

DEL AGUILA Fiorella

From: Sutton Michael
Sent: Monday, 23 November 2015 10:19 AM
To: OPOKU Naa; BRYANT Katherine
Subject: FW: QTB15-000179 (23 November 2015) [SEC=UNCLASSIFIED]
Attachments: QB15-000179 UPDATED 23 NOVEMBER.docx

Importance: High

Categories: FOLLOW UP!

Thanks naa

Katherine – these changes are to address the alcoa issues; we now have a separate qtb on this (253). Would you like us to also reflect 253 in 179 (which is what the attached draft does), or are you happy to keep them separate?

Thanks – if the latter, will need you to re-assign 179 to us

michael

From: Opoku Naa
 Sent: Monday, 23 November 2015 10:05 AM
 To: Sutton Michael
 Cc: Pitt Geoffrey; Ramesh Kaushik; Brann Brendon
 Subject: QTB15-000179 (23 November 2015) [SEC=UNCLASSIFIED]

Michael

Please find attached the updated QTB15-000179 which now includes an updated text on MV Portland in the "Background" to ensure consistency.
 Unfortunately we are unable to update it in PDMS as it has already been sent to the DPMO's office last Friday.

You may want to forward this on to Jess.
 Naa

From: Sutton Michael
 Sent: Monday, 23 November 2015 9:51 AM
 To: Opoku Naa
 Cc: Pitt Geoffrey
 Subject: QB15-000253 [SEC=UNCLASSIFIED]

Naa – attached is the version I will be clearing. Just a few minor changes, and took out the sensitivities – the Office will be across the timing issues vis-à-vis the bill

michael

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Coastal Trading Act and Shipping Costs

Talking Points

- On 14 October 2015, the *Shipping Legislation Amendment Bill 2015* passed the House without amendment.
- This follows the release of the Senate Rural, Regional and Transport Legislative Committee report on 12 October 2015, recommending the bill be passed.
- The case for coastal shipping reform is clear. Look at the facts:
 - Under Labor the fleet of major Australian registered ships (over 2,000 dead weight tonnes) with coastal licences plummeted from 30 vessels in 2006-07 to just 15 in 2013-14.
 - The number of ships on the Australian Transitional General Licences has dropped from 16 to just 8.
 - Between 2000 and 2012, shipping's share of Australian freight fell from 27 per cent to just under 17 per cent, while the volume of freight across Australia actually grew by 57 per cent.
 - Over the first two years of Labor's botched Coastal Trading Act there was a 63 per cent decline in the carrying capacity of the major Australian coastal trading fleet.
 - Looking forward, at this rate Australia's overall freight task is expected to grow by 80 per cent come 2030, but coastal shipping will only increase by 15 per cent.
 - A substantial increase in the freight rates experienced by shipping users – e.g. Bell Bay Aluminium recorded a 63 per cent increase in freight costs in one year;
 - A 63 per cent reduction in the deadweight tonnage (or capacity) of major Australian-flagged vessels with coastal licences from 2011-12 to 2013-14; and
 - Around 1,000 extra administration hours per year on the industry to meet the red tape of the scheme, as estimated by the Business Council of Australia.
- Labor's reforms have failed coastal shipping and unless we act now, businesses relying on coastal shipping will be sunk and I fear that the Australian industry will just continue its decline.
- Without changes to economic and regulatory settings, shipping will not be able to deliver the competitive, efficient services that Australian businesses need.

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Quotes / case studies / examples

- As Incitec Pivot, Australia's largest fertiliser provider said in their submission to the Senate:
'Deregulation of coastal shipping is needed to lift the competitiveness of the sector, reduce costs on business, increase flexibility and support opportunities for new investment and employment in Australian manufacturing.'
- Gypsum Resources, a South Australian company, has outlined in their submission how they are losing business to Thailand under the current cumbersome framework.
- As West Australian mineral sands company Cristal Mining said:
'The Act, in its current form, puts Australian industry at risk of operational shut downs and possible job losses.'
- The petroleum industry has echoed these concerns saying that the *'current cumbersome and inflexible regulations... do not facilitate liquid fuel supply security.'*
- We know that the cost of shipping dry food powder from Melbourne to Brisbane is the same as shipping it from Melbourne to Singapore.
- And the cost of shipping sugar from Thailand to Australia is cheaper than the cost of shipping sugar around our own coastline.
- We know that our cement companies are competing with directly imported Chinese clinker.
- There are just so many, many more examples of industry unable to compete under Labor's current system.

