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11 April 2008

The Secretary
House of Representatives Standing Committee
Infrastructure, Transport, Regional Development and Local Government
Parliament House
PO Box 6021
Canberra ACT 2601

Dear Sir

Re: Review of Shipping Policy and Regulation

The National Bulk Commodities Group Inc (NBCG) is in receipt of the 'Terms of Reference' for the Standing Committee's review of Shipping Policy and Regulation.

The NBCG notes that this response has to be lodged with the secretary by 11 April 2008. This timeline is tight given the consultative processes an organisation such as the NBCG must adhere to.

The NBCG's response to the four (4) 'Terms of Reference' review points will deal with the issues from a dry bulk perspective – only.

The NBCG

The NBCG is the peak national body representing Australia's dry bulk commodity shippers and consignees. The aim of NBCG is to represent the collective interests of its members on issues connected with the production, transportation, storage, loading, unloading and shipment of Australia's dry bulk commodities.

Importantly, the principal focus of NBCG is the promotion of efficient and quality maritime services that are available to Australian shippers and/or consignees at internationally competitive prices.

In 2007/2008 the national dry bulk commodity transport task is expected to be approximately 650 million tonnes – shipped nationally, internationally, or imported.

NBCG members note that in the 12-month period 1 July 2004 to 30 June 2005, 19,773 foreign flag vessels called at Australian ports. Of this total 8,218 were dry bulk carriers and an additional 117 were combination carriers either loading and/or discharging dry bulk cargoes. Consequently dry bulk carriers made up 42.15% of all foreign flagged vessel calls at Australian ports during this period. To place this figure in context there were only 3,891 foreign flag container vessels calls in Australia during this 12-month period.

On a number of issues concerning maritime cost efficiency, the NBCG shares a common position with ship owner representatives (Shipping Australia Limited and the Australian Ship Owners Association) as well as the ports advocacy group Ports Australia.

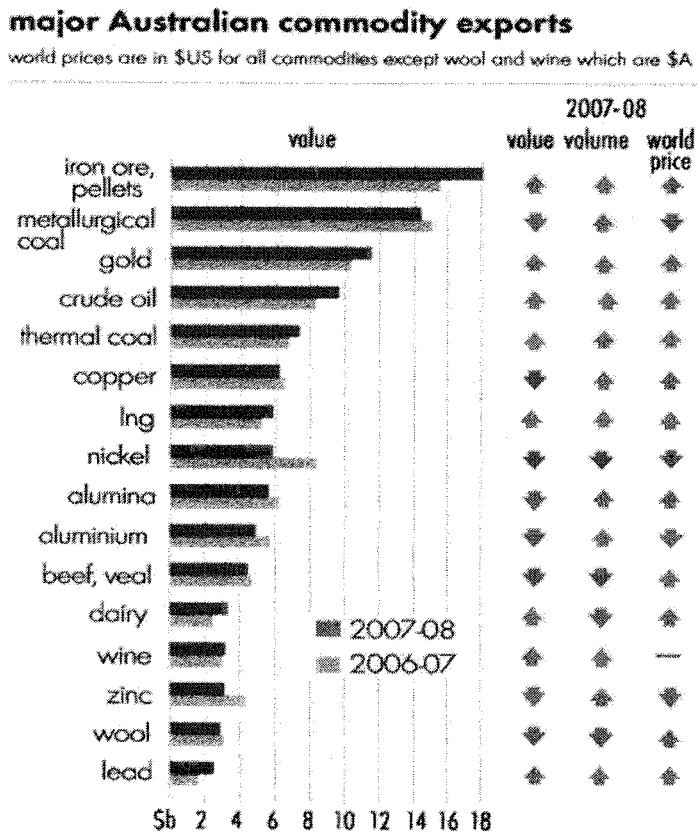
The principal area of differentiation between the NBCG and the ship owner advocates and Ports Australia is related to commercial issues, where freight rates, charter party issues and port costs have the capacity to become points of difference.

As a generalisation, the NBCG becomes involved when maritime issues have the potential to impact on freight rates and/or daily charter rates.

The list of current NBCG members is attached.

