THE OFFICIAL JOURNAL OF SHIPPING AUSTRALIA LIMITED

Print Post Approved PP100007322

SHIPPING AUSTRALIA

Coastal Shipping update

Getting cadets to sea

Oil price impacts

PROFILE

LENA CHRISTENSON-DUUS,
managing director Oceania, Hapag-Lloyd

PRIVATE PORTS: FOR BETTER OR WORSE?

AUTUMN/WINTER 2015


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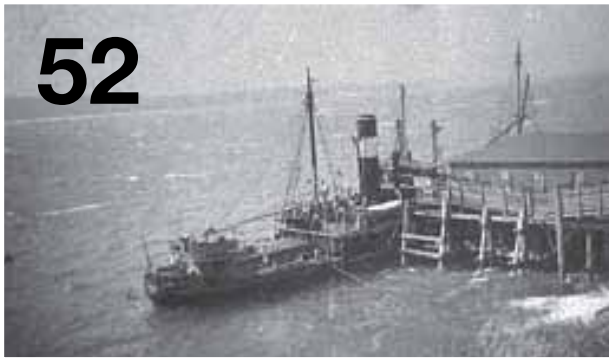

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Shipping Australia Magazine is published for Shipping Australia Ltd by Ontime Pubications.

OTP
Ontime Publications

Front Cover:
Captain Cook Graving Dock celebrates 70th anniversary

Image: © Thales Australia

From the bridge

Feeling the pinch – the risks of unregulated monopolies

By ROD NAIRN AM, CEO, Shipping Australia Limited

The end of the mining boom, the plummet in coal and iron ore prices, has put continuing pressure on cargo rates but counter-intuitively, bulk shipping volumes are up. With margins being squeezed, the next expected phase - decreasing volumes, will only make matters worse.

In the container trade, despite the optimism, 2015 has not turned out to be the road to recovery that the industry has been seeking. There has been *some* slowing in capacity growth as increased scrappings have taken uneconomic and non-compliant vessels out of the market, but only some. Ship-owners continue to seek bigger and more fuel-efficient ships in order to reduce their unit costs. It seems the never-ending story. Since the GFC, shipping companies have been under continuous pressure to cut costs and improve efficiencies in order to stay afloat, and by now just about all the savings have been reaped, every bit of efficiency has been squeezed out.

In the Australian liner trade routes, demand has continued to lag supply and except for one bright spot on reefer exports, container tariffs have continued to be squeezed. The unexpected drop in bunker prices has provided some welcome relief but intense competition means that much of this benefit has been passed on to shippers. The lower fuel price has again raised the question of faster steaming, but this would effectively exacerbate the already excess capacity.

Into this scenario gallops another round of port and service provider price increases, as expected as they are unwelcome. Port of Newcastle's 60 per cent (plus) rise in coal ship navigation charges grabbed our attention at the end of last year and is being fought by coal interests who have launched a bid to have the port declared under Commonwealth monopoly access regime. But Newcastle's 3.9 per cent increase on all non-coal charges for this year also appears excessive, more than 1.5 per cent above last year's CPI with inflation likely to be lower for the current year.

Meanwhile, NSW Ports quietly introduced new site occupancy and wharfage charges for Bluescope's berths in Port Kembla, which adds a cool $200,000 to a visit for some of the ships loading there. This must have a negative impact on our export competitiveness when prices are low. SAL has raised objections to both NSW Ports and Transport for NSW, particularly in relation to the late and incorrect initial advice of the charges (after they had commenced) but also questioning the legality of these fees which have never been charged at these berths.

SAL has also objected to Port Phillip Sea Pilots' recent announcement of a 4 per cent rate rise, on top of a similar rise last year and an historic trend of rises that has exceeded CPI by around 2.5 per cent per year, over the last 15 years.

So while every bit of cost efficiency is squeezed out of the competitive elements of the supply chain, the monopoly elements are able to raise their prices with impunity. Are these rises an inevitable effect of privatisation? Or simply a lack of effective price control levers and would be the same whether ports are public or private?

Shipping Australia has never been ideologically opposed to privatisation, but entrenching private monopolies without effective price controls is a formula for price escalation and our members are suffering from it. The largest impact has been from State government actions taken in preparation for major infrastructure sales, such as land revaluations and regulating away of future competition, but there is still a bit of opportunistic money-grabbing in their wake. **In this edition we focus on ports, privatisation and price drivers**, starting with Dale Crisp taking a look at the record of port privatisations in Australia, from page 16.

The Port of Melbourne has certainly stolen the headlines in relation to price hikes with the ongoing, very public dispute over the proposed **767 per cent rent rise for DP World land rents**. This has generated a furore of angry responses from port service providers and users. SAL has never been a friend of regulation but, these unreasonable demands for cash have at last forced a change of heart. Asciano CEO John Mullin's keynote address to the Australia Logistics Council conference in April put clarity around the potential consequence of such a rise and set the tone for active engagement during the panel session. His presentation is part of our focus on ports.

The reaction to the money grab was indeed unprecedented, and spawned a *coalition* of objectors comprising all sectors of the port user community: stevedores, shipping companies, and industry associations covering shipping, shippers, business and exporters. The *coalition* suggested a number of options for effective State-based or Commonwealth regulation of the monopoly functions of the Port of Melbourne. Subsequently, in April I had a very cordial and encouraging meeting with Victorian Minister for Ports Luke Donnellan where he concluded by assuring me that the port privatisation legislation would include strong price oversight provisions, which had been lacking in the previous Brisbane and New South Wales privatisations.

I have ended up disappointed. **The Port of Melbourne Lease Transaction Bill** has now been introduced to Parliament and does indeed contain price-monitoring provisions overseen by the Victorian Essential Services Commission. However, the scope of these controls is very limited and certainly doesn't extend to land rents which can have a massive effect on the supply chain prices. The legislation also limits the application of the Commonwealth's CCA. As it stands, it will allow the privatised operator to seek to maximise its returns from the services which are not covered, such as port leases, infrastructure surcharges and other service fees. This is simply not good enough, the price regulation needs to be broadened and strengthened.

In his accompanying speech the Treasurer, Tim Pallas, has stated that price increases will be limited to CPI for the first 15 years of the lease, and that export container wharfage will be frozen for five years. These are welcome statements but I note that none of these guarantees are built into the legislation; they will need to be embedded in the commercial-in-confidence lease arrangement or specified in the Initial Pricing Order, which the public may never see. The proposed freeze on export wharfage clearly shows that competition is the most effective force in restricting prices (in this case the competition to recover exports volumes from southern New South Wales which have switched to Port Botany).

Animated discussion on port pricing during the ALC panel session

Panel members; Rod Sims, chairman, ACCC; Mark Birrell, chairman, Port of Melbourne Corporation; Mike Mrdak, secretary, Department of Infrastructure and Regional Development and Peter Harris, chairman, Productivity Commission

Treasurer Tim Pallas' passion and knowledge on the subject of shipping were clearly evident when he addressed these matters in detail at the SAL Victorian State luncheon at the Melbourne Cricket Ground on 2 June. He also committed to making the details of the Initial Pricing Order "as transparent as possible," but relief on proposed land rents was not conceded, instead he stated a commitment not to undersell the asset. He also confirmed that there would be no competition from a new Victorian container port until the existing port had reached capacity, somewhere in the order of 7.2 million TEU per annum and 10 or 15 years from now. Shipping Australia would like to see competition sooner.

Another strategic friction point is that Treasurer Pallas showed no concern that Melbourne will be holding the other east coast ports back by not being able to accommodate ships greater than about 7000 - 8000 TEU. He is convinced that bigger ships will not be needed until the mid-2030's. Lastly, he stated that the Labor Government's recommendation to the independent Infrastructure Victoria would be that a future container port would be at Bay West. Not a logical solution in my view, especially when he acknowledges that bigger ships will be required. We now pin our hopes on the fact that Infrastructure Victoria will be truly independent and can drive a realistic outcome.

While Melbourne has grabbed the headlines and the Queensland Government has taken Townsville and Gladstone off the table, there are still more ports up for sale. Not much has been heard about Darwin since the Northern Territory Government's select committee report in April. The report recommended much strengthening of the price control mechanisms, transparency and planning controls in the Ports Management Bill. More recently, Western Australia's State Budget included a plan to sell a long-term lease of the Port of Fremantle. This is a reversal of previous policy, probably driven by poor sale prospects at Kwinana Bulk Terminal and Utah Point terminal (Port Hedland), following the slump in commodity prices. We can only repeat that it is essential that effective price controls are built into any sale of monopoly assets.

It's been a long time coming but following last year's **review of coastal shipping** and some decisions on extending the Tasmanian freight equalisation scheme to international cargo transhipped through Australian ports, the Deputy Prime Minister, Warren Truss, announced the coalition's plan to simplify coastal shipping regulation. The plan was acclaimed by Australian business interests, especially primary producers and manufacturers, as it will enable Australian goods to

compete more effectively with foreign imports in Australian domestic markets. Read the details on page 8.

The final report of the **Harper Competition Review** remained virtually unchanged from the draft report in relation to shipping. While SAL agrees with their observation that coastal shipping regulation needs to be simplified, it seems incredulous that the panel ignored the submissions from Shipping Australia, exporters and business groups. The review did not identify any problem with the current highly competitive liner shipping industry and yet for purely ideological reasons made a recommendation (4) to repeal part X of the CCA. SAL considers that this is a very risky pathway to fix a non-existant problem. In the words of Sir Humphrey Appelby, "that would be a very courageous decision Minister!" SAL will continue to encourage the Government to set aside this unhelpful recommendation.

The topic of **sulphur emissions from cruise ships at White Bay** reached celebrity status during the NSW State elections. SAL was disappointed to see the Premier jump to an election promise timeline for mandating low sulphur fuel which seemed to ignore the EPA's own strategic plan and pre-empted the results of a DNV study on feasibility and fuel availability. As we go to print, an exposure draft of proposed legislation states that cruise ships will have to use 0.1 per cent sulphur fuel when alongside from 1 October, and when manoeuvring in the harbour from 1 July 16.

In international developments, the IMO' Maritime Safety Committee has now confirmed that changes to SOLAS regulations requiring **mandatory container weight declarations** will be implemented with effect 1 July 2016. The regulation puts the onus of accountability for weight declarations squarely on the shipper, and clearly they will bear the responsibility if further checks down the line find that declaration to be in error. MWD will be key to the logistics chain of responsibility and there is still a way to go to develop the procedures, information exchange, checks and consequential actions in relation to this matter. SAL will be engaging with stakeholders to develop these over the coming months.

On another topic, there have been a few **changes in the SAL Policy Council** line up since we last went to print. Emma Stacey succeeded Steve Horton at Sturrock Grindrod Maritime (formerly Hetherington Kingsbury) ship agency, Captain Sunhil Dhowan replaced Mike Slee at Wallenius Wilhelmsen Logistics and Lena Christensen-Duus stepped into the shoes of John Bradley at Hapag-Lloyd. You'll find a *Profile* of Lena on page 10.

Though it seems a long time ago, I would like to welcome our **new staff member Captain Melwyn Noronha** to the Shipping Australia team. Melwyn, who stepped into the rather large shoes of Kushy Athureliya hit the ground running in February and has been actively addressing a stream of policy bushfires as well as coordinating the NSW State Committee, the Maritime Legal Steering Group and arranging our New South Wales networking events. Melwyn is an experienced bulk-ship master with many years of experience in the regulatory environment since coming ashore, but I will let Archie Bayvel give you the details in his introduction on page 12.

Finally, I am very pleased indeed to **welcome Neptune Pacific Line as a full member**. Neptune Pacific Line is a member of Roll Global LLC, which includes FIJI Water, Paramount Farms, Paramount Citrus, Justin and Landmark Wines, Vintage Nurseries, Teleflora, POM Wonderful, Wonderful Brands and Suterra. Over the last few years Neptune Pacific Line has grown significantly. In 2014, Neptune formed a joint venture with Government of Samoa for the Pacific Forum Line, and also acquired Polynesian Shipping Line, making them one of the largest regional shipping lines in Oceania.

Neptune Pacific Line has real hands-on experience in the challenges of operating in the Pacific NPL bring another level of expertise that strengthens our knowledge base and our efforts to promote good policy and safe, sustainable ship operations.

This combined Autumn/Winter edition of Shipping Australia Magazine is packed with quality articles and unfortunately, some material has had to be left out. Our regular *Signal* is one of those sacrifices, but I hope you agree that comments on industry developments are well covered in our monthly electronic newsletter.

You can subscribe to *e-Signal* from our website and to get the fastest updates, follow us on twitter @ShippingAus.

Neptune Pacific Line - Capitaine Tasman

The port waters of Geelong welcome about 700 ships a year.

And a raft of capital upgrades over the coming years will ensure the welcome mat stays out for the next generation of bigger ships set to use Geelong's channel network.

The Victorian Regional Channels Authority is committed to providing safe access for all ships - now and in the future. Its long-term development strategy of targeted channel improvements is a key to keeping the network efficient and the port productive in future decades.

While planning for the future is vital, the VRCA is continually improving access for today's ships and the 13.5 million tonnes of cargo they transport through the port each year.

The VRCA is directing millions of dollars into annual upgrades, through projects including a recent $9 million dredging program. With other multi-million dollar capital dredging projects in the pipeline, it's all about providing safe passage for the increasingly bigger ships and larger ship numbers sailing Geelong's way.

VRCA is investigating the installation of Dynamic Under Keel Clearance to allow a potential cargo increase of thousands of tonnes for those larger vessels in the world fleet.