[If asked] Jobs / Issues Related to the Regulation Impact Statement

- Estimates of seafarer job losses provided in the submission to the Senate inquiry by the Australia Institute, a report which was commissioned by the MUA I might add, and repeated in their own submission, are a significant overestimate of the likely job impacts of the reforms and ignore the economy wide benefits to manufacturing, resources, cement, aluminium, fertiliser, petroleum, sugar, grain and the many other products that can or could use coastal shipping services if it was more competitive.
- Their submission suggests only 88 Australian seafarer jobs will remain but the RIS itself indicates that the actual outcomes of the reform process will be dependent on commercial decisions by shipping operators that will likely take account of a broader range of factors than were considered in the modelling.
- Already Rio Tinto has indicated in its submission to the Inquiry its intention to maintain its current level of company owned and Australian crewed fleet on the Weipa-Gladstone bauxite trade.

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- The MUA submission to the Senate Committee also notes there would be \$4.25 billion benefit in output and 9,000 additional jobs assuming 100 ships registered on the Australian International Shipping Register.
- What they don't tell you is that Labor's AISR has been a complete failure. There is not a single vessel on the register Labor established. Why? Because of the extreme power that it gives to Labor's mates in the MUA.
- I would expect that under the Government's reforms, vessels will actually register on our revamped Australian International Shipping Register because unlike Labor it encourages participation, rather than operating like a closed shop.
- Labor's reforms have failed coastal shipping and unless we act now, businesses relying on coastal shipping will be sunk and I fear that the Australian industry will just continue its decline.
- Without changes to economic and regulatory settings, shipping will not be able to deliver the competitive, efficient services that Australian businesses need.

[If asked] North Star Cruises

- Once again the Member for / Senator [XXXX] is distorting the facts.
- As I [Minister Truss] advised the House in the September sittings, my Department has confirmed to me in writing that at no stage was Mr Milby advised of any course of action.
- Pursuant to a Senate order, the relevant documents have now been tabled in the Senate
- I am aware of media reports from the Senate Committee and this does not change that advice.
- Being apprised of the various options available does not constitute advice of a particular course of action.
- I confirm again today that at no stage was Mr Milby advised to 'sack his crew or re-flag his vessel', as has been reported. And the Officials' testimony verifies that account.
- The official concerned answered the question from Senator Heffernan as follows:
 - **Senator Heffernan:** *The previous witness seemed very certain of his position and what he was told by two of you. Are you going to deny that?*
 - **Official (Department of Infrastructure and Regional Development):** *Senator, I did not say to Mr Milby that he should sack his crew and that he should reflag his vessel.*

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- The Senior Official in question is a distinguished public servant that has served her country under Governments of both persuasions. In fact, she is being honoured with a Public Service Medal for:
 - *'outstanding public service in leading the Joint Agency Coordination Centre to support the Australian Government's response to the disappearance of Malaysia Airlines flight MH370.'*
- Ultimately these are commercial decisions for the owners of Mr Milby's company to make. This company has been competing with international cruise vessels for a long time and I'm sure it will continue to be able to do so into the future.
- I [Minister Truss] would also note that under the Government's proposed reforms it is not an option for somebody to put a full foreign crew on a cruise vessel in Australian if they want to operate year round on Australian shores.

[If asked] Return of Alexander Spirit to Australian waters

- I have seen reports that the petroleum product tanker *Alexander Spirit* is operating in Australian waters.
- I understand the vessel is not engaged in coastal trading – it is carrying imported product to northern Australian ports.
- Caltex's decision to remove the vessel from the coastal trade was made under the current legislative framework, as a result of conditions in the domestic oil refining sector.

