INQUIRY INTO COASTAL SHIPPING POLICY AND REGULATION

Submission to the House Standing Committee on Infrastructure, Transport, Regional Development and Local Government

By the
Australian National Centre for Ocean Resources and Security (ANCORS)

Introduction

Australia must continue to strive to be a successful maritime nation because it is vital to our national interests. We are blessed with a vast maritime geography and it is essential that we grasp the opportunities and address the responsibilities this presents. Effective fostering of all aspects of maritime endeavour has profound implications for our national well-being into the future. The oceans are of fundamental importance to Australia as they directly impact our national security, economic and environmental health. The future of the Australian coastal shipping industry must be considered within this broad and very strategic context.

The terms of reference for the inquiry into coastal shipping policy and regulation mainly invite a detailed focus on local matters specific to the Australian coastal shipping sector. This is understandable given the parlous state of associated policies and regulations, which are in desperate need of reform. This submission will address components of the terms of reference that invite consideration of the broader aspects of the potential and essential contribution Australia's coastal (and international) shipping sector must be positioned to make toward our progress as a maritime nation into the future. The submission will address aspects of the following parts of the terms of reference: "...enhance competitiveness and sustainability of the Australian coastal shipping sector...the nature and characteristics of the Australian shipping industry and the international and coasting trades...and...the implications of coastal shipping policy for defence support, maritime safety and security, environmental sustainability and tourism."

Australia – a maritime nation?

The extent to which Australia is or should aspire to be a maritime nation must be a central consideration for Australian policy makers. A brief summary of some relevant facts can assist in forming a considered judgment. Australia's coastline, including islands, is estimated to be almost 60,000 kilometres (km)[1] and we claim jurisdiction over the third largest Exclusive Economic Zone (EEZ) in the World[2]. At over 8.1 million square kilometres, our EEZ is greater in area than our landmass[3]. In addition, Australia has

[1] The total estimated length is 59,736 km (35,877 km mainland and 23,859 km islands): Geoscience Australia http://www.ga.gov.au/education/facts/dimensions/coastlin.htm .

[2] Australia has the 3rd largest EEZ in the World after the USA and France.

[3] The Australian EEZ is 8,148,250 square kilometres which is greater in area than the Australian landmass, of 7,692,724 square kilometres. Information is available on the Geoscience Australia website http://www.ga.gov.au/education/facts/dimensions/oceans.jspwww.ga.gov.au/education/facts/dimensions/oceans.jsp and http://www.ga.gov.au/education/facts/dimensions/areadime.htm .

lodged an extended continental shelf submission before the United Nations Commission on the Limits of the Continental Shelf, which if agreed, will add approximately 3.4 million square kilometres of ocean to the Australian EEZ[4]. Further, Australia has responsibility for one of the largest Maritime Search and Rescue Regions in the World, which covers over one-tenth of the earth's surface, being 52.8 million square kilometres in area and extending to the west for more than 1,800 nautical miles into the Indian Ocean, north to our maritime boundaries with Indonesia, south to Antarctica and east to our maritime boundaries with New Zealand[5].

Australia's national security, in its broadest and multifaceted sense, is largely dependent upon our capacity to effectively control and utilise the maritime domain. Our wider region is predominately maritime extending from the vast Indian Ocean rimmed by increasingly important regional powers like India and South Africa; through archipelagic South East Asia that includes our largest neighbour, Indonesia; the maritime dependent island states of the Southwest Pacific; and the vast Southern Ocean down to Antarctica, so important to the World's environmental and ecological health. The importance of the seas as an enduring aspect of Australia's strategic geography has dictated a "fundamentally maritime strategy" as the central theme for our higher level national defence[6]. Recognition of the importance of the seas to our national security was underlined with the creation of Border Protection Command in 2006, to exercise the vital role of coordinating Australia's maritime surveillance and response effort, including control of our maritime borders and the coordination of peacetime security enforcement, resource management enforcement and maritime safety responses.