Safety is paramount in Geelong's port waters. High-visibility GPS/GSM controlled lights and beacons as well as virtual beacons clearly delineate the channels while a Smart Dock laser system boosts berthing safety in all conditions.

The VRCA also invests heavily in marine logistics and control systems, with its 24/7 marine traffic management system using technology including automated ship identification (AIS), very high frequency radio (VHF), mobile telephony, satellite communications and real-time tide and wind sensors, available online.

As well as commissioning annual hydrographic surveys, VRCA rigorously tests its channel network's capacity using sophisticated ship simulation and logistic modelling programs.

It's all part of the VRCA's pledge to the ships of today and the visitors of tomorrow - to provide safe and efficient passage into the port and a big Geelong welcome.

Victorian Regional Channels Authority

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VIEWPOINT

Hello - Alice Springs Shipping Agency!

By KEN FITZPATRICK, chairman, Shipping Australia Limited

It's a Sunday night close to midnight, the rain tumbles down on a cold, lonely wharf as the first line is thrown ashore by the ship. Standing amidships as the dark hull closes in on the berth, bracing against the icy wind, is a lonely figure clutching a briefcase and waiting patiently for the gangway to come down, whilst taking note of the time for the first line ashore, is the agent. With luck he will soon be in a warm cabin on board and drinking a cup of tea, as he plans with the ship's officers the work programme for the next day. He carries the all important mail and newspapers for the crew, so anxiously awaited during the long sea passage.

On the way home, having collected all the ships' arrival information, including the status of bunkers on arrival, and information to be relayed to owners, he calls into the office and sends out the information recently gathered, by telex to the ship's owners, somewhere half way across the world.

Such is the life of a ship's agent, working alone, often outside office hours, however he is the lifeline between the owners or operators of the ship and the ship's crew, whilst the ship is in his port.

The following morning he would be down there again, before the start of the first shift at 7am, checking that the ship was ready for cargo operations, and attending any needs of the ship and crew, such as arranging stores, spares, repairs, medical visits for the crew etc. He will attend the ship every day it is in port, and be there on sailing. During that time he will develop some strong bonds with the crew, especially of the regular callers. He will more than likely have a few beers with some of he crew in a local pub, later in the day. It is a tough but rewarding life, carrying a heavy responsibility involving, more often than not, young people embarking on a long career in the business.

This WAS the life of the agent - 30 years ago. It is quite different today.

With modern communications between ships and shore, information is instant. Email means crews no longer stand anxiously at the gangway waiting for the agent to arrive, carrying their mail. Who gets letters anyway today? Ships don't stay in port long enough for those few beers in the pub; besides, port security regimes at terminals don't allow anyone to enter if they have been drinking alcohol. Ports are no longer close to cities, because Government greed drives urban development for land once used for ports. Crews see cities as an outline of tall buildings on the far horizon, if they are lucky. And the agent doesn't call every day any more. In fact sometimes he never goes to the ship at all. Most of the functions involving interaction with port officials, stevedores and port authorities are conducted electronically. Crew changes are managed via car hire companies, as are visits to medical facilities for crew-members. The agent can sit in an office in Alice Springs and make all the arrangements he needs, without having to leave the phone or computer. No sign of ocean for thousands of miles and yet the shingle out front reads "Alice Springs Shipping Agency".

So what happened to that interface between ship owner and the ship in port, and why have things reached a stage where sometimes the agent does not even attend the ship in port? Clearly the electronic age plays a large part, as does the fact ships are often some distance from the agent's office, even those located in major port cities, rather than Alice Springs. Financial considerations are also substantially to blame, and whether the majority of that blame falls with the agents for undercutting each other on agency fees, or on the owners for forcing prices down, is hard to decide. The bottom line is, agents will not go out of their way if their fees don't even cover the costs of an agent visiting the ship. Perhaps the use of the word ship's agent needs to be reviewed for these arrangements. 'Documentary agent' might be more appropriate in these circumstances, and is much less likely to cause any confusion about the expectations of either side.

What is the impact of this modern trend? There are of course,

consequences, many of which are probably unfavorable and can produce knock-on effects to other service providers:

- Relationships between agent and crew have no time to build, leading to misunderstandings and unnecessary problems.
- Ships crews do not have access to the first hand local experience of the agent on the spot, when managing problems.
- By not being at the worksite (i.e. the wharf) agents do not build a close working relationship with stevedores and other service providers. These may not be needed day to day but are critical when something goes wrong, and as anyone in the industry will tell you, that is a regular occurrence.
- Agents visiting vessels often pick up problems developing on board ships. This might manifest in the way of tension between crew and officers, poor practices and sometimes developing medical issues affecting crew performance. It is no secret that the most insidious problems faced by crews of today are psychological. Crew stress and suicide are becoming more prevalent by the day, for a vast number of reasons, some of which have already been mentioned.
- Conversely, the ship owners get reports from crew on agent performance and suitability for the task.

A further consequence is the impact on port welfare providers. They are being increasingly called upon to do the sort of work agents used to do when they were rewarded appropriately. Crew repatriations, port medical and dental visits, and particularly where a crew-member is hospitalised, were once the sole task of the agent. These tasks are increasingly being handballed to port welfare providers.

What is the solution? Balance needs to be restored. Many agents still visit ships in port and do their job admirably. But the increasing trend toward the documentary agent is worrying, and ship owners need to realize that cutting agency fees to the bone can be a false saving. Having an experienced agent with good local working relationships on the wharf, keeping an eye on crew problems, can save many multiples of dollars exceeding agency fees paid. Ship agents have many professional skills and we need to make sure these are maintained even through the darkness of the current extremely difficult freight market.

Warren Truss details the plan to simplify coastal shipping

By A SPECIAL CORRESPONDENT

In the wake of the Federal Budget, Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Honourable Warren Truss MP, drew intense interest in his address to an audience of shipping companies, unions and freight stakeholders at a Shipping Australia Limited luncheon, at the Sydney Harbour Marriot on 20 May.

The plan outlined by Mr Truss will replace the well-intended but seriously flawed Albanese reforms, which have been a stunning failure. Since the 2012 Coastal Trading Act came into force, regulatory compliance has been difficult and sea freight more expensive - there are less Australian flag ships. The result has seen traditional sea cargo moved by road and rail, and Australian industries and jobs suffer as import substitution has become more economical than moving Australian primary products and manufactured goods.

The planned changes will include:

- The introduction of a single, streamlined permit for all ships—Australian and foreign—operating along our coast. The new permit will replace the complicated licensing system we have at the moment. This permit will allow Australian and foreign ships to carry goods and passengers on unlimited domestic voyages during the 12 months of the permit.
- There will be no requirement to nominate voyages upfront for approval and, as a result, there will be no need to seek variations to cargo type or volumes carried, or the dates voyages are undertaken.
- Reporting on activities will be reduced to twice a year, halfway in, and then at the end of the permit period. This is much simpler than applying for a voyage that is likely to happen, reporting on what you think you'll do beforehand, and then reporting again on what you've actually done after the voyage is over.
- Vessels operating under a permit will be protected from importation requirements by Customs, including when carrying out scheduled maintenance. This will mean more business for Australian dry-docks and repair facilities.
- The large cruise industry, currently exempt from the operation of the Coastal Trading Act, will be brought within the operation of the permit system. This means that cruise ships can stay for repairs rather than going to Singapore or elsewhere, and it will encourage cruise ship visits.
- The new permit system will allow the carriage of petroleum products from our offshore facilities to the mainland for processing. Currently these offshore facilities are outside the scope of the current legislation, so the oil is moved overseas for processing then the fuel is shipped back.
- The Fair Work Act will not be changed and Part B safety net will apply if a vessel engages in more than 183 days of coastal trading in a permit year.
- Ships trading here for more than 183 days in a permit period will be required to pay all their crew an Australian wage set out in law, and to meet Australian conditions.
- Additionally, ships trading for more than 183 days will be required to employ a Master or Chief Mate and a Chief Engineer or First Engineer, who is an Australian or who has Australian work rights.

In response to concerns raised by MUA assistant secretary Warren Smith about maintaining maritime skills and Australian jobs, Minister Truss responded that cheaper freight will make Australian products more competitive with international imports, thereby increasing demand and promoting the creation of Australian jobs. Increased shipping volumes will lead to more landside maritime jobs as well.

Shipping Australia chief executive, Rod Nairn, pointed out that foreign flag ships are already helping to maintain maritime skills by getting cadets to sea and enabling them to get their international sea time requirements. The changes will mean more opportunities for Australian seafarers on foreign flag ships carrying coastal cargo.

The proposed changes were strongly welcomed by the audience and will no doubt breathe new life into coastal shipping. Despite the views presented by a small band of MUA demonstrators on the street below, this will be of great benefit to the vast majority of Australians and to our economy. Allowing Australian primary products and manufactured goods to be delivered to domestic markets at competitive prices will support local jobs and allow our States, who suffer the tyranny of distance like Tasmania and South Australia, to compete in bigger domestic markets.

There is already excess capacity in our ports, and half-empty ships routinely transit between them but do not carry domestic cargo, due to regulatory restrictions. Encouraging long-haul domestic freight to be moved by sea will reduce the load on road and rail infrastructure and leave room for freight growth while making use of the most environmentally efficient mode of transport. This will be good for the economy and for the environment.

Television crews setting up to cover the event

MUA national secretary, Padraig Crumlin addresses a small band of demonstrators outside the venue

Avryl Lattin and Maurice Thompson, Clyde & Co

Captain Conrad Saldanha and Nigel Jones, Origin Energy

Andrew Karas, MSCA; Firoze Ali, Yang Ming Line

Veni Patakakis, APL; Dominic Enthoven, Hamburg Süd

Dimity McCredie, Carnival Australia; Teresa Lloyd, Maritime Industry Australia Ltd

Gareth Long and Scott Henderson, Gulf Agency Company

Ken Fitzpatrick, SAL chairman; The Hon Warren Truss MP, Deputy Prime Minister and Minister for Infrastructure and Regional Development

Rod Nairn, SAL CEO; Mark Godfrey and Kevin Clarke, MSCA

LENA CHRISTENSON-DUUS, managing director, Oceania, Hapag-Lloyd

A Swedish lady finds herself alone at night with nothing in the fridge, no car and the nearest shop miles away ...

By ARCHIE BAYVEL

"One way or another I've been involved with shipping all my life," the lady says. "My father and grandfather were both at sea, one in icebreakers, the other in submarines.

"I was interested in logistics but there was no formal training for this when I left school so I joined a shipping agency in Gothenburg, it's not the capital of Sweden but it is the shipping capital."

And so began the career of Lena Christensen-Duus in the maritime industry.

"There were no line-owned offices, just agencies in these days," she recalls, "and 25 years ago there were many more lines than there are today. Nedlloyd and US Lines are just a couple of famous lines that no longer exist.

"In an agency you need to know a bit about everything, ships, vendors, terminals, everything. I got a good start in my first job, a wide understanding of the industry, while also studying marketing at Gothenburg's IHM Business School.

"Then after five years I changed jobs to the agency that handled Hapag-Lloyd. In 2002 my agency's owners sold to Hapag-Lloyd and I got the task of setting it up in Sweden, as a Hapag-Lloyd-owned operation.

"I stayed on as its managing director until 2008, when Thailand became my first posting overseas. I stayed in Bangkok for six years as managing director in Thailand with responsibility for Vietnam and Laos.

"My step-son – who had already graduated from Wollongong University in 2002 - remained in Sweden but our younger son joined me for 2009 to 2010. Between times my husband commuted between Sweden and Thailand until 2011, where he stayed with me in Bangkok until his death last year in Gothenburgh.

"Now my younger son is 21 and in Sydney looking for work, before going to University to study political science.

"The container with all our possessions has only just arrived so I haven't settled in yet. At age 52 I am about to begin my Australian life.

"When I first arrived I stayed in Mosman, which was lovely but too quiet for me after the bustle of Bangkok. Get home late to Mosman and find the fridge empty and you also find the nearest open shop's a fair way off.

"Right now, though, I'm living at The Star Casino Hotel, which is about 200 metres walk max from the office. But I love walking all around exploring the city.

"I'm not a very sporty girl, but love to take power walks, read, travel and spend time with friends and family. I love to explore new countries, destinations, restaurants and cafes. I also enjoy good food and quality wines.

"The walks in Sydney are really good, fresh air, nice parks and beautiful beaches. I especially like the coastal walk from Bondi Beach.

"I also enjoy interior design and can spend quite a lot of research prior to making my final choice. Details are important for me and I'd rather have no sofa at all than having one I don't like.

"I enjoy reading biographies, crime stories and novels. Swedish crime

stories are specially good. Such as the Millenium trilogy by Stieg Larsson, and Henning Mankell is another Swedish crime writer I enjoy. Recently I bought a few different novels by Australian writers and look forward to reading them in my spare time."

In Australia she is also responsible for Hapag-Lloyd's New Zealand business and has already visited there four times and is currently looking for a new country manager there.

"I also need to fill a couple of important vacancies in Australia," she says, "due to Jeremy Tadman, our operations manager, retiring, and the departure of George Patterson, who has already retired as our sales director.

"Bangkok was a good experience for me. It was my first posting to Asia. Just me and 52 Thais, very few of whom spoke English and those who did spoke with an accent and intonation very different from what I was accustomed to.

"At first I couldn't communicate with my own management team but I got used to how my Thai colleagues spoke English and they got used to how I spoke it, and eventually we worked very well together.

"I found the business and work culture very different. I was accustomed to a very structured management style with 100 per cent success always being the goal.