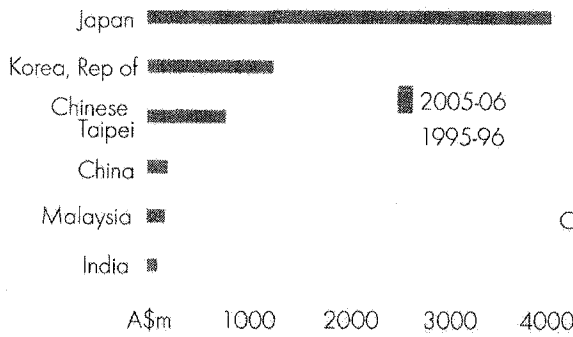
1. Outline the nature and characteristics of the Australian shipping industry and the international and coasting trades.

- 1.1. Australia is second only to China in terms of dry bulk commodities exported, imported or shipped domestically.
- 1.2. Australia's domestic dry bulk cargoes are shipped in both Australian flagged vessels and foreign flagged vessels. In former times when a predominantly local owned and licensed fleet performed the task, the logistical inefficiency was quite marked – albeit more tolerable in the less rigorous times then prevailing. In today's commercial world, if it were proposed that a local-licensed fleet should be rebuilt to more substantially cover domestic legs, certainly the level of logistic inefficiency that would apply could not stand up to scrutiny. The foreign flagged vessel component is critical to provide the economic certainty and flexibility of shipping capacity to ensure specialist plants receive and/or export cargoes on time in suitably sized dry bulk carriers.
- 1.3. In domestic trades where there is volume and certainty, the ships that service these routes are predominately owned by Australia domiciled entities.
- 1.4. The following ABARE graphs illustrate the value and principle markets of Australia's major exports, which naturally include mineral exports:

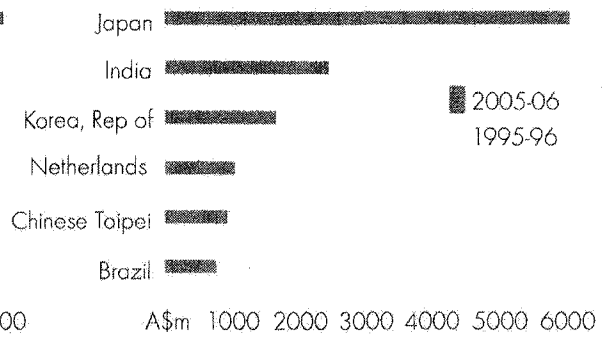


principal markets for Australian mineral and energy exports

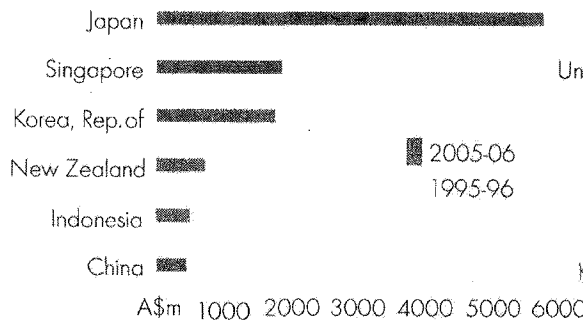
thermal coal



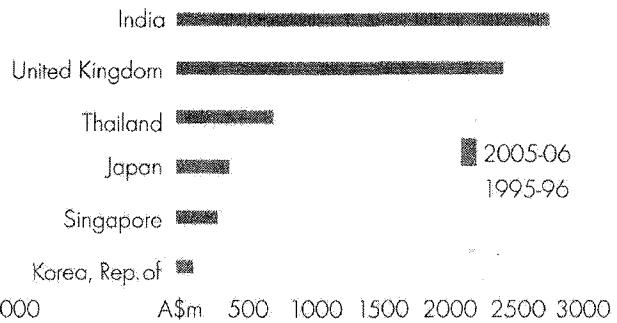
metallurgical coal



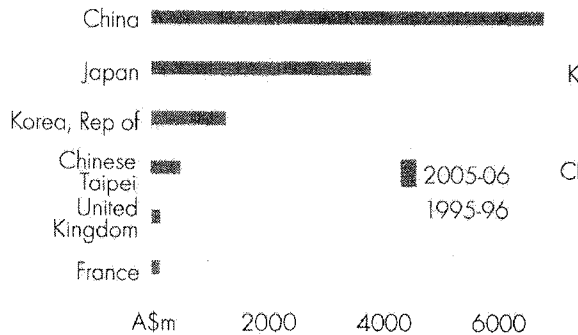
oil and gas



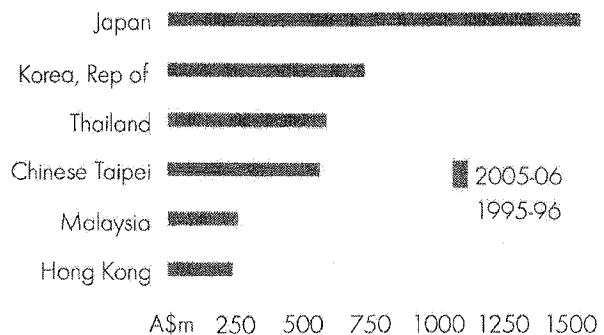
gold



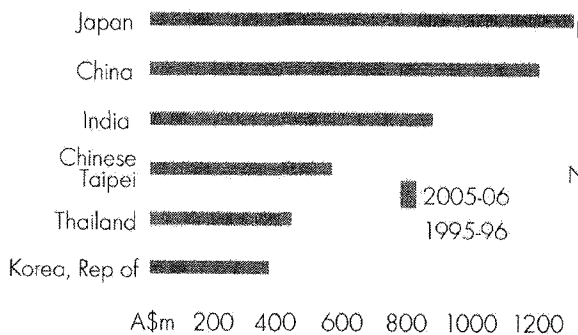
iron ore



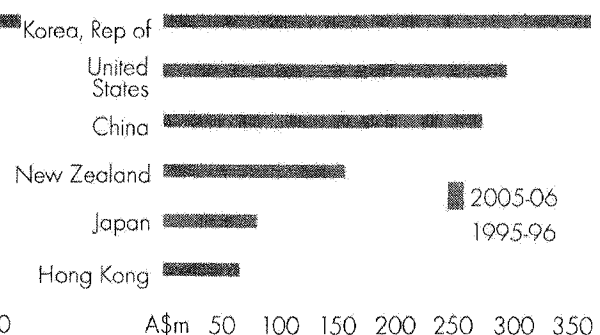
aluminium



copper



iron and steel



- 1.5. At present almost all (>99%) of Australia's international dry bulk exports and imports are shipped in foreign flagged vessels.
- 1.6. The NBCG estimates that in 2007/2008 the domestic dry bulk shipping task will be in excess of 35 million tones.
- 1.7. Bulk carriers are identified by their deadweight tonnage and their grouping. Deadweight tonnage (DWT) is the total weight of cargo a vessel can lift less fuel, water and stores. The table below is indicative of new building prices and long term daily time charter rates. Time charter rates are market driven. The supply and demand cycle has a more pronounced impact on short term daily rates (Spot). Spot rates can reach twice the long term (five years) rates if the timing of the fixture coincides with a demand spike in the cycle.

Ship Group	DWT	Indicative New Building Price	Indicative Long Term Daily Charter Rate
Cape Size	>150,000 tonnes	About USD95m	USD95,000
Panamax	70,000 to 90,000 tonnes	USD60 to 80m	USD65,000
Supramax	50,000 to 70,000 tonnes	USD50 to 60m	USD50,000
Handysize	20,000 to 50,000 tonnes	USD30 to 50m	USD25,000

Source: NBCG Members

- 1.8. Where small and divergent shippers and/or consignees require dry bulk cargoes to be shipped domestically smaller foreign flagged dry bulk carriers are chartered-in to meet demand. Because of certainty issues, no Australian owner could commercially justify the purchase of a 'spare' vessel at the prices quoted in Paragraph 1.7.
- 1.9. Economic Overview - increased downside risks to world economic outlook:

Although the global economy has sustained strong growth in recent quarters, volatility in financial markets has led to an increase in the downside risks to the world economic outlook.

In preparing this set of commodity forecasts, world economic growth is assumed to be 4.6 per cent in 2008, compared with an estimated 4.8 per cent in 2007 and 5.4 per cent in 2006.

Economic growth in Australia is assumed to strengthen to 3.6 per cent in 2007-08 from 3.2 per cent in 2006-07.

