

**SUBMISSION TO THE AUSTRALIAN SENATE
RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

Inquiry into the administration of the *Maritime Transport Security Act 2005*

Submitted by the Australian Manufacturing Workers Union

Introduction

In Australia maritime security is the responsibility of the Office of Transport Security (“OTS”) within the Transport portfolio. It is of course widely acknowledged that the principles of maritime security diverge from that of aviation security.

The *Maritime Transport Security Act 2003* (Cth) (“the MTSA”) does not presently cover offshore oil or gas rigs, although it does cover Australian flagged offshore mobile drilling units if they can be disconnected from the sea bed and become self-propelled. The Government intends to extend the MTSA to cover fixed installations in Australian waters with the *Maritime Transport Security Amendment Bill 2005*.

Announcement of additional security measures

In 2004 the Government announced additional security measures including the introduction of the Maritime Security Identification Card (“MSIC”) and an expansion of the provisions of the MTSA to include the offshore oil and gas industry.

Maritime Industry Consultative Group and Maritime Security Working Group

The Maritime Industry Consultative Group first met in September 2004, involving participants from the maritime industry, including the Maritime Union of Australia (“MUA”), the Australian Institute of Marine and Power Engineers (“AIMPE”) and the Transport Workers Union (“TWU”). The Maritime Security Working Group (“the Working Group”) developed from this meeting.

Lack of consultation with Unions

The Department of Transport and Regional Services (“DOTARS”) has been incapable of appreciating the value of Union consultation as there were none involved in other important parts of the government’s initiatives. Specifically, when the draft legislative amendments to the MTSA to include the offshore industry were presented, Unions and industry alike were taken aback by the lack of any consultation.

Draft regulations:

The AMWU notes that it is still awaiting a copy of the revised regulations. The AMWU reserves its rights to make further comments regarding the content of the regulations once that document has been released.

Contract labour

The AMWU has concerns about the security measures to be introduced and implemented for contractors. Contractors may include construction and maintenance workers along with labour hire employees who may be used from time to time. The involvement of AMWU members in both onshore and offshore facilities is critical through their roles in construction, maintenance and rehabilitation of facilities.

The AMWU has concerns about the eligibility of people to work in these sectors.

MSIC

The AMWU has no overall objection to the MSIC and supports the submissions of the MUA, AIMPE, TWU and RTBU (“the joint Union submission”).

It’s the AMWU’s submission that a consultative and integral approach was not adopted in developing the aviation industry’s Aviation Security Identification Card (“ASIC”) on the basis that it was developed quickly as a result of the events in the US on 9/11. The ASIC is seriously flawed and we note that no trade unions were involved in the development of the ASIC.

While there are a few similarities in the aviation and maritime industries, it must be recognised that they are vastly different industries. To use the ASIC as a model for the MSIC is problematic and short-sighted.

Criminal background checks

The AMWU rejects the notion that a level of criminality or potential terrorist action can be gleaned from a criminal conviction. For example it is specious to suggest that an individual with a dated conviction for assault has the proclivity to engage in terrorist action, whether it be illegal trade in explosives, importation of chemicals, or hijacking. The AMWU believes, along with the other Unions, that once a sentence has been served, a person had repaid their debt to society and ought to be entitled to gainful and meaningful employment and to be allowed to make a contribution to the Australian community. To have otherwise is to countenance an indirect discrimination against an individual and his or her capacity to support their family.

The AMWU understands that the Working Group have made recommendations to the Minister that the list or categories of crimes or offences against which applicants for an MSIC will be checked should include only those related to terrorism. The AMWU also understands that a dichotomy will be established between disqualifying offences (eg treason, espionage) and exclusionary offences (eg money laundering, counterfeiting, smuggling illicit drugs). The AMWU also understands that this

document is still being finalised and reserves its rights to make further comment regarding this issue once the document is released.

The effectiveness of maritime security is diluted when the arguments around the MSIC are broadened to include the detection of criminals or reformed criminals in the transport chain. The focus must rely on the primary objective which is to limit Australia's exposure to a terrorist threat.

Confidentiality of AMWU members' personal information

The AMWU along with the concerns expressed in the joint Union submission has concerns for the security of its members' personal and sensitive information. The AMWU opposes the release of any personal or sensitive information to employers. This is to protect our members' privacy and to eliminate any possible prejudice that may arise as result of the divulgence of such information.

Visa-holders working in AMWU industries

The AMWU also has concerns regarding the long term/short stay visa-holders working in our industries. While in no way wanting to discriminate against these workers, we question whether they are required to satisfy the same eligibility criteria as Australian workers, including contractors and labour hire workers. This is important in a context where a high proportion of Australia's seaborne trade is carried by foreign vessels leading to a potential weakening of maritime security. Masters and officers of foreign vessels may lack local knowledge and controls over foreign seafarers may not be as effective as over Australian seafarers. The AMWU notes that crew members of vessels don't apply for a visa in advance, rather they are granted a special purpose visa. The AMWU notes that 113 foreign seafarers jumped ship in Australia between July 2001 and April 2004.

Although foreign flagged vessels entering Australia will meet international security requirements, the level of confidence in the security checking of their crews will be lower than for Australian flagged vessels.

.....
Australian Manufacturing Workers Union

7 July 2005