"In Bangkok I had to learn to relax, to stand back a bit. Eventually I understood that it wasn't how one got there that mattered; it was being sure one arrived that was important.

"Thai management was very different to me, with quite different expectations. The Nordic style is to be direct, whereas Thais adapt to the task, walk around it.

"They are expert at the quick fix rather than a total solution to a problem."

Summarising the overall shipping industry in the region, Lena says, "Laem Chabang, just over an hour's drive south-east of Bangkok towards the holiday resort of Pattaya, is Thailand's deepwater international port and Hutchison is the leading terminal.

"But the most modern port in the region is in Vietnam at ci Mep, in Vung Tao province, some 60 kilometres south of Ho Chi Minh City.

"There has been massive overseas investment in Thi Vai but expectations of growth may have been over-optimistic, with five or six terminals at the port. That may be too many for the available trade. There is still a lack of infrastructure to support such state-of-the art installations and I expect some terminals may need to close."

Vung Tao is listed as currently shifting some 5.5 million TEU p.a. and is rated the world's 24th busiest port; Laem Chabang is rated 22nd for size, with a throughput of 6+ millionTEU p.a.

"There is also a regional joint venture projected between Thailand and Myanmar for Dawei Port, at the mouth of the Irrawaddy. If and when this will materialise is not certain. Constant political change in Thailand does not assist strategic decisions. My time there saw six or seven different Prime Ministers, a military coup, closure of the airport, and closure of the inner city for months by protesters.

"Bangkok also has a river port at Klong Toey, which is actually in the city and very close to where I lived. It serves feeder and intra-Asia services. We utilised Klong Toey only to a limited extend, with our deep-sea vessels calling at Laem Chabang and cargo either trucked or railed to the container terminal at Lat Krabang, near Suvarnabhumi International Airport."

On the international scene, just before Lena's arrival in Sydney, Hapag-Lloyd announced its merging of the container business of Compania Sudamericana de Vapores into Hapag-Lloyd. CSAV is a Chilean company with headquarters in Valparaiso. When the merger is complete in June, Hapag Lloyd is expected to be the world's fourth-biggest container carrier after Maersk, MSC, and CMA CGM.

The company's media release at the time says: "The merger is expected to result in annual savings of at least US$300 million as a result of network optimisations, improvements to productivity and reductions in costs. The merged company will have around 200 vessels with a total capacity of approximately one million TEU, transporting some 7.5 million TEU every year. With revenue of around US$12 billion, the combined entity joins the elite group of international shipping companies. "

Lena says the merger is not expected to affect the company's operations in Australia or the rest of Oceania. In the meantime she has found a more convenient location to unpack her container and begin her Australian life. With lights still on no matter what time she gets home, it is in the inner-city suburb of Paddington.

INTRODUCING

MELWYN NORONHA, general manager technical services and industry policy, Shipping Australia Limited

The passions of the sea and longing for home are a mariner's lot until ...

By ARCHIE BAYVEL

To most Australians Mumbai is a distant city embodying all the myths and mysteries of The East. Searingly hot days, lashing rainstorms, cool breezes off The Gulf sweeping a vast city and its profusion of hindu temples, mosques, churches and parsi fire temples.

And people, people, people! Millions of them strolling, running or just asleep on the sidewalks. This story begins among all that with a teenage Indian boy and a girl meeting at a summer school in Mumbai, where the boy's elder brother and 87-year-old mother still live.

The boy and girl didn't meet again for a while. She flew the world as an Air India hostess; he went to sea and became a master of capesize bulkers. They celebrate their silver wedding this December.

Melwyn and Neeta have two daughters, one is 23 and works in human resources and is also studying law. The other is 20

studying business at UTS.

Neeta is the accounts manager for Empowernet International, an event management company, and Melwyn Noronha ... well, we know about him and are about to learn a lot more.

"The turning point in my career," Melwyn says, "came the time I came home from a long voyage. My wife was there with our two little daughters to meet me ... and my younger daughter called me 'Uncle'. She had no idea who I was!"

It was time for Captain Noronha to come ashore.

"I left my last ship at Singapore in 1996," He says. "I don't remember the exact date because at the time I thought I'd be coming back."

He never did go back but today he talks passionately about the loneliness of the sea and the not-too distant years when one could be out of touch with family for many months at a time. He recalls collecting his mail at some faraway port and it included a note his mother had posted months earlier telling him that his father had died.

"Getting into the taxi and saying 'Goodbye' was a big event in these days," he remembers. "You could go for months without news of what was happening with your family.

"News has a huge bearing on human behaviour. I remember beginning one voyage and after a few days crewmembers were complaining about the food and that the chef was behaving strangely.

"Good food is important for good morale at sea, so I went down to the kitchen and spoke to him. He burst into tears so I took him up to my cabin for a chat. It turned out that just as he was leaving home he had been told that his two-year-old daughter was dying of cancer. Now he was facing a long voyage with absolutely no news of what was happening with her.

"Fortunately it's a very different story today. I became a master at 30 and on the bulkships we served four months on then two months off. Before that my longest trip away was 22 months and 20 days; next longest 16 months away from home.

"In all the years at sea my ship never called at Mumbai, although one year my ship was heading for Norfolk, USA, and I got a message saying Neeta was flying into New York and we got some time together there.

"There's a tiny dot in the South Atlantic called Fernando de Noronha, off the coast of Brazil, that I sometimes thought of as my island as we sailed past. But it wasn't home!

"My own career as a seafarer began when I left school after year 12 aged 17 and went to sea as a cadet with a small London-based company, called Eurostem. My first ship was the *Defiant*, a general cargo vessel with 'tween decks and derricks, on which I served for 23 months and 23 days.

"My second ship was the *Lucayan Trader*, owned by Univan, whose owner-founder Captain Charles Vanderperre remains a legend to this day. His guiding principles were care of his seafarers, care of his ships, and tight budgets. Not necessarily in that order.

"I met him at Bangkok in 1984. He climbed the pilot ladder and went straight to inspect the topside ballast tanks' butterfly screws to see if they were free and greased. They were OK but we had a new captain and Captain Vanderperre announced that he would inspect the entire ship with him next day.

"He told us that he'd first gone to sea as a cabin boy making the master's tea. He died quite recently aged 87, owning a shipping empire.

"He was very strong on catering and one of my tasks as a cadet was to keep records of how much food was consumed. Vanderperre's policy on crew menus was a budget of $3.25 per person per day.

"It was generous enough but needed careful juggling and could involve bulk-buying supplies such as rice and onions in six-month dollops.

"I've always believed in keeping crews happy with their food; if the food is right, the crew is right on all other counts. Good meals play an important part in bridging the gap between home and being at sea."

After Univan, Melwyn had a short spell on the *Cottica*, an Isle of Man-owned banana boat before joining Anglo-Eastern on capesize vessels in the bulk trade.

His final move was to P&O Bulk Shipping, where he remained until coming ashore in 1996. The company is long-since sold to Zodiac Maritime UK but Melwyn recalls his years with it very seriously.

"When it came to safety, P&O was well ahead," he says. "Whatever I learnt about safety at sea stems from them. Even the kitchen knives were colour-coded according to whether they were used for meat or fish or something else and crew were automatically breath-tested for alcohol when they came on duty."

"The highlights of my time with P&O taught me about safety long before introduction of the International

Captain Melwyn Noronha with his wife Neeta and daughter Rachel on the bridge of his bulk carrier command in 1994

Safety Management Code.

"It took almost four months for me to find a suitable job when first I came ashore. It was a close thing. I'd used up all my savings and our next mortgage repayment was only 15 days away when I heard that my application to the Office of Marine Administration in New South Wales had been successful.

"It was my first desk job and I had it for more than nine years. The most memorable incident was in August 1999 when there was a significant oil spill from the tanker *Laura D'Amato* anchored at the Shell wharf at Gore Bay. We ran a very successful clean-up.

"I changed jobs at a time when maritime security was a big issue and I left State Government to join the Australian Department Office of Transport Security in 2006 and stayed until 2012.

"At that time there were 28 Australian-flagged ships on our coast but the workings of a port were comparatively unknown to the security industry, so I was employed as a maritime specialist.

"After that I joined Harbour City Ferries, a division of Transfield, as the maritime safety, health, environment and quality manager.

"It was a time when there were numerous cases of ferries zipping walls and suchlike. An important part of the job was getting to know the masters, talking to them and getting a feel for their job."

"There's more to safety administration than the letter of the law. I always looked at its practical intent and fulfilled a critical safety leadership role within management, influencing major policy development while maintaining relationships with key stakeholders and regulators.

"During my time, I was able to influence a just safety culture where masters and crew no longer were fearful of owning up in an incident.

"Past practice was that if one did something wrong the first priority was a penalty. Then in late 2012 there was a change in approach to try to stop these things from recurring rather than wondering how to punish the perpetrator.

"My approach was never to do anything unilaterally but always to seek help for the people involved to find out exactly what happened and how a recurrence could be prevented, and whether the person involved was willing to change.

"I sent one master back for more training. He was indignant when I told him he needed it and argued that after 10 years as a master he didn't need any more training. But the facts showed that he was at fault, so I gave him the choice of the refresher course or ... Reluctantly he did the course but when it was finished he thanked me for saving his career.

"I was fortunate that my years as an international master of capesize vessels earned me great respect from the ferry masters. I had credibility in their eyes.

"Some areas of industry are not so respectful of experience at sea. Until recently it had no place in the skills matrix. Now it is recognised as something of professional value.

"Today I always promote seafaring as a career despite the absences. It builds character, sharpens you up and makes you a man."

Private ports: for better or worse?

By DALE CRISP

The flurry of proposed and completed privatisations in the last few years might suggest this is a recent trend – but in fact it is almost 20 years this year, since the first major sale of a government-owned port took place.

A feature of Australia in the early 1990s was the drive for microeconomic reform as the nation sought new levels of productivity and economic efficiency, through changes to labour markets, regulation and competition policy.

Following the release of 1993's Hillmer Report, the spotlight also turned to public service monopolies, especially in the transport sector, and this increased pressure on State governments, as owners of Australia's ports, to adopt market-oriented policies for what had previously been strictly public utilities. The first step – beyond which some have yet to move – was to corporatise the ports, theoretically at least placing them at arms' length from Government, separating their landlord and commercial functions, and increasing their responsiveness to users, tenants and stakeholders.

It was the Victorian Liberal/National Coalition Government led by premier Jeff Kennett and treasurer Alan Stockdale, that took the next steps towards port privatisation, with the outright sale in 1996, of the regional ports of Portland and then Geelong, plus port services in the port of Melbourne, and the management contract for the port of Hastings. A planned sale of the port of Melbourne itself – rumoured to be to P&O – was only thwarted by considerable opposition from port users, ironically, covertly marshalled from within the Port of Melbourne Authority.

Port of Geelong

Kennett and Stockdale's privatisation push was partly pragmatic: Victoria was struggling under billions of dollars of debt – and partly ideological: not only could the private sector be expected to run more efficient, more productive ports but the influence of unions could be sharply reduced. To some extent this position ignored the reality that port authorities had little control over the performance of key service providers within their ports, such as stevedores and tug companies, but that is another story.

This privatisation thing was a brave new world for ports in Australia, and largely uncharted waters. Prices paid were exceedingly modest by today's standards, and it seems likely buyers were initially seeking commercial advantage through vertical integration with existing activities, rather than explicit investment returns. Thus control of Geelong was acquired by logistics giant TNT, and Portland by South Australia's Scott transport group, each with partner investors. Concerns about Geelong and Hastings both coming under TNT control saw the latter's outright sale cancelled in favour of a commercial operating agreement.

Ownership of Portland, Geelong and the Hastings management contract has changed several times over the years with, for example, TNT acquired by Toll in August 1998 and then, following the de-merging of what became Asciano, Patrick taking management/control in July 2007.

As can be seen from the accompanying timeline it was not until 2001 that the next privatisations

occurred, when the Queensland Government sold a 50+49-year lease of Dalrymple Bay Coal Terminal to Babcock & Brown's Prime Infrastructure; and the South Australian Government, in a somewhat more radical move, sold a 99-year lease of all the commercial ports in its control to the French-led Flinders Ports consortium. It is instructive to consider that seven ports (including Port Adelaide) and all statutory functions therein, changed hands for $186 million, yet Prime paid $630 million for a coal terminal …

In the years since, it's clear the value of ports has kept rising, and concurrently, their desirability as investments. Prices paid for east coast ports, and expectations for the forthcoming Port of Melbourne sale are simply in a different universe to those of just ten years ago. Along the way many owners have realised handy gains.

After originally buying its 50 per cent share in Port of Portland in March 2000 for $17 million, in May 2012 Australian Infrastructure Fund (managed by Hasting Funds Management) sold its holding to Palisade Ports Pty Ltd (Sydney-based Palisade Investment Partners) for $66.5 million - and reported a total average return since inception of its investment of approximately 24 per cent per annum. Portland is now owned by Palisade and Utilities Trust of Australia (also managed by Hastings, which last year bought Newcastle, in partnership with China Merchants).

At Geelong, Hastings was similarly astute: in September 2000 AIF purchased a 35 per cent stake for just $8.3 million; in February 2012 the fund sold 20 per cent to Asciano and 15 per cent to RREEF Infrastructure (Deutsche Bank) [taking it to 50 per cent] for $24.9 million. In this case, Hastings reported total average annual return during its period of ownership as 23 per cent per annum.