Australia's economy is also profoundly dependent upon the oceans. 99.9 per cent of trade by volume and more than 70 per cent by value travels by sea. In the year ending 2007 this amounted to more than 669 million tonnes of exports by sea, worth $A141 billion, and more than 80 million tonnes of imports by sea, worth more than $A138 billion[7]. Other maritime sectors also make important contributions to the Australian economy. For example: offshore liquid natural gas exports have grown to approximately $A7 billion in 2007-08, increasing to $A10 billion per annum over the next few years[8], and fisheries are worth more than $A2.2 billion to our economy every year[9].

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[4] Summary information about the Australian submission lodged on 15 November 2004 is available at http://www.un.org/depts/los/clcs_new/submissions_files/submission_aus.htm . An Executive Summary of the claim is available at http://www.un.org/depts/los/clcs_new/submissions_files/aus04/Documents/aus_doc_es_web_delivery.pdf .

[5] Further information including a map of the area and a summary of Australia's responsibilities can be found at http://www.amsa.gov.au/search_and_rescue/Australian_Search_and_Rescue_fact_sheet.asp .

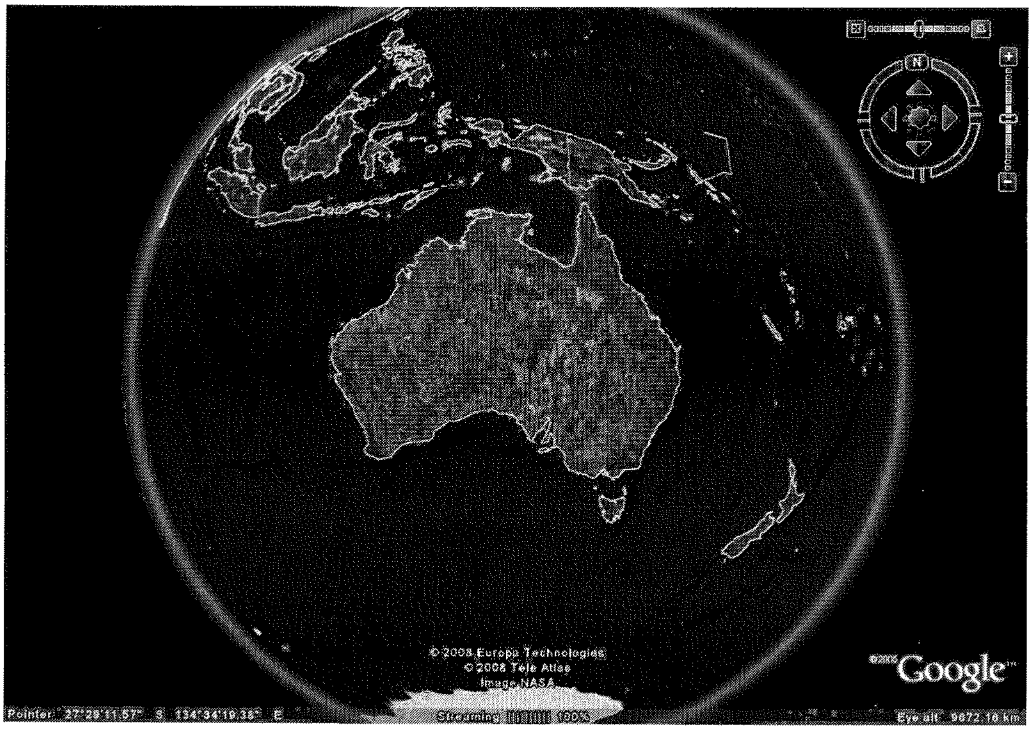
[6] See the 2000 Defence White Paper *Defence 2000: Our Future Defence Force*, Commonwealth of Australia, Canberra 2000, p47, paragraph 6.6. While a new Defence White Paper is under development to be released later in 2008, it is unlikely that the requirement for an overarching maritime strategy for Australia's national security will change.

[7] Australia's *International Cargo Statistics* are available at http://www.btre.gov.au/Info.aspx?NodeId=82 .