[If asked] The decision by Alcoa to decommission the MV Portland

- I understand that the MV Portland is near the end of its operating life. It is 27 -years old and the costs of keeping it in service are becoming prohibitive.
- As a result Alcoa has chosen to sell the vessel and replace it with a more cost efficient method of delivery of alumina from Western Australia to the Portland aluminium smelter.
- Alcoa has advised the Government that decommissioning the ship is one of a number of cost saving measures being taken in an attempt to help protect more than 2,000 direct and indirect jobs associated with the Portland aluminium smelter.
- It is entirely a commercial decision, and in this case the owner of the ship (Alcoa) has determined that it is no longer viable to operate the licenced vessel.
- The legislation that is in place to regulate coastal trading — legislation that was put in place by the former Government — does not force operators of general licence vessels to carry cargo on their ships.

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- The coastal trading legislation provides a mechanism to ensure that cargo can be moved when there is no general licenced vessel available, and that is what has happened on this occasion.
- It is unfortunate that yet another major licenced Australian trading vessel is going out of service, but it is symptomatic of the urgent need for reform of the current legislation, which is simply not working.

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[If asked] Implications of the reforms for Tasmania

- The Government believes that moving freight across Bass Strait needs to be a cost competitive service and that's what our changes are focussed on.
- As the Productivity Commission noted in its recent report into Tasmanian freight that:
'Given its reliance on sea transport, Tasmania is particularly affected by inefficiencies embedded in coastal shipping regulation. This regulation should be reviewed and reformed as a matter of priority.'
- Bulk shippers such as Bell Bay Aluminium have highlighted the additional costs under the system Labor created at the behest of its union mates. Bell Bay notes a substantial increase in the freight rates experienced by shipping users – e.g. Bell Bay Aluminium recorded a 63 per cent increase in freight costs in one year.
- This concern is echoed by the Tasmanian Minerals and Energy Council who say in their submission that Tasmanian businesses:
'are the most exposed in Australia to the regulatory framework for coastal shipping which is in urgent need of reform.'
- By making coastal shipping more competitive, the Government is supporting growth and the expansion of jobs in Tasmania's manufacturing, mining, horticultural and agricultural industries.

[If asked] SeaRoad Shipping - Tasmania

- The Government recognises the capital investment required to purchase a ship and will be retaining current tax benefits for these sorts of investments.
- The Government believes that moving freight across Bass Strait needs to be a cost competitive service and that's what our changes are focussed on.
- As the Productivity Commission noted in its recent report into Tasmanian freight that:
'Given its reliance on sea transport, Tasmania is particularly affected by inefficiencies embedded in coastal shipping regulation. This regulation should be reviewed and reformed as a matter of priority.'
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'are the most exposed in Australia to the regulatory framework for coastal shipping which is in urgent need of reform.'

- By making coastal shipping more competitive, the Government is supporting growth and the expansion of jobs in Tasmania's manufacturing, mining, horticultural and agricultural industries.

[If asked] Spirit of Tasmania vessels

- Flagging and crewing arrangements under the reforms will be entirely commercial decisions for operators; there are no provisions of the Bill that require a particular course of action
- The decisions by operators will be made based on a range of operational, financial, ownership and taxation considerations.
- This was acknowledged in the Regulation Impact Statement that accompanied the Bill's Explanatory Memorandum.

[If asked] Release of Australian Sea Freight

- Australian Sea Freight 2013–14 was released in October 2015 and is the latest in a series of BITRE sea freight reports.
- The report shows trends in Australian sea freight from 2004–05 to 2013–14. The information presented comprises international and coastal freight statistics, coastal shipping under licence, vessel activity at Australian ports, and the size and composition of the Australian trading fleet.
- The report confirms that the number of major Australian registered ships (over 2,000 dead weight tonnes) with coastal trade licences has declined sharply over the last decade (36 vessels in 2004-05 and 30 in 2006-07, versus 15 in 2013-14).
- Chapter 2 of the report shows that there has been a small increase (1.1 million tonnes, or 2.1 per cent) in coastal freight volumes from 2012-13 to 2013-14.
- However, coastal freight volumes have remained relatively stable over the last five years, generally fluctuating by less than one per cent each year.
 - The small increase in coastal freight volumes in 2013-14 coincides with a 0.9 million tonne increase in material (rocks) shipped from Dampier to Barrow Island as part of LNG-related construction work.
- Coastal shipping's share of the domestic freight task has been in decline for around a decade.