However, perhaps the most conspicuous profit from a privatisation, was that of Global Infrastructure Partners. New York-based GIP took a 26.7 per cent stake in Q Port Holdings, buyer of the Port of Brisbane in 2010, for $2.1 billion. Early last year GIP auctioned its holding and raised $1.4 billion from Canadian pension fund Caisse de Depot et Placement du Quebec. In effect this valued Port of Brisbane at $6.2 billion – not just an almost-tripling of its original sale price but a 20 per cent premium to the $5.1 billion paid by NSW Ports Consortium (also including GIP), for Port Botany/ Port Kembla in April 2014.

And while it seems prices have risen to the point where asset-hungry Australian superannuation funds have little choice than to join with deep-pocketed overseas investors, if they are to win the prize, there has been at least one contra-trend example: Flinders Ports was a consortium originally led by the Asia Pacific arm of French infrastructure company Egis, and it included considerable overseas equity. Today Flinders Ports is entirely Australian-owned, by four superannuation funds and boutique investor Infrastructure Capital. Only two of the five original investors remain.

(As an aside, privatisation has created a market for a number of port executives, too. Former Port of Geelong Authority executive, Vincent Tremaine, became the inaugural chief executive of the private port company and now heads up Flinders Ports. Former Port of Brisbane Corporation CEO, Jeff Coleman, later became CEO of Port of Newcastle Investments, and sits on the board of Port of Portland. One-time Brisbane and Sydney CEO Greg Martin now sits on the Port of Brisbane Pty Ltd and Port of Hastings Development Authority boards. Former MD of P&O Ports Australia and New Zealand and chairman of P&O

Port Privatisation Timeline

May 1996 Port of Portland sold by Victorian Government to Ascot Investments (Scott Corporation of South Australia) and Infratil Australia Limited (managed by Morrison & Co, NZ) trading as Port of Portland Pty Limited, for $30 million.

July 1996 Port of Geelong sold by Victorian Government to Ports Pty Limited, a joint venture between Primera Pty Ltd, a wholly owned subsidiary of TNT Ltd and Infrastructure Investment Corporation Ltd, for $49.6 million.

September 2001 50-year/option + 49-year lease of Dalrymple Bay Coal Terminal sold by Ports Corporation of Queensland on behalf of Queensland Government to Coal Logistics-North Queensland consortium (which became Prime Infrastructure), for $630 million.

November 2001 99-year lease of Port Adelaide and six South Australian regional ports sold by South Australian Government to Flinders Ports Pty Ltd (the Motor Trades Association of Australia Superannuation Fund, Galaxy S.a.r.l [France], Adsteam Marine, Egis Projects [France] and Equipsuper), for $186 million.

November 2010 99-year lease of Port of Brisbane sold by Queensland Government to Q-Port Holdings Pty Ltd (Global Infrastructure Partners, Industry Funds Management, QIC Ltd, Tawreed Investments Limited, a wholly-owned subsidiary of the Abu Dhabi Investment Authority), for $2.1 billion.

May 2011 99-year lease of Abbot Point Coal Terminal sold by Queensland Government to Mundra Port Pty Ltd (Adani Group, India), for $1.83 billion.

April 2013 99-year leases of Port Botany (+ Enfield Logistics Centre) and Port Kembla sold by New South Wales Government to NSW Ports Consortium (Industry Funds Management, Australian Super, QSuper and Tawreed Investments. QSuper's investment managed by Global Infrastructure Partners), for $5.07 billion.

March 2014 Victorian Coalition Government confirms policy to sell long-term lease of Port of Melbourne. Labor Opposition commits to sale in principle; elected November 2014. Preliminary sale process underway April 2015.

April 2014 98-year lease of Port of Newcastle sold by New South Wales Government to Port of Newcastle Investments (The Infrastructure Fund [Hastings Funds Management] 50 per cent/China Merchants Group 50 per cent), for $1.75 billion.

June 2014 Queensland Government announces proposed sale of leases of Port of Townsville and Port of Gladstone (or terminals therein). Plan formally abandoned in February 2015 after change of Government.

August 2014 Western Australian Government announces proposed sale of leases of Utah Point Bulk Handling Facility (Port Hedland) and Kwinana Bulk Terminal. Sale process still in train, April 2015.

October 2014 Northern Territory Government announces proposed sale of leases of Port of Darwin (or parts thereof). Sale process delayed by Government instability; still in train, April 2015.

Australia, Tim Blood, played a key role in Q Port's win of Brisbane, went on to become a director of Port of Brisbane Pty Ltd, and then fronted the NSW Ports Consortium, where he remains a non-executive director. Former Port of Melbourne Corporation CEO Stephen Bradford now assists Flagstaff Partners, which is advising governments on the privatisations of both Darwin and Melbourne, and is also a director of NZ's Port of Napier Ltd.)

As the tide of privatisation has risen, perhaps belatedly, so have concerns over whether what was public property has become just another commodity to be bought and sold, with profit and control as principal drivers.

Current concerns about alleged price-gouging, monopolistic behaviour and restrictive arrangements, are covered elsewhere in this edition. But is clear that governments and regulators haven't entirely foreseen all implications of private sector ownership of ports (albeit through long-term leases); they have thus been forced to take corrective actions.

For example, Victorian governments have made a number of adjustments, including the re-integration of the land and water-sides of the port of Melbourne in 2003, when the 1995-instigated Victorian Channel Authority was backed into the new Port of Melbourne Corporation. In 2009, during the development of *Port Futures* (in essence, the newest version of the Victorian Ports Land Use Plan), the Government discovered that in effect, it could not tell the privately owned ports what to do in its quest for State-wide co-ordinated port planning.

Consequently in May 2012, the Government introduced planning controls for the four commercial ports, clarifying, for example, port land use priorities. In November that year, Port Safety and Environment Management Plans, introduced as part of the *Port Management Further Amendment Act 2012*, were gazetted.

Exercise of market power by private owners has also become a crucial issue. Both Victoria and South Australia monitor and regulate port pricing through their respective Essential Services Commissions, but other issues arise: in July 2008 the Australian Competition and Consumer Commission ordered Asciano to withdraw a requirement that Geelong customers use Patrick equipment at certain port wharves, an arrangement the Commission said, "substantially lessened competition and was not in the public interest".

There is also the question of how effective regulation actually is. Upon the sale of Dalrymple Bay Coal Terminal in September 2001, the facility's users were provided with 'protection' through the jurisdiction of the Queensland Competition Authority. DBCT was expected to submit a draft access undertaking by September 2002, but due to disagreements between users and the lessee over how terminal expansion should occur and costs be recovered, followed by arbitration by the QCA, no undertaking was finalised until April 2005. By then the infamous coal carrier queues had cost miners millions, and drawn international attention.

Then there is the question of what adjustments are made and incentives offered by vending governments in order to attract the right buyers at the highest price, a question which retains its pertinence today. The removal of Port Botany's container throughput cap is no secret, but the murkier matter of what restrictions were imposed on Newcastle's future container trade, as part of the Port Botany/Port Kembla sale agreement, is not so clear.

In a December 2010 case in the High Court, it emerged that during the 1996 privatisation of Portland the Victorian Government had 'incentivised' the buyers by promising to exempt the port from land tax. However, it subsequently failed to enact the necessary legislation and, with the sale complete, lost interest. The High Court decided the Government had to pay up: "the private purchasers can demand compensation from the Government failing to bring about changes in policy".

The broader aspects of private ownership of Australia's main container ports are yet to be fully appreciated. While Fremantle seems likely to remain in public hands at this stage, the forthcoming sale of Melbourne (and, in due course, its successor Hastings) will mean all east coast majors, plus Port Adelaide, will be in private sector control.

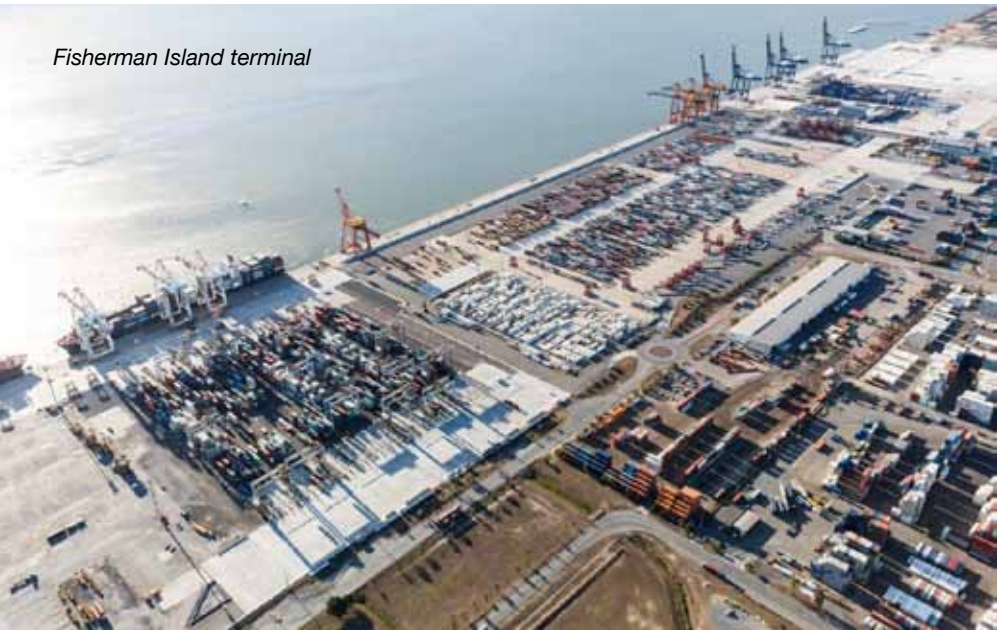
Experience with governments 'fattening-up' assets for sale and buyers boosting charges to reach necessary rates of return, have prompted major tenants such as stevedores Asciano, DP World and Qube, and users such as Shipping Australia and the Australian Peak Shippers Association to voice their concerns. These have been heard and echoed by the ACCC, the Productivity Commission and the Harper Review of Competition Policy, and the Port of Melbourne Corporation's bid to raise port rents by up to 767 per cent has helped bring the issue into stark relief.

As ACCC chairman Rod Sims said, "We need to be careful to ensure that privatisation boosts economic efficiency rather than detracts from it, otherwise we risk giving privatisation a bad name because consumers will continue to associate privatisation with higher prices."

And the Harper Review panel noted: "Port privatisations should be undertaken within a regulatory framework that promotes competition and prevents monopoly pricing, even though this may result in a lower sale price."

Laudable sentiment.

But 20 years of port privatisation has taught governments it's possible to maximise the monetisation of their assets – and it's taught some buyers, at least, no price is too high.



Fisherman Island terminal

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Economic return versus public benefit

Address to the Australian Logistics Council conference, Melbourne, 11 March 2015 by JOHN MULLEN CEO and managing director, Asciano Limited (Lightly edited)

There has probably never been a time when there were more critical issues facing our industry than is the case today.

One such issue that has a profound significance not just for our industry but also, we believe, for the city of Melbourne, for Victoria and ultimately the whole of Australia, is the drive by governments to realise short-term financial gain by selling critical assets such as their ports, without taking into account the impact that this may have on the State and the nation, over the long term.

Asciano has a material presence across Victoria and around Australia in both the ports and rail sectors. Through Pacific National, we carry 70 per cent of Australia's intermodal freight on rail, including a significant volume of intermodal and bulk freight to and from Melbourne, and our Patrick businesses move nearly 50 per cent of Australia's containerised imports and exports across the docks, as well as significant volumes of Australia's bulk, break-bulk and automotive volumes. Our services connect Victorian importers with their markets across the State, and we also support many of Victoria's key export industries, from agriculture and food, to forestry and manufacturing.

It is for this reason that we believe that we are in a good position to objectively provide analysis of the possible impacts of the ever-escalating increases in sea and land-side costs around Australia.

It has been reported in the press that a monopoly provider, the Port of Melbourne, has unilaterally advised that they will be increasing rents to a major leaseholder at the Port of Melbourne by some 700-800 per cent with no justification, no discussion, and no logic beyond presumably that selling a port where the rents have just gone up by 800 per cent is going to generate a lot more money for the Government than if the rents stay at a lower and more commercially realistic level. Governments around Australia are requesting restraint and productivity from industry. For many private sector companies, price increases of anything greater than CPI are very difficult to justify and are very hard to recover from customers. For most of us, certainly for Asciano, in actual fact real prices are coming down and we have to offset this by driving more productivity and efficiency. So when we see monopoly Government-owned businesses proposing increases of this magnitude it is hard to reconcile Government words with Government actions.

Clearly the drivers of these increases are the sale processes being envisaged by many States in Australia. To generate maximum value from a sale, obviously the higher the rents being collected and the longer the committed lease periods of the tenants, the higher the price that will be paid to the Government by the pools of superannuation money floating around looking for a home. And what better position to be in to influence rents than to be a Government-owned monopoly provider where your customers can't go anywhere else, and on top of this the process is not subject to the normal regulatory oversight of a body such as the ACCC? It is a golden gravy train for State Governments, investment banks and consultants but I fear that the ordinary citizens of Australia will be the ones left to pay the bill.

In an environment where governments are preaching restraint, therefore, we ask the Victorian Government to consider carefully what will be the impact of such huge rent increases on the industries that use and depend upon the port. What will be the impact on the broader Victorian supply chain and ultimately the Australian economy?