Despite a significant increase in financial market volatility, global economic expansion has been strong. This has been supported mainly by robust economic performance in the emerging market economies.

In particular, China's economy expanded year on year by 11.5 per cent in the September quarter, following growth of 11.9 per cent in the June quarter. In India, economic growth continues at an annual rate of around 9 per cent.

Despite the recent substantial increase in crude oil prices, headline inflation remains largely contained in the major OECD economies. In contrast, inflationary pressures are emerging in a number of developing countries, including China and India, mainly reflecting strong growth in domestic demand and a marked rise in food prices.

There are significant downside risks to this outlook.

While world economic growth is assumed to remain strong in the short term, there are considerable downside risks surrounding the short term outlook for the global economy. One significant downside risk to the current world economic outlook is associated with recent weakening in global credit market conditions. There has been an increase in global credit market risks as a result of tightening in lending conditions stemming from the problems in the sub-prime mortgage market in the United States.

Australia's inflation rate is assumed to average around 3.5 per cent in 2007-08, compared with 2.9 per cent in 2006-07.

Exchange rates: Over the past few months, the Australian dollar has appreciated markedly both against the US dollar and on a trade weighted basis.

2. Report on the merits and weaknesses of the current regulatory settings in the context of the shipping policy objectives outlined above, including a review of the efficacy of the current cabotage regime for regulating coastal shipping under the *Navigation Act 1912* and an assessment of the extent to which the arrangements affect shippers of cargo and passengers; the Australian operated domestic cargo and passenger coastal shipping industry; and the broader national interest including the availability of an adequate pool of maritime skills to facilitate Australia's economic growth.

2.1 The continuation of Australia's successful and efficient dry bulk shipping task is dependent on an acceptance by all levels of government that regulatory settings have to reflect the intent of IMO Conventions and be nationally based. The era of States introducing individual interpretations of IMO Conventions must be resisted – Ballast Water Management Regulations being a classic example.

2.2 When considering the efficacy of cabotage; the challenge for regulators is to accept the legitimacy of how the market functions under 'real' commercial pressures. No shipowner/operator is able to commit tens of millions of dollars in capital expenditure, at prices quoted in Paragraph 7 on Page 4 or bareboat charter newer vessels at rates reflecting new build prices, when the forecast revenue stream is unpredictable. With the level of scrutiny that applies to both publicly listed and privately owned companies, Boards do not have the luxury of being able to acquire ships on the basis of speculation. Where a revenue stream can be assured, usually involving the carriage of 'in house' cargoes, Australian ship operators have built and are building ships to undertake this task. The difficulty for dry bulk shippers and receivers is meeting peaks and/or 'one-offs' in the demand cycle. It is for this reason that the NBCG argues very strongly for the retention of CVP and SVP under Section 286 of the *Navigation Act 1912*.

2.3 A reoccurring theme for the NBCG is the international and national shortage of skilled and non skilled (IMO terminology) seafarers.

2.3.1 During the short lived and costly venture by Pan Shipping on the Australian coast, it was common knowledge that there were insufficient Australian non skilled seafarers available to meet the demand. This situation occurred when the second of three ships was imported. No doubt a third ship would have required crews to be sourced from overseas on 457 Visas.

2.3.2 Efficient and effective maritime policy is dependent on the private and public sectors being able to draw from a pool of talented skilled seafarers. Reducing the size of this pool has on-going consequences i.e. shortage of educators, surveyors, private and public sector managers, expert witnesses as well as a range of positions in the port sector. The NBCG would argue the issue is not reward driven. Industry must look for solutions beyond 'pay and leave conditions' that could involve making a career at sea more family friendly with families able to accompany the seafarer on each tour of duty.

2.3.3 The NBCG notes that a shortage of airline pilots in Australia is now affecting ticket pricing and route servicing, and the Group has a recurring nightmare that the shortage of skilled seafarers will first affect the dry bulk shipping sector. All the capital spent on infrastructure improvements will be in vain if there is a shortage of dry bulk carriers to meet the demand.