[8] Statistics are available in the recently released document *Energy in Australia 2008*, produced by ABARE for the Department of Resources, Energy and Tourism, Commonwealth of Australia, Canberra 2008 at http://www.abareconomics.com/publications_html/energy/energy_08/energyAUS08.pdf .

[9] Information available at http://www.afma.gov.au/fisheries/industry/default.htm .

The future of Australia and our regional neighbours will be heavily influenced by our ability to exercise effective stewardship of our maritime environment. We need to embrace our responsibilities through developing knowledge and capacity, including a major national, integrated and multi-dimensional commitment to promoting a positive maritime future. This very brief and broad overview of the importance of the maritime domain to Australia provides background and context within which to consider Australia's approach to the national shipping industry.



Putting Australia's Shipping Industry into Perspective

The world can increasingly be seen as an integrated "system" where security, economic, environmental and social factors are intertwined, with the oceans one of the central common denominators. Within this international system the global reliance upon maritime trade and maritime resources is expanding. Maritime trade comprises approximately 90 per cent of global trade and forms one of the key factors in the global economic system.

The United Nations Conference on Trade and Development (UNCTAD) *Review of Maritime Transport 2007*[10] reported that for 2006, the volume of world merchandising trade increased by 8.0 per cent (double the growth of the world economy) with world seaborne trade (goods loaded) reaching 7.4 billion tons; and the demand for maritime transport services increased by 5.5 per cent. In 2005, global freight costs represented 5.9

[10] UNCTAD *Review of Maritime Transport 2007*, Report by the UNCTAD secretariat, United Nations New York and Geneva, 2007 available at http://www.unctad.org/en/docs/rmt2007_en.pdf .

per cent of the total value of world imports, equating to more than $US 700 billion[11]. In 2006, dry bulk cargoes comprised more than 60 percent of global shipments with Australia providing 13.3 per cent of the total goods loaded[12]. Australia ranked as the largest exporter in the world of iron ore (270 million tons amounting to 37.7 per cent of the world total) and coal (32.3 per cent of the world total, although increased coal exports were reported to be constrained due to logistical problems resulting from major congestion at some ports and terminals), and the third largest exporter of grain (9.5 per cent of the world total)[13]. World LNG shipments grew 11.6 per cent in 2006 with Australia ranked as the fifth largest exporter[14].

The world merchant fleet expanded by 8.6 per cent during 2006 to be 1.04 billion deadweight tons (dwt) at the beginning of 2007; the average age of the fleet fell marginally to 12 years, with container ships on average 9.1 years[15]. A brief overview of the ownership and registered flag of the global merchant fleet reveals some interesting facts: the top ten shipping countries by ownership (or ship owners' by country of domicile) are in Europe, Asia and the United States, who control 68.7 per cent of world tonnage; the ten major open registry flags (or "flags of convenience") represent 54.5 per cent of the world fleet and 81.8 per cent of the tonnage of the top ten countries by domicile[16]. Specific examples of national ownership present a preponderance of open registry flags with few exceptions, although there are some notable moves toward national construction and ownership[17].

Greece, Japan, Germany and China along with several other nations are pursuing significant expansions and renewals of their fleets[18]. Orders for new ships are increasing at a remarkable rate with a large increase in future tonnage supply forecast for all shipping markets. As of 1 July 2007, 7,433 ships totalling 415.8 million dwt were on