The potential impact of privatisation on port and other critical infrastructure assets is not a new issue. Private investment in infrastructure is becoming a priority as governments across Australia come under increasing budgetary pressure. This in itself is not a bad thing at all. Where privatisation generates increased efficiency and better service for all users, we are wholly in favour. We are wholly in favour of the Port of Melbourne being privatised, as we are with other ports around Australia. We just think that such privatisation should deliver benefit to the citizens of Australia, who buy the things that go through the port to the stores, and to the

importers and exporters and others that need the ports to conduct their businesses, rather than just generating a once-off huge cheque to the Government of the day and big fees to a raft of investment banks and advisors.

In the ports sector, the Port of Brisbane was privatised in 2010 and the New South Wales Government followed in 2013. I would make a couple of observations as to the impact of some of these uncontrolled privatisation processes.

Artist's impression of the redevelopment of Melbourne's Webb Dock

Firstly, where we have seen huge rent increases, i.e. several hundred percent, as happened in one of these ports. This was not driven by the new port owner but by the State Government pushing up rents in advance of the sale, in order to generate a higher sale price.

In the privatisation process the new owners often get the blame for the cost escalation but the reality is that governments, not the new owners, are usually the ones driving the price inflation prior to any sale. The proposed increases by the Port of Melbourne take this to a whole new level and would be more than double the scale of the most egregious rent escalation seen elsewhere, and this is a very worrying trend.

Equally worryingly, there is also a tendency for the governments selling these assets to try to eliminate all competition as part of the sale process in order to further increase the value of the sale and ensure a monopoly status for the new owners. As an example, in New South Wales, Port Kembla was sold to the same owners as Port Botany, with the result that the only port that could offer realistic competition to Port Botany in the future was taken out of the game, for a generation or more.

It remains to be seen what happens in Melbourne but it will be interesting to watch whether Swanson Dock and Webb Dock are sold separately, and a new port such as Hastings or Bay West is allowed to compete in the short term, or whether the new owner in Melbourne is allowed an extended period of monopoly ownership in order to maximise returns.

There is also a self-fulfilling mechanism at work here that is serving to escalate the problem to ever-higher levels, and that is the concept of so-called *market rents*. Firstly, each major port looks at the rents commanded by its peers and seeks to raise its rents above the others. The others then claim this is a new benchmark and seek to raise their rents. This in turn then leaves the original port with a lower rent, so they now seek to raise theirs again, creating an unending upwards spiral.

Then a new phenomenon is that the users of the port can accelerate this upwards spiral as well. In the case of the Port of Melbourne, in order to win its bid against other major players like Hutchison and Qube, the most recent entrant into the stevedoring market agreed to pay a rental far in excess of current rental levels and well above the other competitors, albeit we believe still well below the rental now being proposed by the Port of Melbourne. Forgive me for being cynical, but no doubt an argument will be mounted that this is now a justification for a new level of *market* rent for all the other stevedores.

This is a circuitous and very dangerous argument however, as it essentially encourages companies to offer a grossly inflated rent in order to win a lease concession, in the knowledge that instead of this then making the winning company completely uncompetitive, all they have to do is wait for the port authority to declare this to be the new *market rent* benchmark and increase all the other competitors' rents up to the same level. The new entrant wins its bid and ultimately suffers no competitive disadvantage because everyone else's rents are forced up to the new level, the port makes a fortune, and the users of the port are the ones that pay for it all in the end!

Lastly though, to balance these very real concerns it does not have to be all bad – in some States these processes have in part driven very good outcomes. An example would be the renewal of our lease in Sydney, where a far-sighted and constructive approach from Grant Gilfillan and his team at Sydney Ports led to a new arrangement that holds our company's feet to the fire to deliver cost and service performance for the State of New South Wales by the introduction of a performance based component in the rental charge, and also gave the State an increased rental stream. At the same time, however, the new arrangement delivered benefits to our company including security of tenure over a longer period, sufficient that we have been confident enough to invest in making Port Botany perhaps the most sophisticated automated terminal in the world. This was a real example of how a constructive process can add value to both port owners and port users, at the same time.

So why does all this matter? Elsewhere in the world if a port authority put its prices up by 25 per cent, let alone 800 per cent, it would go bankrupt because no-one would use it anymore – everyone would go down the road to the neighbouring port that did not put its prices up. Overseas, such competition drives ports to become more efficient every year, and drives unit costs down for users.

In Australia our ports are effective monopolies and the opposite happens. We ramp up prices, we enshrine long-term monopolies through the structure of the process, and eliminate the possibility of new competition in the future, and then we grant the new owners an ongoing price escalation mechanism with no requirement for any productivity gains to be delivered in the future.

Some while ago the ACCC championed the introduction of significant new competition amongst the stevedores using the ports, which has been a good thing for the community but there is no competition whatsoever between the actual owners of the ports, who ultimately dictate the overall cost of using a port in Australia. No wonder, therefore, that investors pay

huge sums for our ports, no wonder we already have some of the most expensive ports in the world, and no wonder they are going to get even more expensive!

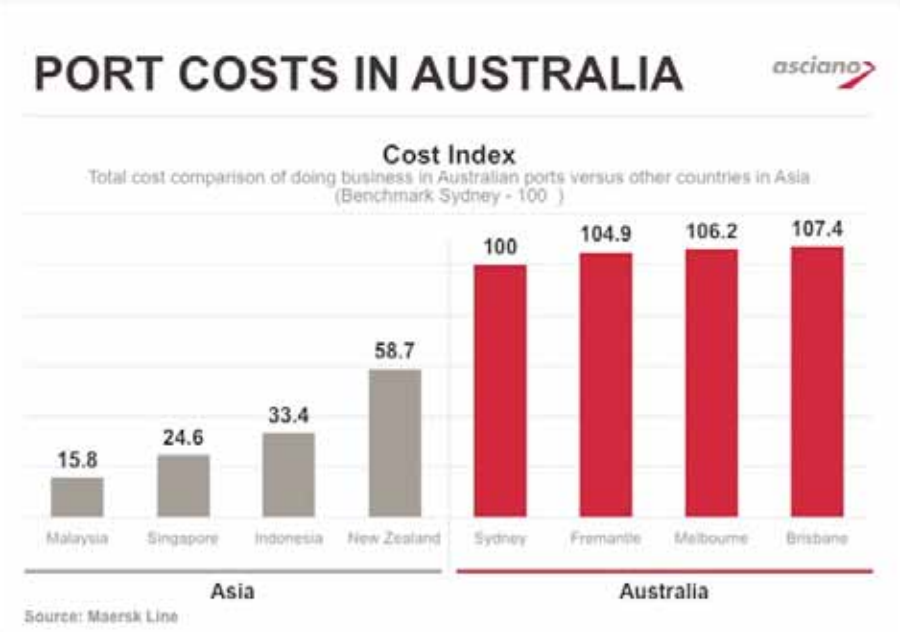
So what are the real world implications of these high costs and why does this matter to anyone outside the industry? The result is that ultimately all the users of the port pass these cost increases on to the consumer. It is not just stevedores that are hit with these increases – it is everyone who operates within the port precinct: stevedores, logistics companies, container park operators, trucking companies. Therefore, the increase effectively becomes an additional tax on the State's importers and exporters. It pushes up the costs of everything imported that you buy in the shops, and it makes it even harder for our struggling manufacturers and exporters to compete.

All of this leads one to suggest that in considering the privatisation of port assets, state governments should ask, "What is the role of a port in a modern economy?" Should a port be viewed as an asset from which maximum returns should be extracted in the short term, as is happening at the moment across Australia, or should a port asset be seen as a facilitator of trade, a component of making a State's exports more competitive and imports cheaper, and a vital contributor to the local economy?

While, we are overall, a supporter of privatisation, it is our view that the sale of these assets needs to balance the need for short-term cash generation for Government, with the broader needs of business, the economy and ultimately Australian producers and consumers. This means governments must do all they can to avoid negative downstream economic impacts as a result of the returns new owners will seek to extract to justify the very high prices being paid for these types of assets.

Port costs in Australia

So let's take a look at what all these costs look like in practice and how Australia stacks up with the rest of the world. The reality is that Australia's ports are already very high-cost compared to most other places in the world. And the Port of Melbourne container terminal is already among the most expensive in Australia. All things being equal, Australia is almost twice as expensive



for shipping lines to do business in than New Zealand, almost seven times more expensive than Malaysia, four times more expensive than Singapore and three times more expensive than Indonesia.

Interestingly, Melbourne is already the second most expensive port in Australia, just behind Brisbane, which saw huge increases in rent, by a factor of several hundred percent, prior to privatisation in 2010.

Add 700-800 per cent on the stevedores operating at Port of Melbourne. If this were to go ahead, the additional costs for importers and exporters could amount to some $82 per TEU, a huge increase by any standards.

As you can see from the graph on the next page, comparing the rental charges per m^2 across the four major ports in Australia, at approximately $120 per m^2, these proposed rent increases would take Melbourne to being by far the most expensive container terminal in Australia – some three times higher than Sydney.

The reality is that this rent escalation issue has now reached a point where it has gone from being a niggle in the background, largely ignored by almost everyone other than those directly involved, to a catalyst for change that is going to have a profound impact on our industry.

I believe that these increases going ahead unchallenged will have significant implications for our industry:

- Firstly, at an operating level, the economics that made it impractical to divert material volumes from one port to another will change, so that migration of volume to another port now becomes a real possibility on a significant scale.
- Secondly, while hitherto we have been against regulation on principle, there is now going to be a huge push by industry to have these port assets across Australia declared and regulated by an independent body, such as the ACCC.

Potential impacts - diversion of volume or regulation?

In today's world, 80-90 per cent of goods arriving at a port in Australia's major cities stay within 50 kilometres of the port, meaning that at the moment our ports are all effective monopolies. Therefore, while the costs of doing business in our major ports are all relatively similar, the additional cost of diverting volume from one port to another is hard to justify. However, if an increase of the magnitude being proposed in Melbourne were to be applied, this dynamic could change dramatically. For example:

- Transhipment volume moving through Melbourne would cease and shipping lines would go directly to destinations such as Tasmania and Adelaide.
- Such a disparity in competitiveness existing between Sydney and Melbourne over the long-term, would enable Sydney to become a deep-water hub for larger vessels with a significant amount of volume being unloaded and loaded

in Sydney, and then moved by rail and truck to and from Melbourne. On today's economics this is not readily viable, but with a cost increase in Melbourne of the magnitude being proposed, our initial analysis would indicate that we could economically divert up to some 20 per cent - 25 per cent of Melbourne's existing TEU volumes onto rail shuttles and truck movements from Sydney.

- We are already seeing regional freight that has a choice between Sydney and Melbourne as a port, migrating to Sydney (the example of Qube Logistics' recent announcements springs to mind) and with increases of this magnitude this migration would become an exodus. We alone move 50,000 TEU to Melbourne this way through choice, and not one of these would go to Melbourne any more.

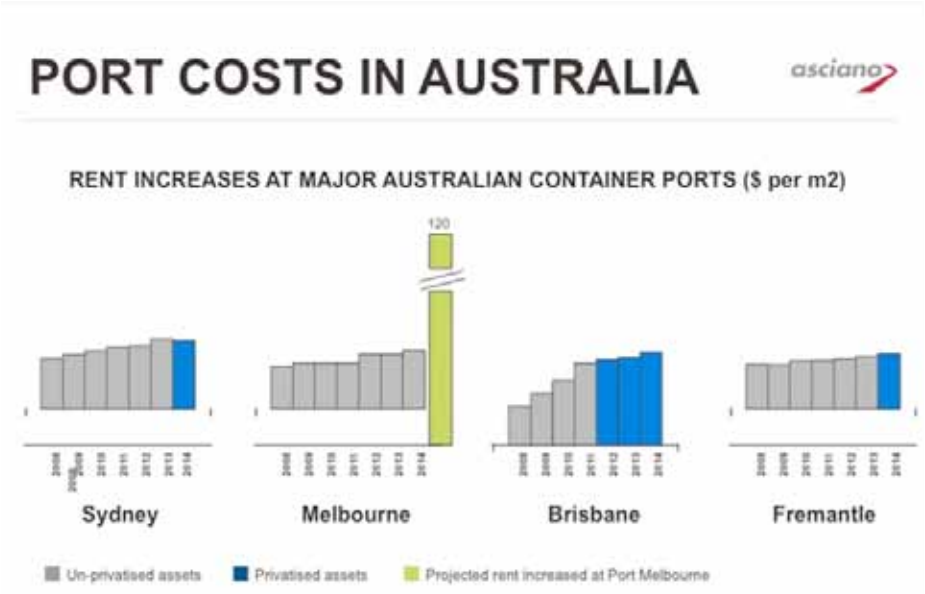
- Our strategy, and that of many of our competitors, has been to try to maximise the amount of port precinct land we have for activities related to container ship stevedoring, such as land-side logistics, due to the synergies of these activities being co-located. Clearly with these sort of increases, this strategy would be counter-productive. We would seek to shrink our port footprint and move all non-container terminal related activity to an inland port location.

In summary, if these increases are implemented we believe that it is quite possible to see up to some 20-30 per cent of existing container volumes in and out of Melbourne diverted to other ports, over time. That can be to the benefit of no-one. Not the industry, not importers and exporters, not the Port of Melbourne, and certainly not the taxpayers of Victoria.

Now to regulation. No one likes regulation and we certainly have never advocated this, but we, and a lot of industry, believe that the situation has now got to a point where we simply have to seek to move down this path. It appears to us to be nothing short of scandalous that if private enterprise was to behave in this manner we would rightfully be pilloried and immediately investigated by the ACCC, but when a government entity behaves in this way apparently there is nothing that can be done, and the ACCC has no jurisdiction.