2.3.4 When undertaking an analysis of crew shortages it is difficult to obtain reliable figures, because the largest supplier of skilled seafarers doesn't have a transparent culture. Therefore when estimates of skilled and non skilled seafarers are provided these estimates have to be treated with caution. The NBCG understands the worldwide

seafarer population is about 1.25 million. The 1.25 million is made up of approximately 750,000 non skilled and 500,000 skilled seafarers. While most commentators agree that the demand for non skilled seafarers can be met, there is uniform agreement that there is an international shortage of skilled seafarers. There is disagreement about the size of this shortage with some estimates as low as a few thousand while others suggest it is between 30 and 40 thousand.

2.3.5 The significant increase in freight/charter rates, especially in the international dry bulk sector bulk sector has encouraged a ship building boom which is of historical proportion. Support for this statement is the number of dry bulk carriers ordered from Chinese yards, where the yards themselves are still on the drawing board. The consequence of this boom (as reported in the international shipping magazine Fairplay) is that over one dry bulk carrier will be launch each day in 2009 with less than 40 bulk carriers expected to be scrapped. The increasing demand for Australia's coal and iron ore are contributing factors to this increase.

2.3.6 The shortage of skilled seafarers will, in the opinion of the NBCG, lead to:

- Increases in freight and charter rates;
- Disruption, through vessel shortages, to the supply chain;
- A reduction of terminal efficiency through a poor appreciation of the BLU Code and other international instruments;
- Increases in shipping incidents through a reduction in both the quality and experience within the pool of skilled seafarers - Australian trained seafarers included; and
- Increases in costs through higher hull and machinery (H&M) premiums and liability insurance (P&I) calls. With the current maritime incident trend going north, the shipping industry is experiencing unprecedented increases in both premiums and calls.

2.3.7 The NBCG acknowledges that the shortage of skilled seafarers is a function of more attractive career alternatives (finance sector) in both developed and developing economies.

3. Identify options, including a recommended option, for future regulatory settings consistent with the Government's shipping policy objectives as outlined above and with the maintenance of an effective regulatory framework for coastal shipping.

3.1 Members of the NBCG conduct their business in an internationally competitive environment where product value, price competitiveness and certainty of supply are key elements in appreciating the attractiveness of Australia's dry bulk exports.

3.2 Unfortunately, in Australia, the volume of ship visits, but not the tonnage, is relatively low by international standards. Consequently in terms of providing shipping services (pilotage and towage) there is a defensible case to suggest that a monopoly supplier is a more efficient provider than two competing suppliers in a very limited market.

3.3 However when there is a legitimate monopoly supplier the difficulty is defining a mechanism by which port users feel comfortable that prices are the product of a competitive tension outcome. The NBCG argues that this is achievable in larger ports (where ship visits exceed 1,000 per annum) by the introduction of a 'for the port' (or exclusive) licensing arrangement. This arrangement (port licensing) would provide the competitive tension mechanism which stakeholders seek. The NBCG recommends that the services be tendered for seven to ten-years.