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[11] UNCTAD *Review of Maritime Transport 2007, op cit,* pp x-xi.
[12] Ibid, p 5 and Table 4.
[13] Ibid, pp 15-19 and Table 7.
[14] Ibid, p13.
[15] Ibid, p 23, this includes vessels of 1,000 dwt and above.
[16] Institute of Shipping Economics and Logistics (ISL) *Shipping and Statistics and Market Review: Major Shipping Nations*, Volume 51 No 11, Bremen 2007, paras 1-1.2 available at http://www.isl.org . According to tonnage rankings as of 1 July 2007, Greece, Japan, Germany, PRC, Norway, US, Hong Kong, South Korea, Singapore and the UK are the top ten countries of owners domicile. The top ten and major open registry flags include Panama, Liberia, Marshall Islands, the Bahamas, Malta, Cyprus, Antigua & Barbuda, Bermuda, Saint Vincent, and Cayman Islands.
[17] UNCTAD *Review of Maritime Transport 2007*, op cit, pp 31-34 and Table 16, and pp 37-42, Table 19. Greece, 29 per cent of dwt under national flag and 71 per cent foreign flagged; Japan 92 per cent foreign flagged; Germany 85 per cent foreign flagged; Norway 71 per cent foreign flagged; United States 53 per cent foreign flagged; China 46 per cent nationally flagged and 54 per cent foreign; Singapore 42 per cent foreign flagged; and India 90 per cent nationally flagged. It should be noted that "country of domicile" of ships controlling interests information is not always exact as companies may be owned by a large number of nationals from different countries. China is reported to be aspiring to have half of its LNG imports carried in Chinese built and owned vessels by 2010.
[18] ISL *Shipping and Statistics and Market Review: Major Shipping Nations*, op cit, paras 1.3-2.4.

order, with South Korea, China and Japan the leading shipbuilding countries comprising 81.7 per cent of the world order book[19].

Australia is the last of the top 35 countries listed by shipping ownership in the *UNCTAD Review of Maritime Transport 2007*, with 85 registered vessels over 1,000 dwt (46 Australian flag and 39 foreign flag) and 53.37 per cent of dwt operating under foreign flag. Of particular interest to Australian policy makers should be the fact that the Australian Fleet represents only 0.29 per cent of the world total dwt yet Australian exports by volume comprise around 10 per cent of the world total[20]. Australia's exports of bulk goods are forecast to double over the next 10-15 years[21] and the world fleet is expanding rapidly to meet rising global demand; whither the "Australian Fleet" in this scenario? The press release by the Minister for Infrastructure, Transport, Regional Development and Local Government that announced the establishment of the inquiry into Australian coastal shipping implied that the issue of flag was a major concern when it stated "Between 1996 and mid-2006 the number of Australian registered trading vessels fell from 75 to just 46"[22]. However, given the realties of the nature of the global shipping industry this concern may be misplaced or overly emphasized.

Maritime Workforce

The preceding paragraphs have sought to outline the importance of the maritime domain and the maritime shipping sector to Australia and internationally. One critical element underlies geography, trade and shipping statistics: people. Effective maritime sectors require adequate supplies of trained, skilled, experienced and motivated people to meet demand. The specialised nature of many of the maritime professions and trades mean that people largely need to be developed within the industry. The global merchant marine workforce is one of the most internationally integrated occupation groupings in the world. There are approximately 1.2 million seafarers serving aboard ships or waiting to do so. A high percentage of seafarers work onboard ships not registered in their own country and ships typically operate with a mix of nationalities.

One of the most prevalent concerns to the industry in Australia and internationally is a looming shortage of people with maritime skills. In 2005, there were estimated to be 466,000 officers and 721,000 ratings worldwide, representing a shortage against demand for officers of around 2 per cent and a surplus of ratings of approximately 20 per cent. The officer situation is predicted to worsen to around a 6 per cent shortfall by 2015 unless remedial action is taken. Major labour supplying countries for ratings include the Philippines, China, the Republic of Korea and Indonesia. An increasing number of seafarers are also recruited from the Russian Federation and Poland. Officers are mainly

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[19] Institute of Shipping Economics and Logistics (ISL) *Shipping and Statistics and Market Review: World shipbuilding and shipbuilders*, Volume 51 No 9/10, Bremen 2007, pp 6-12 available at http://www.isl.org .
[20] UNCTAD *Review of Maritime Transport 2007*, op cit, pp 31-34 and Table 16.
[21] *International and Domestic Shipping and Ports Study*, Meyrick Consulting Group Pty Ltd, Wollongong, Australia, 1 May 2007, pp 6-8.
[22] Media Release by the Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, 12 March 2008, AA018/2008 *Review Announced into Australia's Shipping Future* at http://www.minister.infrastructure.gov.au/aa/releases/2008/March/AA018_2008.htm .