Currently here in Victoria, the Essential Service Commission has a limited role of monitoring Port of Melbourne charges. In its last monitoring report, the ESC noted that Port of Melbourne Corporation 'has the potential to exercise substantial market power with respect to the provision of port services for containerised trades'. It is clear from reported announcements, however, that the ESC's monitoring role is insufficient to guarantee the competiveness of Victoria's ports assets. We believe, therefore, that the ACCC should have an enhanced role in regulating the conduct of port operators around Australia.

For this to happen, however, failing a voluntary access undertaking being provided by the private owner, the ports services provided to stevedores and shipping lines would need to be declared under the national access regime. Such a declaration of port services would give the ACCC jurisdiction under Part IIIA of the Competition and Consumer Act to determine disputes about access to significant infrastructure facilities. Our belief is that enough relevant industry players are now willing to commit the resources and funds necessary to make this a reality. Success with this principle of regulation will ensure a role for the ACCC to determine disputes about access and prices in our nation's ports, and will hopefully encourage a more competitive landscape going forward.



Conclusion

Port of Melbourne has traditionally been seen as the hub for south-east Australian imports and export activities. However, it is clear that this position will be undermined if the sorts of rent increases proposed by the Port of Melbourne go ahead. There would be significant negative flow-on impacts to Victorian businesses and jobs.

The transport and logistics industry accounts for over 10 per cent of Victoria's economy. It is also a major employer and a major economic enabler for local export industries. It is for this reason that it is vital this issue is carefully dealt with, and that the public and private sectors work closely together to ensure Melbourne remains competitive.

Finally, let me reiterate that governments should generate the maximum realistic returns that they can from the sale of taxpayers' assets and all port users should pay fair commercial rents. Neither of these points is in dispute. We have stated publicly that we support the privatisation of the Port of Melbourne and our company is very willing to pay higher rents for co-investment in initiatives that enhance and support a competitive freight and logistics port capability, as well as certainty of tenure. We did this in Sydney.

However, we are also saying that any such increases should be sustainable, fair and reasonable, and governments should be mindful of the impact on the downstream users when these increases are sought. A unilateral demand for an 800 per cent increase by a port authority without even the courtesy of a discussion would not seem to reflect a constructive approach and it is pretty important that this process be brought back on track if we collectively want to ensure that Melbourne remains the freight and logistics capital of Australia.

Port connections are vital to competition

By MATTHEW WHITTLE, policy advisor, Shipping Australia Limited

In its 2014 submission to the Victorian Essential Services Commission, the Port of Melbourne Corporation noted the changes in its operating environment, including the nature and level of competition it faced due to the privatisation of competing ports (Sydney, Brisbane, Port Kembla and Port Adelaide). In general, competition in markets and industries improves the efficiency of a nation's economy and in turn increases the prosperity and welfare of its citizens. In Australian container ports specifically, competition provided by greater choice for customers should reduce the cost of imported goods and increase the competitiveness of export industries. Given that Australian ports are an essential link in the economy, providing choice for their users and customers is vital; however, providing this choice is challenging as Australian container ports are centrally located on a State by State basis, largely immobile and isolated by long distances. The level of port connectivity in Australian has a significant impact on the choices offered to port users and customers and on competitiveness. The operation of competing container ports has been independently monitored for the last 16 years. What Australia needs is to extend this framework to establish an index to monitor port connectivity. This would give clarity to the changing nature of competition, the level of competition, and be a step towards promoting greater competition between ports in Australia.

Nature of inter-port competition

A competitive market is one in which a large number of providers compete with one another to meet the demand of a large number of consumers. By international standards, the annual handling of approximately seven million TEU of containers by Australia's five mainland ports is a passable ratio that should be sufficient to support competition between the providers, given the high diversity of port customers.

The distribution of the container freight task among Australian ports can be drawn from the data published by Ports Australia. The latest available data is the container throughputs from July 1 2012 to June 30 2013, which demonstrates the ports serving Australia's two largest cities, Sydney and Melbourne, account for more than two-thirds of the market. Figure 1.

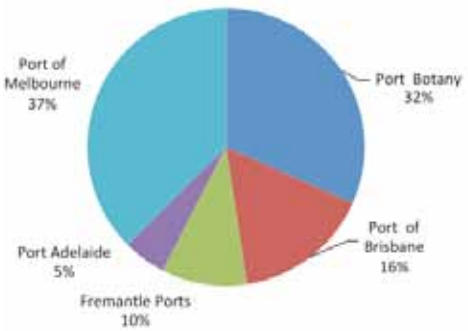


Figure 1: Distribution of container throughputs among Australian ports from July 1 2012 to June 30 2013

Placing Fremantle Ports aside, due to its particular geographic isolation, the other mainland container ports compete against each other for the same contestable cargo in order to increase throughput and maximise the utilisation of the capital-intensive terminal assets required to service

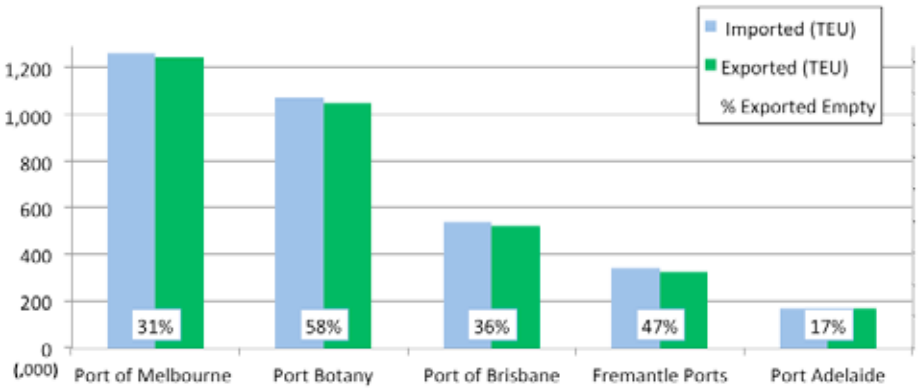


Figure 2: Total container throughput in TEU for 2012/2013 and percentage exported empty

their container liner customers. However, the incentive for a port to seek to attract containerised cargo is directly related to the amount which is contestable. For imported cargo there appears to be little opportunity, as the destination of 80–90 per cent of imported cargo is within 50 km of a container port. This point was highlighted by Asciano CEO John Mullen in a presentation at the annual Australian Logistics Council Forum in March 2015, and is supported by a number of studies on container movements including:

- A 2011 study in Melbourne found that 87 per cent of imported containers were destined for a location within metropolitan Melbourne;
- A 2012 study in Perth found that 90 per cent of imported containers were unpacked within 30 km of Fremantle;
- A 2013 study in Brisbane found that 93 per cent of import containers were unpacked within 100 km of the city's Port.

The shortest distance between two Australian container ports is the 738 km between Melbourne and Adelaide. Given the additional expenses of the landside transport that would be required to deliver a container via an alternative port, the distances between Australian ports render 80–90 per cent of imported cargo incontestable, as the destination of that cargo is so close to the port. In layperson's terms, this scenario means that all Australia's container ports are monopolies.

The Australian container trade is characterised by a wide imbalance in the utilisation of containers such that each port must export a significant number of empty containers (Figure 2). The repositioning of empty containers is an inevitable component of the trade in Australia and is ultimately a cost borne by the importer.

As shown in Figure 2, the percentages of exported empty containers ranged from 17 per cent in Port Adelaide to 58 per cent in Port Botany. It should be noted that the figures in the graph do not include the relatively high number of empty 20' containers imported in Adelaide to meet the requirements of heavy commodity exports, which prefer the smaller unit over the 40' containers.

Level of inter-port competition

Container port costs include the ship-based charges such as tonnage charges, channel fees, pilotage, towage and mooring, and then the cargo-based charges levied on each container such as wharfage and harbour dues.

Container liners rely on economies of scale to provide competitive services, and recouping port costs requires a minimum threshold of volume at each port call. For shippers, the optimum situation is for their cargo to be handled on port calls with a large number of full containers being transferred so that the ship-based charges are shared by the most paying customers – thereby reducing the per unit cost of their consignment. Accommodating large cargo transfer operations per port call is therefore a way in which ports can attract contestable cargo. Export shippers may choose to direct their cargo to these ports with the expectation of sharing the benefits of economies of scale in the form of reduced freight rates. In 2012/13, ships calling at the Port of Melbourne on average transferred almost double the number of full containers than a ship calling at Port Adelaide, as shown in Figure 3.

John Mullen's graph on page 20 shows the excessive costs of our ports, comparing Australia's container port costs with other countries in the region.

A similar analysis that compared the ship-based costs of two of the largest container ports in Australia (Sydney and Melbourne) with two of the largest in New Zealand (Auckland and Tauranga) was presented in this publication in 2013. That analysis has been updated in Figure 4.

This data demonstrates that doing business with Australia's two biggest container ports incurs twice the cost as in New Zealand – a high income country where three million TEU of containers are handled annually through six container ports. The comparison points to the conclusion that having truly competitive ports is more efficient than having economies of scale.

The extra expense of transiting cargo through Australian container ports is both a burden on exporters who are competing in international markets and is also effectively a tax on all imports. The trend overseas is for downward pressure on port charges as competition compels ports to find efficiencies and deliver more services in order to maintain customers. These customers have choices that are not available for containerised cargo in Australia, where in the absence of effective competition, port prices are spiralling upwards. This cancer is headlined by Port of Melbourne Corporation's (PoMC) proposed rent increase of more than 750 per cent for DP World at West Swanson Dock, but there are other indicators. Australian Amalgamated Terminals (AAT) explained to their customers that a price increase of 38 per cent at Port of Brisbane was justified within the Australian Competition and Consumer Commission (ACCC) authorisation but only claimed a 19 per cent increase. Other memorable developments which point to a lack of competition in this market include:

- The Victorian Government's imposition in 2012 of an annual $76M+CPI port licence fee on the Port of Melbourne – necessitating a 50 per cent increase in all tariffs at the port;
- The 2013 sale by the New South Wales Government of a 100 year lease for Port Botany, together with Port Kembla – killing the opportunity for container port competition in NSW;
- The 2014 sale by the New South Wales Government of a 98 year lease for Port of Newcastle – amid local media speculation that the lease contract effectively prohibited plans for a container terminal.

Stevedoring charges are the component of port costs that cover the loading and discharging of a container ship and terminal storage of the container. In terms of the stevedoring-based costs, the ACCC has monitored the operation of container stevedore terminals in Australia and published an annual

Figure 3: Average number of full containers transferred per port call (TEU) 2012/13

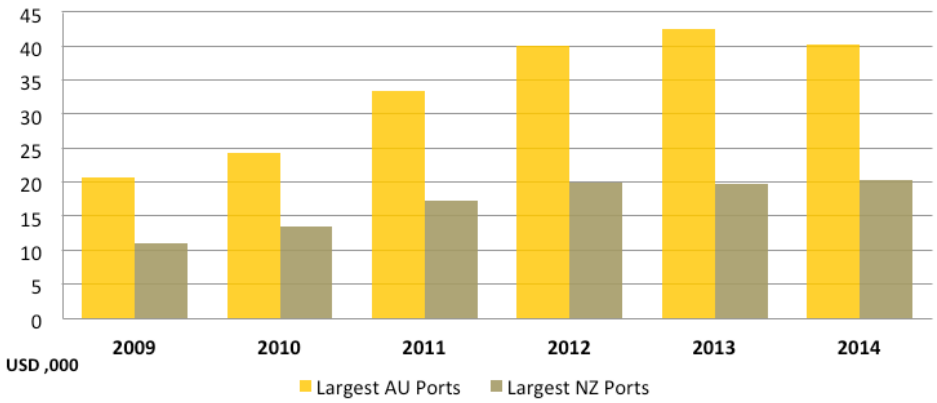


Figure 4: Average ship-based costs per call for container ports in Sydney and Melbourne v Auckland and Tauranga

report on stevedoring productivity since 1998, the most recent of which (Container Stevedoring Monitoring Report No. 16) was released in October 2014. The ACCC reported that for the 2013/14 financial year the average stevedoring prices for the mainland ports fell by 1.1 per cent for 20' containers and 1.0 per cent for 40' containers. Equally encouraging is that the asset value of stevedores had doubled in the previous two years due to productivity-driven investment in cranes, straddle carriers and automation. These competition-driven outcomes appear to be sustainable for the stevedoring industry, as the average rate of return for 2013/14 was 13.2 per cent.

The introduction of Hutchinson Ports Australia as the third stevedore at Brisbane and Sydney has helped to drive this result. Competition in stevedoring should continue to intensify given a new entrant to operate a third terminal in Melbourne from December 2016. The introduction of a single port stevedore service will impact intra-port competition in Melbourne, and lines should assess the benefit of multi-port contracts if this is likely to contribute to competition between ports.

Enhancing competition – the case for a port connectivity index

Following the privatisation of ports in Australia, the last non-legislative influence available to government to promote competition between container ports is in the construction of nationally significant infrastructure for port connectivity. As there is little contestable import cargo, an export focus for the development of port connectivity infrastructure, which gives choice to exporters, would be the most effective method of generating competitive tension between the ports. Establishing competition between the container ports as the basis for planning, and the provision of nationally significant transport infrastructure would ensure that public investments are directed fairly and systematically towards the delivery of sustainable and productive outcomes. The added benefit of this approach is that it would make exports more competitive and support Australia's terms of trade.

Since 2004, the United Nations Conference on Trade and Development has published the Liner Shipping Connectivity Index to monitor trends in access to the global container supply chain. The same approach could be applied on a national level through the development of an Australian Port Connectivity Index. Such an index, based on the multi-factorial analysis and monitoring of each container port in Australia, would inform investment in the infrastructure required to promote effective inter-port competition.