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- This is at the same time that road and rail transport have experienced significant growth.
- Analysis conducted for the 2011–12 year (the latest period available) the domestic freight task totalled almost 600 billion tonne kilometres. Rail transport accounted for approximately 49 per cent of total domestic freight, road freight about 35 per cent and coastal sea freight 17 per cent.
- In comparison, in 2000–01 the domestic freight task totalled 381 billion tonne kilometres with rail accounting for 36 per cent, road 37 per cent and coastal sea freight 27 per cent – a decline of 10 per cent over ten years

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BACKGROUND

Shipping Legislation Amendment Bill 2015: progress

- **25 June 2015:** The Deputy Prime Minister introduced legislation to reform coastal shipping. The legislation provides:
 - an unambiguous objective of ensuring efficient and reliable coastal shipping services as part of the national transport system;
 - a single Coastal Shipping Permit for all ships (Australian and Foreign-flagged) replacing the existing tiered system, granting unrestricted access to coastal shipping;
 - all contestability aspects of the current framework will be removed;
 - Australian and foreign ships will be treated equally;
 - foreign ships will not be imported by Customs when operating under a permit, including when dry docking;
 - the geographic reach of the legislation has been extended to allow for the carriage of petroleum products from offshore installations to the mainland;
 - the establishment of a framework of entitlements for seafarers on foreign vessels engaging or intending to engage in coastal shipping for more than 183 days. The amendments will apply Part B of the Seagoing Industry Award 2010 (Award) to seafarers on vessels that engage predominantly in coastal shipping when the *Fair Work Act 2009* applies to them;
 - critical Australian maritime skills will be preserved by minimum Australian crewing requirements applying to any foreign registered ship wishing to trade on the coast for more than 183 cumulative days in a 12 month permit period; and
 - reduction of reporting requirements for permit holders.
- **12 October 2015:** The Senate Rural, Regional and Transport Legislative Committee released its report into the *Shipping Legislation Amendment Bill 2015*, recommending the following:
 - Recommendation 1**
The Committee recommends that the bill be passed.
 - Recommendation 2**
The Committee recommends that the Government give further consideration to:
 - the desirability of providing a mechanism for emergency permit applications; and
 - the need to clarify the effect of the bill on the operators of cruise ships.
- **13 October 2015:** dissenting reports were published by the Opposition and the Greens opposing the bill and recommending it be withdrawn, with the intention of conducting further consultation with stakeholders.
- **14 October 2015:** The Bill was passed in the House with no amendments

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Spirit of Tasmania vessels

Concerns were raised by Senator Urquhart in Parliament on 13 August 2015 regarding the possibility of Australian seafarers losing their jobs on the Spirit of Tasmania vessels if the legislation was passed. The Spirit of Tasmania vessels are both Australian flagged and owned by the Tasmanian government. A decision to reflag these vessels would result in the loss of the eligibility for tax incentives under the *Shipping Reform (Tax Incentives) Act 2012*.

The reference to the 'Government's own modelling' is a reference to the Regulation Impact Statement (RIS) that is attached to the Explanatory Memorandum and was provided as assumptions given certain circumstances, the report itself acknowledged that 'the actual outcomes of the reform process will be dependent on commercial decisions by ship operators that will likely take account of a broader range of factors.' The RIS concluded that it was very unlikely that the two Spirit of Tasmania vessels would be reflagged given that they are owned by the Tasmanian Government.

Submission by SeaRoad to Senate Inquiry

In its submission SeaRoad indicates it would like to see Bass Strait considered separately to that of the wider Australian coastal shipping environment and that cabotage should remain to ensure the continuation of dedicated daily services. It also indicates the changes proposed in the Bill will jeopardise its current ship replacement plans.