drawn from Europe, North America, Japan and other OECD countries. The officer group is ageing and there are currently inadequate numbers of trained and experienced replacements in the pipeline. There is a need to reduce wastage and increase recruitment across the board[23]. There are reports of competition becoming intense between the major shipping companies for qualified people in some specialised areas like tanker operations.

In Australia, the situation is more pressing. The decline in the Australian flagged fleet has meant a decline in the numbers of qualified seagoing officers and training opportunities. Reports on the attractiveness of a seafaring career for young Australians are mixed. Some suggest there are diminishing numbers of young people wanting to train as seafarers while other reports suggest that many young Australians express an interest in a seagoing career but the capacity to train them and offer them worthwhile and rewarding careers is a constraining factor. The nationwide ageing workforce and skills shortage, exacerbated by the mining boom, are also likely to be contributing factors.

In addition to service in seagoing vessels, qualified and experienced mariners provide the pool from which many other maritime related occupations draw their people. The ageing and diminishing workforce issue for Australia is now impacting upon the availability of appropriately qualified and experienced people to fill positions like marine pilots, surveyors, cargo planners, harbour masters, ship managers, maritime regulators, and tug masters. The burgeoning Australian offshore oil and gas sector also needs many people with seafarer skills; maritime training institutions require a continuing throughput of seafarer trainees to remain viable. Australian Government policy and regulatory agencies like the Australian Maritime Safety Authority (AMSA) and the Office of Transport Security (OTS) also need a core staff of experienced maritime professionals who understand the maritime industry and can effectively regulate it.

On the positive side of the ledger the shortage of officers internationally may create employment opportunities for Australian trained officers and up skilled Australian ratings to serve as officers in the international fleet. Given the international nature of the maritime sector such opportunities are important for building professional experience and for motivation. However, it appears that the Australian tax regime continues to present a disincentive because Australian seafarers are required to pay domestic tax on income earned overseas, in contrast to seafarers from some other OECD countries where concessionary tax arrangements apply[24].

From a workforce development perspective effective participation by Australian seafarers, both officers and ratings, in the international as well as coastal trades is important. This factor should be a central consideration for policy makers.

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[23] Information is drawn from the *BIMCO/ISF Manpower 2005 Update: The worldwide demand for and supply of seafarers: Summary*, Bimco Denmark, International Shipping Federation, London, December 2005, available at http://www.marisec.org/resources/Manpower2005UpdateSUMMARY.pdf .

[24] It is reported that UK seafarers pay no tax if they serve at sea for more than 181 days each year.

Maritime Culture

A less tangible and more difficult to quantify aspect of whether or not Australia needs a coastal (and international) shipping industry is the issue of a national maritime culture. If Australia aspires to be a "maritime nation", and given the enduring realties of the importance of the sea to our national interests this submission argues unequivocally this should be the case, then the creation and fostering of a national maritime culture is essential to our future. It is vital that we have a significant core of Australians who develop a deep understanding of and knowledge about the sea. A fundamental way of achieving this is through experience gained by participation in a variety of occupations that derive their livelihoods from the sea.

Australia's maritime sectors across the board are relatively small by international standards and certainly so when contrasted to the vastness of our maritime domain, the importance of the maritime agendas and the challenges and opportunities this presents. For example: we have a small permanent Navy with a workforce of approximately 12,000 people, and recruitment and retention is an ongoing concern; our fishing industry is small, as are our marine science and oceanographic communities. We have not developed a pronounced maritime culture probably due in part to our history and our partly because of our geography; the latter because Australia is both an island nation and a significant continent. Our short history since European settlement included an early dependence upon agriculture and mining plus the raising of significant land forces to fight in distant wars. Indeed, when most Australians think of "the sea" such thoughts probably do not stray far beyond it being a nice place to go for holidays. Some have suggested that "sea blindness" is a national disease and that our national anthem should be amended from "Girt by sea" to "Girt by beach".