The ACCC Container Stevedoring Monitoring Report constitutes a highly effective regulatory framework and it could be argued that presenting information at this level has made possible the establishment of the third stevedores at the east coast ports by enabling the stakeholders to determine, understand and make the financial investments needed to enter those markets. It presents the ideal foundation on which to build an Australian Port Connectivity Index. The objective of monitoring port connectivity would not be to ensure that each port is similarly connected – although that might be an outcome – but to support a strategy for infrastructure development that achieves a level playing field and gives exporters more choice. The objective would be to balance the container throughput of each of the five mainland container ports in such a way that enhances and promotes competition.

Rail infrastructure, for example, provides effective container port connectivity. The most logical origin and end for an efficient railway line is at a port. A focus on rail would also be an excellent step towards enhancing intermodal competition: as the ACCC Report No. 16 notes, "Despite policies to get more freight on rail, trucks are expected to remain the dominant form of container transport over coming decades". While this contest is in play, trains may choose to be less concerned with coastal shipping. It is interesting to consider whether, if a Port Connectivity Index was in place, the currently proposed nationally significant infrastructure, namely, the Inland Rail, would connect the ports of Brisbane and Melbourne. The Port of Melbourne being undisputedly the best connected container port in Australia, and Brisbane the fastest growing. Of the five ports, Port of Adelaide has the lowest average number of containers transferred per port call, with Brisbane only slightly ahead (Figure 3), making these ports the least attractive to port users and container liner ships.

On 11 July 2012 the Council of Australian Governments (COAG) endorsed the National Ports Strategy developed by Infrastructure Australia and the National Transport Commission. The immediate priorities of the strategy were to "institute arrangements to improve planning in a nationally coordinated way". Establishing a Port Connectivity Index is a coordinated approach that would provide the clarity, transparency and accountability needed to guide economic investment in infrastructure. Infrastructure that improves landside efficiency and reliability would promote inter-port competition. COAG also agreed to "review the national ports strategy within three years, with a view to making any necessary changes". Change is now essential. While Adelaide languishes, enhancing the connectivity of the Port of Melbourne will not make Australia's ports more competitive but connecting the Ports of Adelaide and Brisbane might. Regionally, Australian container ports are uncompetitive and will continue to be so until domestic inter-port competition is enabled through connectivity.

NSW Ports – Two Years In

By STEPHEN CLEARY, chief executive officer, NSW Ports

It has been two years since NSW Ports took over the long-term leases of the Government's port assets of Port Botany and Port Kembla, and the two intermodal assets at Cooks River and Enfield, in New South Wales. Since this time NSW Ports has continued to engage with customers and stakeholders to ensure the transition from two State-owned corporations to one new private entity, has been relatively seamless. We have structured the business to work in functional lines rather than geographic, as an example we have one commercial, finance and operational team that covers both ports.

We have successfully managed the final stages of the Port Botany Expansion, which saw Sydney International Container Terminal Ltd (SICTL) begin operations in mid-2014. Along with the expansion of the Patrick Port Botany Terminal, we have developed our five year development plan for all sites under our control; a copy of this is on our website. The new Bulk Liquids Berth (BLB2) at Port Botany was commissioned in 2014, and later this year the Enfield Intermodal Logistics Centre in Sydney will be opened, a site that will benefit both shippers and transport companies alike, with direct freight rail access to Port Botany. The Enfield ILC is an open access terminal with empty container storage available, along with a multitude of other ancillary services.

In Port Kembla we have also started the upgrade of Berth 103 and begun the grain construction project, which is made up of a consortium of grain traders: Noble, Cargill and Emerald, under the name Quattro Ports. This development in Port Kembla will build grain silos, and NSW Ports will dredge the port to take larger bulk grain ships, and install conveyors to link the rail siding to new silos. It is envisaged by next year's harvest, it will take grain and oilseeds delivered by rail from across New South Wales.

In late 2014 Port Botany saw the introduction of a new rail service from the Riverina region of New South Wales to Port Botany, the service runs six days per week from the Qube facility in Harefield. The service has brought about supply chain savings and operational improvements for the exporter. This new service came about through a collaboration of interested parties and NSW Ports.

To also ensure the longevity of our assets and those of our main stakeholders, NSW Ports has begun developing a 30 year strategic plan, which is aimed to not only assist with the long-term capital planning, but also to assist our tenants and stakeholders, so everyone knows what we are planning for both the short and long-terms. By doing this plan it puts NSW Ports in a unique position to be able develop and maintain the port to continue to develop trade opportunities for the New South Wales economy. As a private business, for the first time in New South Wales's history, long-term port decisions can be made free of political or Government electoral cycles, decisions that benefit the residents of New South Wales and are made in tandem, together with the users of the port.

One of our key priorities is to ensure we get more freight on rail into the future, and over time increase the rail modal share into the Port. The road network will struggle to handle the

Port Botany showing Patrick's terminal (left) and HPA's SICTL (top)

Port Kembla

estimated volume growth in containers in the coming 20 to 30 years, so rail will be key into the future, and the planned intermodal sites of Moorebank and Eastern Creek will need to become a reality. Our Enfield facility will be fully operational in 2015 and the Cooks River site will continue to grow and serve the ports rail needs with daily port shuttles. But these sites are only the start. With rail a key priority NSW Ports has convened a group of stakeholders to review the Botany rail assets and ensure that our rail infrastructure can cope with the volume increase in the long-term. NSW Ports intends to play a key role in the growth of rail into and out of the port, both today and into the future.

During January and February this year we embarked on a sweep bar campaign at Port Botany. High spots had been created over the years through ship propeller and tug wash, NSW Ports are removing these high spots by the regrading works. The objective of the regrading works is to achieve a depth of 14.5 metres in all berths in Brotherson Dock and a depth of 15.4 metres elsewhere in the dock.

NSW Ports is a consortium of leading institutional investors consisting of more than 80 per cent Australian superannuation funds. These shareholders are long-term investors with interests in a range of key infrastructure assets throughout Australia, and they take a long-term view on their investments.

With any privatisation there is always some nervousness in the market that prices will increase considerably. Since privatisation port charges at both Port Botany and Port Kembla have not been increased significantly and have increased generally in line with published CPI figures. Our lease agreements on land are all long-term with agreed commercial terms.

NSW Ports is committed to the responsible management of, and investment in, its port and infrastructure assets for the long-term, along with continued stakeholder engagement, our port assets serve as the primary import and export gateways for New South Wales.

Shipping Australia Limited

MANDATORY CONTAINER WEIGHT DECLARATIONS

The IMO Maritime Safety Committee has now confirmed that changes to SOLAS regulations requiring mandatory container weight declarations will be implemented with effect 1 July 2016.

The regulation puts the onus of accountability for weight declarations squarely on the shipper, and clearly they will bear the responsibility if further checks down the line find that declaration to be in error.

SAL will be engaging with stakeholders to develop these over the coming months.

NSW Golf Day

The 12th annual SAL NSW Golf Day supported by major sponsor Macquarie Telecom was held on Wednesday 4 March at Roseville Golf Club.

The event was attended by a range of teams and individuals representing shipping companies and supporting industries.

Congratulations to the Macquarie Telecom team, who took out the winning prize.

Rod Nairn, SAL CEO presents the winning team with the trophy. Rod Nairn, SAL; Mark Dover, Communicloud; Aaron Kruizinga and Nigel Raiss, Macquarie Telecom

Ian Westley, APC Logistics; Geoff Greenwood and Simon Gardiner, Hamburg Sud; Jane Strachan, Sanger Australia

Greg Tate, Ian Hamilton and Claude Varnier, Patrick Terminals and Logistics

David Field, David Field & Associates; Rod Nairn, SAL; Ian Rutledge, Raffles Lease Pte Ltd; Archie Bayvel

SAL QLD chairman Geoff Dalgliesh handing the smart watch prize to winner Heiner Summer

QLD Golf Day

'Networking in Brisbane remains alive and well as the annual SAL Shipping Industry Golf Day took place at the Wynnum Golf Club, Wynnum.

112 took part in this four ball Ambrose event with a dinner and presentations to follow.

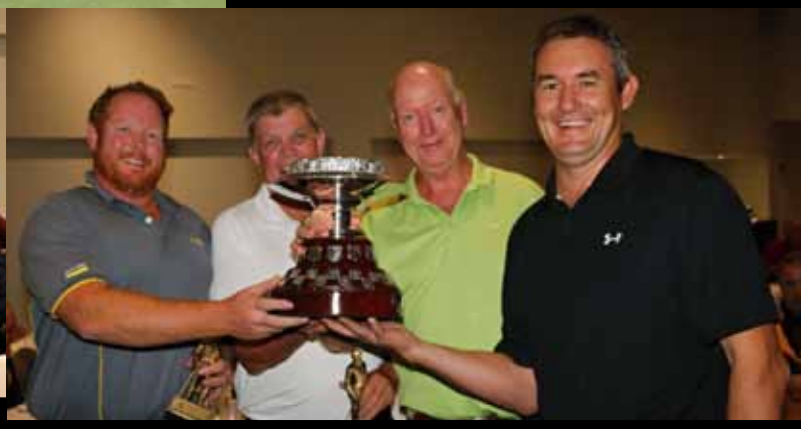
Sponsorship support added to the day with special thanks going to Svitzer, Smit Lamnalco, Chalmers Industries and the many hole sponsors.

A special event was hosted by Bailey Whymap at the 6th Hole with Heiner Summer winning a Smart Watch.

The winners of the SAL Cup are Ken Jackson, Greg Akers, Andrew Czislowski and Ian Hunter.

Winners of the OOCL Dennis Briant Cup were Charlie Van Liempd, Kevin Murphy, Chris Lourens and Craig Carmody. Martin Drew of OOCL made the presentation.'

Craig Carmody, Geoff Dalgliesh, Martin Drew, Chris Lourens, Charlie Van Liempd, Kevin Murphy



Andrew Czislowski, Greg Akers, Ian Hunter, Ken Jackson

Thescene

SAL NSW Parliamentary Lunch

Guest speaker at the autumn lunch was The Hon Duncan Gay, MLC, Minister for Roads, Maritime and Freight and Leader of the House in the Legislative Council. This well-attended function was sponsored by NSW Ports.

Richard Arrage, K&L Gates; John Thomson, MSCA; Michael Kilgariff, Australian Logistics Council

Natalie Dyjakon, Holding Redlich; Alexis Cahalan, Thomas Miller

Mal Hiley, Waterways Construction

Ken Fitzpatrick, SAL chairman; Kevin Clarke, MSCA; The Hon Duncan Gay MLC, Minister for Roads, Maritime and Freight; Rod Nairn, SAL CEO

Jason McGregor, NSW Ports; Mani Simmalavong, Hapag Lloyd; Jason Perry, Theresa Sermon and Sara Hollies, Swire Shipping

David Field, Field & Associates; Janine Cullen, Port Authority of NSW; Dom Figliomeni, NSW Ports

A reflection on the general stevedoring industry

By DON SMITHWICK, managing director, Qube Ports and Bulk Division, Qube Holdings

In November this year, I will have been involved in the Australian waterfront for over 50 years, so I think it's fair for me to say, I've seen it all over the last half century.

Growing up in the Newtown area in the 1950's, I saw it was a natural progression for me to end up working for a company based close to home, so I joined a company called Darling Island Stevedoring & Lighterage Pty Ltd. That was based at 19/21 Pyrmont, although it did conduct stevedoring operations at most available berths in Port Jackson. The year was 1963 and at the time 16 stevedoring companies were based in Sydney. There were over 7,000 waterside workers registered in Sydney mostly, employed by the Australian Waterfront Employers Federation. There were seven different unions, and or sections of unions, covering the waterfront in those days:

- Supervisors - Australian Maritime Officers Union
- Foreman - Australian Foremen Stevedores Association
- Clerks - two sections of the one union that operated independently – the shipping section and the administration section.
- Waterside Workers - there were two sections of the one union the Sydney branch and the mechanical branch
- Watchmen - the Miscellaneous Workers Union.

Today there are only two national general stevedoring companies in Australia and neither have any substantial operations in Port Jackson. Stevedoring operations were forcibly moved to Port Kembla by a State Government that wanted to support development in the Illawarra District. It seems remarkable, having taken the decision to move the General Stevedoring business out of Port Jackson and inflict the additional costs of development of new facilities at Port Kembla and the ongoing increased logistics cost onto consumers, whilst leaving the Port Jackson facilities to sit idle for so many years. One cannot help but wonder about some Government processes.

With so many changes taking place during my career, I look back at times and ponder what we have achieved as an industry, and if the changes that have taken place have been for the better. Clearly, some have but some have not. There are some aspects of doing business on the Australian waterfront that still defy any logic. The biggest in my mind is the way we go about conducting our industrial relations. It just does not suit today's environment of dwindling activity levels, cost down pressures from shipping company customers and cost increases from land lords - generally State Governments.

There is only one union covering the Australian waterfront today – The Maritime Union of Australia (MUA). With only one union to deal with, it should be easier to manage, at least that's what you would think! In reality, the reduction in the number of unions covering the waterfront has given the MUA an absolute monopoly position on the Australian waterfront. The MUA continues to rule the waterfront with a very strong will that dates back to the days when there was clearly a need for a strong union, especially when you look back at the "hungry mile" era on the Sydney waterfront in particular. However, those days are long gone and the work conditions and remuneration of the Australian waterside worker are way above those enjoyed by other blue-collar employees. One might argue that the standard has been set by waterside workers and the rest of the Australian industries should follow; I am sure the national

Salt stock pile at the Port of Dampier

economy could not support such a change. Basically, the MUA have exercised its monopoly power very well, one can only wonder how the ACCC would react if a general stevedore or container terminal operator had such monopolistic power!