An article in the *Hobart Mercury* on 10 September 2015 reported on the SeaRoad submission and its representative's comments at the Senate inquiry, including comments that the company may be forced to seek to lower costs by employing foreign workers if no other companies used Australian crews.

Submission by North Star Cruises to Senate Inquiry

A number of media articles have resulted from the allegations contained in a submission Mr Bill Milby, CEO and founder of North Star Cruises, to the Senate Inquiry into the *Shipping Legislation Amendment Bill 2015*. The claim being that Departmental officials had advised Mr Milby, on two occasions to reflag his vessel and sack his Australian workers.

Summary of the Australian Sea Freight 2013-14 Report

Australian Sea Freight 2013-14 continues a series of reports on maritime freight in Australia and shows trends in Australian sea freight from 2004-05 to 2013-14. The information presented comprises international and coastal freight statistics, coastal shipping under licence, vessel activity at Australian ports and the size and composition of the Australian trading fleet.

The report is made up of five chapters:

- Chapter 1 International sea freight (ABS trade data)
- Chapter 2 Coastal freight (Coastal Freight Survey)
- Chapter 3 Coastal trading under permit and licence (Department records)
- Chapter 4 Australian port activity (Ship movement data and ABS trade data combined with coastal freight data)
- Chapter 5 Australian trading fleet (Ship movement data and Departmental records of coastal trading licences)

The publication was prepared in the Infrastructure and Surface Transport Statistics Section of BITRE and was published in September 2015.

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Alcoa's decision to decommission MV Portland

The MV Portland is a 27 years old vessel owned by Alcoa and it is crewed by ASP Ship Management (ASP). There are approximately 40 people in the total crew pool with 19 on the vessel at any one time. ASP has a number of different Enterprise Agreements with the officers, engineers and seagoing ratings in place.

Alcoa has advised the Government that decommissioning the MV Portland is one of a number of cost saving measures being taken in an attempt to help protect more than 2000 direct and indirect jobs associated with the Portland aluminium smelter. Alcoa has worked with ASP to help ensure that any affected crew from the MV Portland receive appropriate entitlements and assistance.

Alcoa has contracted with the global shipping company Oldendorff Carriers to provide the vessels to be used under the temporary licence. Alcoa expects Oldendorff to use a range of vessels to carry the alumina, dependent on international voyages to Australia by Oldendorff ships. Any vessel that is used for more than two voyages under the temporary licence will be required to pay Part B wages to its crew. In chartering a foreign flag vessel, Alcoa will only contract with shipping owners who pay their crew at least the minimum mandated salary under the International Transport Federation award.

Alcoa applied for and was granted (on 22 October) a Temporary Licence under the Coastal Trading (Revitalising Australian Shipping) Act 2012 using a foreign flag vessel to transport alumina between WA and Portland up to October 2016. The new Temporary Licence covers 17 voyages until October 2016. The first voyage was scheduled for late October and was not performed.

The MV Portland was scheduled to sail from Portland, Victoria to Singapore on 14 November 2015. The MUA employees scheduled to work on board the vessel were engaging in unprotected industrial action and refusing to undertake duties necessary for the vessel to depart the port.

ASP initiated action in the Fair Work Commission (FWC) for a s.418 order under the Fair Work Act 2009 that the crew cease industrial action (a 'stop order'). The FWC granted this application and has issued an order for the MUA and the crew to cease industrial action effective as of 7pm on 17 November 2015.

The MV Portland did not sail as scheduled and remains in port at Portland. ASP does not currently have the required minimum crew to sail. Three crew members left the vessel due to stress and companionate grounds. A fourth left on medical grounds unrelated to the industrial action. A minimum of one replacement is required to meet the safe manning levels to sail the vessel.

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	Contact Officer	SES Contact Officer
Name:	Naa Opoku	Michael Sutton
Title:	Director, Coastal Trading	Acting Executive Director, -Surface Transport Policy
Landline:		
Mobile:		

DEPARTMENT INFORMATION CORRECT AS AT: 23 November 2015

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