In the short and longer term national interest, policymakers need to carefully consider measures to proactively promote our engagement with the sea. For example: devising policies that would make the transition of increasingly career mobile young Australians between the Navy and the merchant marine, and vice versa, should be closely explored. The creation of a policy and regulatory environment that will encourage a viable and vibrant Australian merchant marine sector to function on the coast and internationally is an essential step toward developing a national maritime culture.

National Security

Access to commercial shipping to support national defence activities, including disaster relief efforts, in the event of national or regional emergencies can be an important consideration. The nature of Australian and world shipping is such that the availability of general purpose cargo vessels suitable to support logistic operations in places where either no or only rudimentary port services exist is declining. Options exist to charter or purchase and re-flag, or commission ships into the Navy, if necessary in a national emergency. Depending upon the nature of the emergency, it may be desirable or even essential that vessels be crewed by Australian nationals. The existence of a viable Australian merchant marine workforce that can be engaged in an emergency may be more important than maintaining Australian flag shipping. The inherent skills and sea knowledge of Australian mariners are essential commodities in the national interest.

Policy and Regulation

There have been a number of reviews dating back to 1996 that have identified the need for a major overhaul of the policy and regulatory regimes that control the Australian shipping industry[25]. This submission will leave the detail of those concerns, which are generally well documented, to others. Clearly, aspects of the *Navigation Act 1912* and the *Shipping Registration Act 1981* need overhauling and updating as do provisions of the *Income Tax Assessment Act 1936* that have been deemed to militate against Australian seafarers working overseas.

A new or revised suite of legislation and accompanying regulations for the Australian shipping industry should reflect the basic principles underpinning international conventions and agreements that have been accepted by the Australian Government so that Australia meets its obligations. The regulatory burden upon industry should be minimised with the removal of unnecessary regulation. Importantly, revised legislation should aim to create favourable conditions for the Australian shipping industry so that it can compete effectively on both the Australian coast and internationally. Government may wish to consider incentives and practical measures, including government support internationally, to promote an Australian shipping industry that can not only take on a reasonable share of the Australian coastal trade, but also expand into the international market.

On the issue of national flag, flexibility should be the key, consistent with international practice. Australian ship owners and operators should be encouraged, not mandated, to operate their vessels under the Australian flag. And the Australian policy and regulatory framework needs to be amended so that ships flying the Australian flag can effectively compete nationally and internationally, rather than operate at a disadvantage, as is the current situation. Choosing to fly the Australian flag should become an attractive option.

With respect to seafarers' conditions, the International Labour Organisation (ILO) *Maritime Labour Convention 2006* with its accompanying Action Plan[26] would appear to be a major step in the right direction. The Convention seeks to provide comprehensive rights and protection at work for the world's seafarers and consolidates and updates more than 65 international labour standards related to seafarers adopted over the past 80 years. The Convention aims to be globally applicable, easily understandable, readily updatable

[25] For example: most of the issues identified in the *Independent Review of Australian Shipping (IRAS): A Blueprint for Australian Shipping*, September 2003, led by the Hon John Sharp and Hon Peter Morris, both former Ministers for Transport from opposite sides of government, appear to remain to be addressed.
[26] The ILO *Maritime Labour Convention 2006* was done by the ILO in February 2006. The Action Plan presents a comprehensive global implementation strategy for the period 2006-2011. As at April 2008 the Convention has been ratified by Bahamas, Liberia and Marshall Islands (all major open register flags). The Convention will enter into force 12 months after ratification by at least 30 ILO member countries with a total share of at least 33 per cent of the world's gross tonnage of ships. Find further details at http://www.ilo.org/public/english/dialogue/sector/sectors/mariti/shipping-iloact.htm .

and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO). Reconciling new and revised international maritime labour provisions with evolving Australian work place reform to support, where possible, a reasonable level of international consistency would appear to be a desirable objective.