- 3.3.1 In ports where ship calls are less than 1,000 per annum, the NBCG acknowledges that the cost of exclusive licensing (both for administrators and suppliers) cannot be justified and therefore recommends that a system of transparent negotiation be introduced where-by stakeholders can negotiate with suppliers on the basis that 'all cards are placed on the table'. The NBCG has experienced this process when negotiating pilotage fees with Maritime Safety Queensland (MSQ) and suggests the outcome will have commercially significant benefits.
- 3.3.2 To support the above recommendation the NBCG suggests that the Commonwealth, States and Territories prepare the necessary regulations to ensure the processes suggested above are adopted by government owned port authorities and privately owned multi user ports. In the case of privately owned vertically integrated ports the NBCG accepts that the international market will determine whether pilotage and/or towage rates are competitively priced.
- 3.4 Section 286 of the *Navigation Act 1912* provides the mechanism for the issuance of SVPs and CVPs. As stated earlier in this submission, the NBCG is strongly of the view that the current arrangements for issuing SVPs and CVPs must be maintained and strengthened. The problems currently being faced by NBCG members are:
- 3.4.1 The requirement by the Department of Immigration & Citizenship, to require vessels trading on the Australian coast under the permit system to physically clear an Australian port every three (3) months. Once the vessel has cleared an Australian port the ship is then required to enter "in" and "out" of a foreign port before being allowed to continue trading on the Australian coast under a CVP or SVP. The NBCG is of the opinion that this requirement adds significant costs and no efficiency gains and recommends that the requirement to leave the Australian coast every three (3) months be extended to six (6) months; and
- 3.4.2 Members of the NBCG are often faced with situations whereby voyage rotation arrangements have to be varied for what the NBCG would describe as emergent circumstances. Previously shippers or consignees were able to obtain a SVP at short notice i.e. within 24 hours, or at a lesser cost, 48 hours. However this opportunity is no longer available with a minimum of four clear days being required before an emergent situation (operational or force majeure) can be addressed. As the timing of these changes often occurs after hours, on weekends or over public holidays coupled with the importance of the dry bulk sector to the National economy, the NBCG argues that an appropriate officer should be available 24/7 to assist industry obtain the necessary approvals so that port rotation can be varied and/or SVPs obtained within a very short time frame (24-hours); and
- 3.4.3 The present system of obtaining a CVP or SVP is complicated further by the involvement of State Governments if the vessel for which the permit is required is going to be engaged on an intra-State voyage. State and Territory Governments have developed their own individual rules for dealing with and issuing coastal voyage permits for those vessels trading intra-State. The NBCG strongly recommends that the issuance of CVPs or SVPs for inter-State and/or intra-State voyages be a matter for the Commonwealth to deal with. Obviously if this were to happen Section 286 of the *Navigation Act 1912* would have to be amended.
- 3.5 The United Nations Commission on International Trade Law (UNCITRAL) is meeting in mid-June 2008. The purpose of this Commission meeting, which will amongst other issues end the multiplicity of the current regimes covering the carriage of goods by sea i.e. 1924 Hague Rules, the 1968 Hague Visby Rules, the 1978 Hamburg Rules and the various regional arrangements. From a 'National Interest' prospective the NBCG does not believe the new Convention can be supported as it is currently drafted. The NBCG strongly supports the amendments proposed by the Australian delegation, but support for Australia's position from other Member States is weak. Following the mid-June 2008 meeting Australian regulators will be required to make a decision as to whether the new "Rules", which are basically a maritime plus concept, will be

applicable for goods exported from Australia. The NBCG argues that Australia's adoption of the proposed new Convention should not occur until industry has been fully consulted.

3.5.1 The importance of the changes to the new Convention cannot be overstated. Most dry bulk Charter Parties and/or Bills of Lading make reference to The Hague Rules, Hague-Visby Rules or Hamburg Rules in their Responsibility, Exception, Special Provisions or Miscellaneous Provisions Clauses.

3.7 The International Maritime Organisation (IMO) has just announced plans to reduce sulphur emissions from trading vessels. From 2020 the use of residual fuel (currently used by over 90% of all trading vessels) will be banned. From March 2010 vessels operating within a Sulphur Emission Control Area (SECA) will be required to burn fuel whose sulphur content is less than 1.0%. There are currently no SECA's in Australia. To meet these emission targets ships will have to burn marine diesel oil (MDO) in all regions other than SECA's where Marine Gas Oil (MGO) will be the only fuel allowed to be burnt. These change will have a significant impact on operating costs with some analysts suggesting the changes will increase fuel costs worldwide by as much as USD50 billion per annum. The NBCG wishes to maintain a continuing dialogue with Regulators on both the time scale and the intent of Government with respect to the proposed introduction of local SECA's.

4.0 In making assessments in relation to current arrangements and future options the Committee should:

a. Assess the implications of an inadequate maritime labour pool to provide land-based services for Australia's international domestic shipping sectors;

As stated earlier in this response, the NBCG recognises the need to promote seafaring as a dignified occupation. To maintain the nation's pool of skilled seafarers to meet the national demand a complete rethink of how industry attracts and retains its workforce is required. The NBCG argues that the answer does not lie solely in an offer of better wages and conditions. Such improvements will only help to retain some present serving skilled seafarers. Rather, the attractiveness of going to sea has to be improved. Most dry bulk ports are situated in isolated locations and ship's port time has been dramatically reduced. None of the features are likely to change. It is for this reason the NBCG argues that owners, when designing and building the next generation of dry bulk carriers must incorporate flat style accommodation into their design. The objective is to encourage a more 'normal' lifestyle for those seafarers who wish to make seafaring a career.

