

# CHAPTER 3

## KEY ISSUES

3.1 This chapter examines the main issues and concerns raised in the course of the inquiry.

### Consultation

3.2 During the hearing, the Department of Immigration and Citizenship (DIAC) provided the committee with an outline of the consultation undertaken with stakeholders:

3.3 A representative of DIAC told the committee that:

We established an industry working group with Shipping Australia Ltd in early 2006 and we met on four occasions last year to discuss the proposed arrangements for the maritime crew visa. In addition we met here in Canberra with representatives of the Maritime Union of Australia and the Australian Shipowners Association to broadly discuss the proposed arrangements. All of those meetings indicated to us that our approach to the maritime crew visa was largely meeting the various requirements of industry. In addition to those meetings and formal processes we undertook industry consultations which started in late November last year. We had 11 industry seminars in major capital cities and at major ports around Australia.<sup>1</sup>

3.4 Shipping Australia Limited noted in its submission that it had been working with DIAC for some time to ensure that the Maritime Crew Visa (MCV) would result in minimal impost and cost to the shipping industry.<sup>2</sup>

### Issues

3.5 All submissions to the committee expressed in principle support for strengthening Australia's border security arrangements. However some submissions sought clarification on particular issues and some concerns were also raised.

3.6 In its submission to the committee, Shipping Australia Limited raised three concerns regarding the operation of the visa and ease of use for industry. During the hearing, DIAC addressed each area of concern specifically:

**CHAIR**—Shipping Australia Limited in their submission...identified three areas they wish to be clarified, so I will put those to you... They ask

---

1 Mr Adrian Kelson, Director, Seaport Policy Section, DIAC, *Committee Hansard*, 29 March 2007, p. 5.

2 *Submission 2*, p. 1.

whether internet applications should be permitted, to which I assume the answer is yes.

**Mr McMahon**—Correct.

**CHAIR**—The second one is that visa applications should be able to be made by either the applicant or the third party—

**Mr McMahon**—Correct.

**CHAIR**—and, finally, that there is no charge.

**Mr McMahon**—Correct again.<sup>3</sup>

3.7 The Maritime Union of Australia (MUA) expressed a number of concerns regarding the MCV. In general, the MUA queried if the introduction of the MCV would close a gap in maritime security as stated.<sup>4</sup>

3.8 DIAC and the Australian Customs Service (ACS) advised that the proposed MCV has a number of features which would improve security over existing arrangements, these features include:

- The visa application would require more comprehensive information against which security organisations can make checks.<sup>5</sup>
- MCV applications would be an ongoing source of information on individuals seeking to travel to Australia as crew on non-military ships, thus allowing more cross checking with other information sources.<sup>6</sup>
- There would be an ability to infringe the masters, owners, charterers and operator of ships for carrying improperly documented passengers and crew to Australia.<sup>7</sup>
- There would be an increase in the number of customs officers assigned to ports to enable all ships to be physically checked within one hour of the vessel arriving.<sup>8</sup>

3.9 The MUA also articulated concern at the number of crew that may be denied shore leave. Referring to the submission of DIAC to the inquiry, the MUA stated:

...400 seafarers were refused entry to Australia in 2005-06 under the current Special Purpose Visa arrangements, which are said to be less rigorous [than] the proposed MCV process. This suggests that upwards of 400 foreign seafarers annually will be denied shore leave in Australia. Just how many seafarers are a genuine threat to Australia's security is unknown,

---

3 *Committee Hansard*, 29 March 2007, p. 4.

4 *Submission 6*, p. 1.

5 *Committee Hansard*, 29 March 2007, p. 9.

6 *Submission 5*, p. 3.

7 *Submission 5*, p. 4.

8 *Committee Hansard*, 29 March 2007, p. 16.

---

but shore leave is an important human right, so there needs to be a well considered balance between the security objectives of the Bill and the human rights implications for foreign seafarers.<sup>9</sup>

3.10 During the hearing DIAC told the committee that in the 2005-06 financial year there were 326,979 maritime crew arrivals, and of those around 400 were denied shore leave. DIAC expanded on this point saying:

.....If you are in the US, great numbers of people do not get off the ship because they actually require a formal written visa application process. The arrangements should work much more flexibly than that. We would expect that the overwhelming majority of people will be able to have shore leave. There will be some people who raise serious issues from a national security point of view and those issues will need to be resolved. It may well be that they are refused entry, or alternatively, for a few it may be that the issues are such that they cannot be resolved in the time period. But, on the positive side of it, bearing in mind that people tend to re-enter, at least the issue can be resolved and entry can be facilitated in the future.<sup>10</sup>

3.11 The MUA also expressed concern that the onus of compliance would rest with the masters of vessels, and that masters would unfairly become '...the target of zealous regulatory agencies'. The MUA argued that masters could be unfairly infringed for carrying improperly documented crew, even though this may be outside the control of the master.<sup>11</sup>

3.12 In response to a question from the committee DIAC advised that:

...an infringement may well be served upon the master, but it is a carrier's obligation to make sure that everyone onboard a vessel is appropriately visaed or documented. Under our legislation, we can serve an infringement on, from memory, the owner, charterer, master, or agent of the vessel-any one of those parties. It is just a means to make sure that we have an infringement regime that allows us to serve and hopefully have that fine paid at some stage, and it would usually be by the vessel owner. So in that respect the master is the conduit.<sup>12</sup>

3.13 DIAC also stated that, for the first 6 months following the implementation of the proposed MCV, DIAC would be encouraging people to use the MCV but not penalising those who did not, so that any unexpected problems could be resolved.<sup>13</sup>

---

9 *Submission 6*, p. 2.

10 Mr Vincent McMahon, First Assistant Secretary, Border Security Division, DIAC, *Committee Hansard*, 29 March 2007, p. 14.

11 *Submission 6*, p. 3.

12 Mr Adrian Kelson, Director, Seaport Policy Section, DIAC, *Committee Hansard*, 29 March 2007, p. 15.

13 *Committee Hansard*, 29 March 2007, p. 11.

3.14 The committee queried the cost of the proposed MCV, in particular \$30 million for an additional 67 customs officers. A representative of the ACS explained:

[Currently] seventy-five per cent of all first-port arriving vessels will be boarded by Customs on a risk assess basis. That is the minimum. However, there is no time restriction. Under these new arrangements ... there is a requirement to undertake the physical checking within one hour of the vessel actually arriving. In order for us to meet that requirement in some of these ports we need to increase our staffing accordingly. Around Australia we have quite small ports where we need to increase our staffing to achieve that aim.<sup>14</sup>

### **Committee view**

3.15 The committee accepts the evidence of DIAC and the ACS that the bill will improve border security at Australian ports. In particular, the committee notes the evidence of DIAC and the ACS that the MCV will improve security in comparison to current arrangements by increasing the ability of agencies to conduct background checks on maritime crew, and through the increased number of customs officers assigned to ports to implement the new arrangements.

3.16 In the view of the committee, the provision for multiple entries on a single visa, internet applications, applications by third parties, and a phasing in period, provide adequate flexibility for users and address the concerns raised during the inquiry.

3.17 The committee believes that the Bill strikes an appropriate balance between the need to strengthen security at ports whilst allowing for ease of use by industry and maritime crew.

### **Recommendation 1**

**3.18 The committee recommends that the Senate pass the Bill.**

**Senator Guy Barnett**

**Chair**

---

14 Mr Terry Price, Acting National Manager, Enforcement Operations, ACS, *Committee Hansard*, 29 March 2007, p. 16.