Following the current inquiry into Australia's coastal shipping, rather than conducting another independent review of the Acts and Regulations pertaining to Australian shipping, it may be worthwhile establishing an Australian shipping industry stakeholder's reference group to advise the Minister on reforms. This may assist in providing quick and effective resolution of issues that may arise, and may help facilitate expeditious and workable policy outcomes.

Concluding Summary

The following is a point summary of the key elements of this submission:

Strategic Considerations:

- Australia's vast strategic geography is predominantly maritime in nature and presents opportunities available to few other nations on earth.
- Australia's national security, economy and environment are inextricably linked to our capacity to effectively foster and use the oceans into the future.
- Australia must strive to become a maritime nation.
- These broader and enduring strategic factors should be vital contextual considerations when determining the future of the Australian coastal (and international) shipping industry.

International and Australian Shipping Industry:

- The global shipping industry forms a vital and significant part of the global economy.
- The top ten shipping owner nations control more than two thirds of global shipping.
- Open register flags are used extensively by shipping owner nations.
- The global shipping industry is expanding and modernising. North East Asian countries, principally South Korea, China and Japan, are the major shipbuilders.
- Australian policymakers should take care not to over emphasise the desirability of Australian flag vessels.
- Australia's shipping industry participation level internationally is very small in proportion to the extent of our international trade, particularly in bulk exports. The Australian Fleet represents 0.29 per cent of the world total dwt yet Australian exports by volume comprise around 10 per cent of the world total. Australia is currently largely shut out of receiving a reasonable share of global freight revenues that comprise 5.9 per cent of the total value of world imports.

- Australian policy makers should seek to create the conditions for an Australian shipping sector that can operate and effectively compete both on the Australian coast and internationally.

Maritime Workforce:

- The global merchant marine workforce is internationally integrated. Many seafarers work onboard ships not registered in their own country and ships typically operate with a mix of nationalities.
- There is a global shortage and ageing of officers.
- The diminishing size of the Australian Fleet has reduced the size of the Australian seagoing workforce and seagoing training opportunities. This will increasingly have flow on effects to other parts of the Australian maritime sector that require trained and experienced seafarers.
- Participation of Australian seafarers, both officers and ratings, in the international as well as coastal trades is important and should be facilitated.

Maritime Culture:

- Creation and promotion of a core maritime culture is essential to Australia's success as a maritime nation.
- A viable and vibrant Australian shipping industry is a vital component of a maritime culture.
- Initiatives should be considered like devising policies that would make the transition of increasingly career mobile young Australians between the Navy and the merchant marine, and vice versa, viable and attractive options.

National Security:

- The existence of a viable Australian merchant marine workforce that can be engaged in an emergency may be more important than maintaining Australian flag shipping. Skilled Australian mariners are essential commodities in the national interest.

Policy and Regulation:

- The policy and regulatory regimes that control the Australian shipping industry are in a parlous state and require overhaul and updating.
- Generally, new or revised legislation and regulations should reflect the international conventions accepted by the Australian Government so that Australia meets its obligations.
- Unnecessary regulation of the industry should be removed.
- Revised legislation should create conditions for the Australian shipping industry to compete effectively on the Australian coast and internationally.
- Incentives to promote an Australian shipping industry should be considered.

- Flexibility should be a key consideration with Australian flagging of shipping, consistent with international practice. Australian ship owners and operators should be encouraged, not mandated, to fly the Australian flag.
- Policies that control Australian flag ships should be amended so they can effectively compete nationally and internationally, rather than operate at a disadvantage, as is the current situation. Choosing to fly the Australian flag should become an attractive option.
- Reconciling new and revised international maritime labour provisions with evolving Australian work place reform to support, where possible, a reasonable level of international consistency would appear to be a desirable objective.
- An Australian shipping industry stakeholder's reference group should be established to assist with reform of the sector.

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