b. Assess the efficacy of the permit system;

Commercial reality is inescapable. No Australian owner/operator will invest in new (or second hand) vessels on a speculative basis. In terms of dry bulk shipping shipowners are usually the shippers and/or receivers of dry bulk cargoes, therefore the number of ships employed to meet individual shippers and/or receivers quotas is a known and catered for. However, what are unknown are unforeseen glitches that require additional tonnage at short notice. To maintain Australia's international competitiveness it is critical to have a permit system where dry bulk carriers can be chartered at short notice to meet an unforeseen demand cycle. Without access to this fall back position the NBCG suggests that a significant financial impost would be imposed on the Australian community.

c. Identify and assess options to encourage Australian participation in international shipping, and in particular options to provide conditions that encourage Australian seafarers to work in the international trades and in ways which do not disadvantage them compared to other seafarers in the international trades;

The average international skilled seafarer is engaged on a six to ninth month employment cycle, which the NBCG understands is regularly extended to 15 to 18-months. A tour of duty of this magnitude is not an appealing option for most Australian seafarers. The attraction of a career at sea in international trades is limited even though remuneration rewards for skilled seafarers on international ships are no longer inferior to those enjoyed by their counterparts manning vessels on the Australian coast.

A significant percentage (>80%) of Australia's dry bulk exports are sold on the basis that the cargo is shipped under a 'Free on Board' (FOB) contract of sale. Under a FOB contract the seller is responsible for delivering the cargo on board the nominated vessel, but the buyer is responsible for naming the vessel. The alternative, and more nationally focused contract, is a 'Cost, Insurance and Freight' (CIF) contract whereby the seller duties are (paraphrased) to supply the goods in conformity with the contract of sale, to contract on usual terms the carriage of goods to the agreed port of destination and obtain at seller's cost agreed marine insurance. In the case of CIF contract the buyer is responsible for the costs associated with the discharge of the vessel.

In the event Australian dry bulk exporters were able to sell their exports on a CIF basis then the power to nominate a ship would rest with the seller – not the buyer.

The introduction of a CIF contractual system would provide encouragement to sellers to nominate Australian owned ships provided either the freight rates and/or charter rates for such vessels were competitively attractive.

Selling on a CIF basis would also significantly add to Australia's foreign exchange earnings.

- d. Assess the effect on the development of an efficient and productive freight transport system in Australia, taking into account issues such as environmental and safety impacts and competitive neutrality between coastal shipping and other modes of transports; and**

The NBCG is unaware of any research that indicates Australian owned coastal shipping is any more or less prone to environmental or safety impacts when compared to overseas shipping.

Dry bulk cargoes of the quantities required by receivers can only be economically shipped by sea. In addition emissions from shipping are lower per tonne/mile than any other transport mode. In this respect the NBCG recommends that industry addresses the proposed amendments to the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 Bill, which incorporates Annex VI of Marpol immediately.

- e. Assess the implications for meeting other policy objectives, including defence support, maintenance of shipping services for Australian industry in times of major conflict, maritime safety and environmental protection, maritime security and tourism.**

During Gulf War II the NBCG notes that the American and United Kingdom went to the international market to source the heavy lift vessels required to transport their heavy armoury to the Middle East.

The NBCG therefore does not agree that there is a strategic need to maintain a supply of nationally flagged dry bulk carriers to meet Australia's defence support obligations.

Future contact

A representative from the NBCG will attend the public inquiry into the Review of Shipping Policy and Regulation undertaken by the House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government when it is held in Sydney on 17 April 2008.

Yours faithfully
For National Bulk Commodities Group Inc

Dale Cole
Executive Chairman

NATIONAL BULK COMMODITIES GROUP INC

List of Members:

BHPB Freight Pty Ltd

Minerals Council of Australia

Queensland Alumina Limited

Queensland Sugar Limited

Rio Tinto Shipping Pty Limited

Strang International Pty Ltd

The Grain Pool of Western Australia

List of Associate Members:

Central Queensland Port Authority

CSL Australia

Fertilizer Industry Federation Australia

Inchcape Shipping Services Pty Ltd

Inco Ships Pty Limited

Ports Corporation of Queensland

Sanko-Kisen (Australia) Pty Limited