergency.

The circumstances of a military emergency would create a situation in which suitable ocean-going sea-lift capacity would need to be bareboat chartered by ADF. Ships at ADF disposal under bareboat charter would require suitably qualified civilian personnel with expertise in crewing, managing, operating and maintaining vessels of a type and scale with which ADF personnel would be unfamiliar.

5.2 The Australia's Maritime Strategy should consider the ADF requirement to source qualified, skilled and experienced seafarers from the civilian population to operate merchant ships chartered by ADF in a transport support role and which requires a modification to the Income Tax Assessment Act.

The modification is necessary to remove discriminatory treatment under that act which disadvantages Australian resident ships' officers compared to Australian residents working in other occupations whose circumstances are identical except for the location of their place of work.

5.3 Australia's Maritime Strategy should consider the commercially anti-competitive nature of the legislative environment in which Australian shipping is forced to operate and the consequent unavailability of Australian shipping as a defence industry. The Maritime Strategy should recognise the importance of a minor change to the Shipping Registration Act which would, in combination with the suggested change in tax legislation, assist in this regard.

5.4 A significant issue for Australia's Maritime Strategy is the requirement to provide protection for merchant shipping in Australian waters engaged in the international, interstate and intrastate carriage of Australia's strategic domestic cargoes from interference or attack by hostile forces.

Most of the materials required to sustain Australian industry and community activity are carried in Australia's sea transport industry. The ships involved in this industry are large ocean-going vessels whose trade routes necessarily involve ships using sea lanes that are long and isolated.

Lachlan Payne,
ASA Chief Executive,
Level 1, 4 Princes Street,
Port Melbourne
Victoria 3207

Phone 03 9646 0755
Fax 03 9646 2256
Email lachlan@asa.com.au

October 2002