When stevedoring moved from industry-based employment to enterprise employment, it was anticipated a new sense of loyalty would be established between employers and employees. In some cases this has occurred. However, the MUA still manages to insert itself between employers and their employees and has ensured the overall pay and conditions between competing major stevedores and terminal operators remain very similar, thereby creating a virtual industry-wide employment arrangement. It does not matter how many employers there are on the Australian waterfront, true competition will always be constrained by the MUA and its coverage, and a philosophical approach that all MUA members should receive equal pay and conditions irrespective of what sector they are employed in. The central plank of the MUA strategy has been the retention of the 35 hour working week agreed by employers in 1972 to offset the loss of numbers of waterfront employees due to the advent of containerisation. A less well known fact is that 35 hour working week includes a 45 minute paid meal break per 7/8 hour shift, resulting in actual worked hours being 31.25 hours averaged per week! This, coupled with salary levels and other conditions, no wonder it is considered a job to fight for and a job to retain for life.

The container terminal segment of the industry is undergoing yet another significant change through automation of most terminal operations. This change will undoubtedly result in a further reduction of waterside worker numbers. Let's hope there are no further conditions "given away" by terminal operators to achieve their desired outcome. The potential flow-on effect on general stevedore's viability could prove disastrous. General stevedoring has already been "saddled" with the 35 hour week since 1972, and there were no reductions in the size of the conventional workforces at the time. Just about every other major condition given away by container terminal operators and won by the MUA to help offset the loss of membership through the advance of containerisation, has flowed onto the general stevedores, and where has the benefit been to general stevedoring? You will have to look very hard to find anything, hence one of the reasons for the decline in the market place. The general stevedoring side of the Industry does not have any opportunity to offset further "give ways" by container terminal operators in their current quest for automation.

The activity levels in the general stevedoring sector have continued to reduce due to the efficiency of containerisation and the high cost of doing business in a conventional operation where labour costs equate to 5 per cent or above, of total outgoings. In addition to the automation programme, container terminal operators are involved in enterprise negotiations that are taking place at the moment and, with the MUA "one size fits all" strategy; once again General stevedoring has the potential to suffer from the flow-on effect.

In my opinion, it is time the MUA accepted there is a marked difference in the ability to pay, between the two segments in the stevedoring industry – container terminal operations and general stevedoring. Likewise, there is a significant difference between the offshore oil and gas industry and general stevedoring.

I fear the next round of enterprise negotiations with the MUA will be dragged on for long periods of time to ensure the MUA can take protected industrial action to achieve its aims once the current enterprise agreements have expired, as this has been the tactic adopted in recent years.

Rota box site at Port of Geraldton

Where to from here, in general stevedoring?

In Qube's case we have been focusing on diversification, both up and down the import and export logistics chain, and this strategy will continue over the coming years. There will be an ongoing need for general stevedores in the PCTC/ roll-on roll-off sector, some smaller semi-liner services carrying a mix of general cargo, and some containers and project cargoes from time to time but, clearly, the general stevedoring business will not be able to sustain the numbers of employees and the conditions under which they work today. Qube will remain focused on general stevedoring, as it considers this core to our overall business strategy. However, the decline in general stevedoring activity, together with the "one size fits all" strategy of the MUA, will be felt more by the remaining two national general stevedores. Both have more business to lose, and employ larger numbers of people and are clearly easier targets for the MUA. More so than the smaller "suitcase operators", generally located in regional ports, that the MUA tend to treat differently when it comes to wages and conditions. The latter fact always surprises me, as the MUA has more members to lose by focusing its attention on the bigger general stevedoring operators. Hence, my earlier reference in this article that some changes I have witnessed in my career to date have not been for the better on the Australian waterfront.

I do firmly believe it is time for the MUA to recognise that the industrial tactics successfully adopted in years gone by cannot be supported in today's environment, and recognise if the general stevedoring sector is to survive these turbulent times, then the "one size fits all" strategy needs to be adjusted to reflect the differences between container terminal operators and general stevedores.

Oil:
What is it good for?

By BERNARD GRESSER, director, Infinitas Asset Management Limited

The first quarter of 2015 could have been named "The Nightmare on Oil Street".

After spending a lot of 2014 at just under $US100 per barrel, oil crashed to make multi-year lows of under $US50 per barrel. Oil dropping by 50 per cent over the course of a year is a surprise. But what's more of a surprise is how the investment community is seemingly blind to the ramifications of an oil price that remains so low.

World oil production is a never-ending game of cat and mouse.

When you look at the Middle-Eastern oil producers, who control approximately half of the world's crude oil reserves (see Chart 1), they are definitely hurting with the low oil price. However, OPEC (Organisation of Petroleum Exporting Countries) has not cut production.

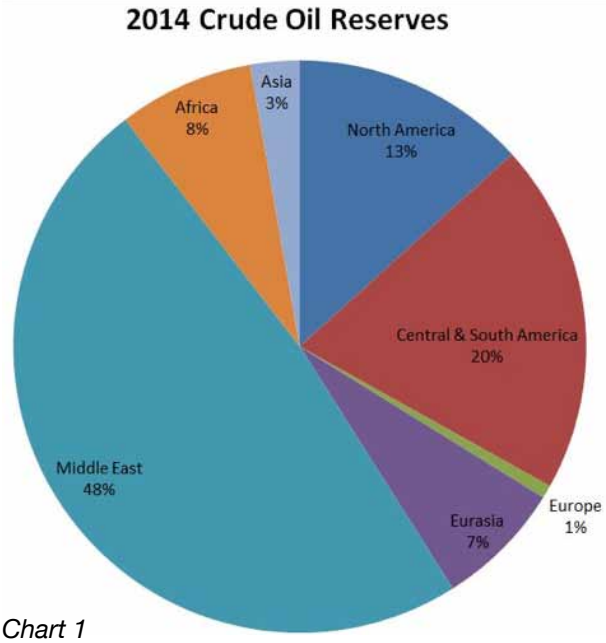


Chart 1

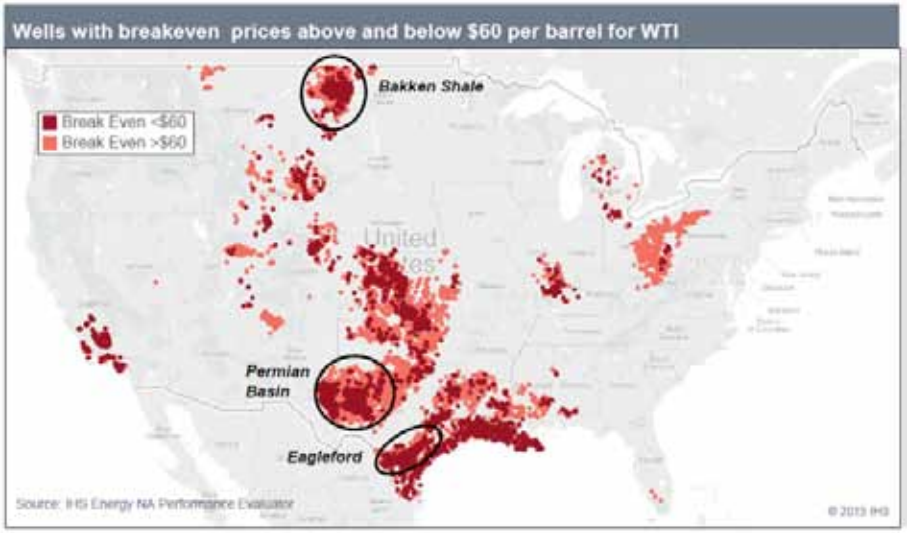


Chart 2

So the biggest owner and controller of the asset (oil) is not doing anything to support the price of said asset. The conclusion one draws from this is that OPEC is engaging in a price war. Prices wars are usually waged to hurt competitors.

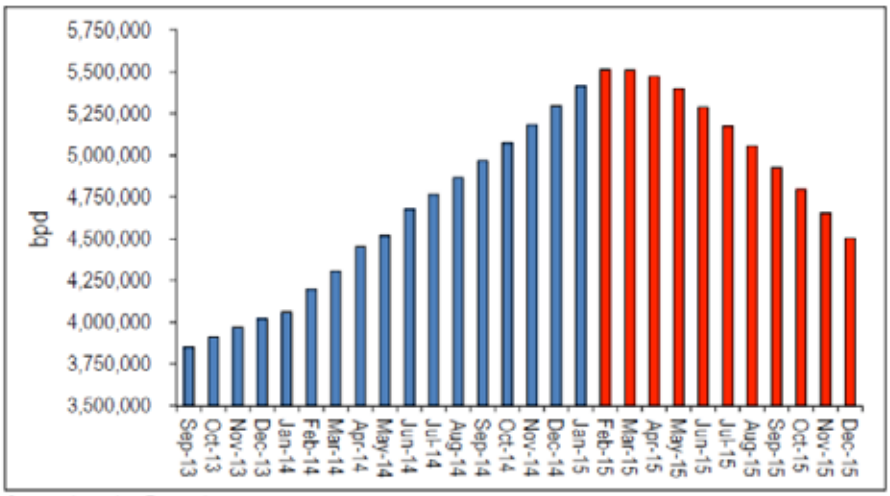
Over the last 12 months, many commentators have pointed at Russia as being the biggest loser in the oil war. However, the Russian rouble is worth only two thirds of what it was a year ago versus the US dollar. As oil is priced in US dollars, Russia has never had it so good as far as what they receive for their oil and gas.

So the question remains, who is the biggest loser?

In short, it's the North American shale oil producers. Huge tranches of the North American shale industry is uncommercial at prices of less than $US60 per barrel.

As Chart 2 shows, even parts of the North Dakotan Bakken formation, one of the most profitable regions of the US shale

Fig 1: US shale oil production actual & central case forecast (bpd, from key shale regions)[3]



Source: Longview Economics

industry, becomes marginal.

Over the first quarter of 2015, North Dakotan house prices have dropped 10 per cent. This is the first drop in house prices since the Global Financial Crisis.

Why the sudden drop? Unlike the heavy crude producers in the Middle East, who take months to alter flow rates, the North American shale producers can halt production on a well in hours. This flows through to employment pretty quickly. When employment drops, so do property prices (unless you live in Sydney, that is).

We can actually measure how much North American produces month on month. By the end of the first quarter of 2015, US oil production was seeing its first declines in a decade.

The forecasts are for this production to drop even further as drill rigs are taken off line. By the quarter ending March 2015, the numbers of drill rigs in use in the US was 905. That was down 50 per cent on the previous year. If drill rigs in use drop, it means production is only going to go in one direction: down.

We've all seen pictures of the aeroplane graveyard in Arizona in the US. If the rate of oil production in the US continues to drop, we'll start seeing oil rig graveyards too.

Below is a chart from the world renowned Longview Economics showing that over 2015, North American shale production is forecast to drop by approximately 1 million barrels per day. That is approximately 20 per cent of shale oil production being taken out of the market.

It is hard to see much of this production coming back on line anytime soon. To have the funds to bring that production back on line, producers have to tap capital markets or see their friendly banker. On both fronts, the shale producers seem to be friendless at the moment.

So if the aim of the Middle Eastern producers was to handicap the North American producers, it looks like they have won, for now.

And what is the prize for the winners? A rising oil price, with the added benefit of the growth of one of their competitors curtailed. The price of oil has now risen 30 per cent from its low earlier this year.

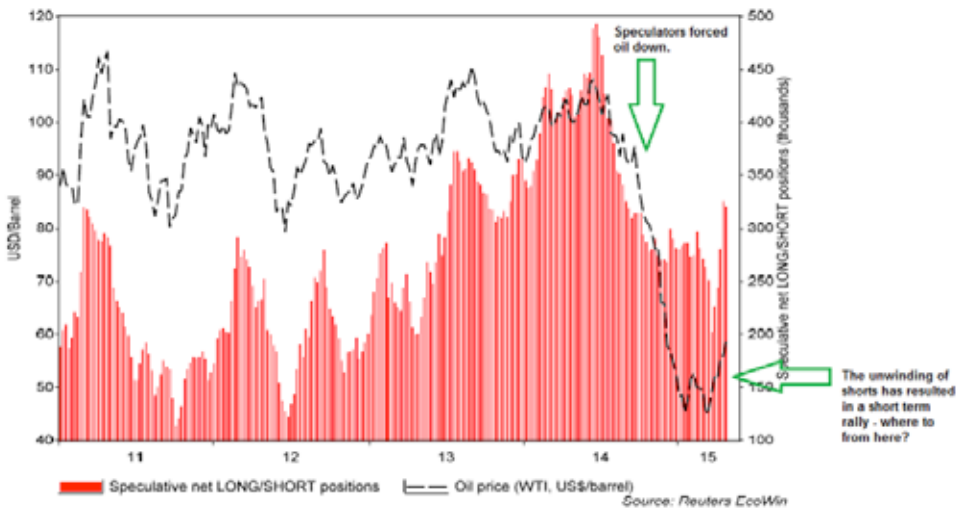
As per the chart below, it looks like the speculators are at least taking the view that a shorter term low has already been reached.

As I mused above, world oil production is a never-ending game of cat and mouse.

There is always something that could upset markets at a moment's notice.

That said, the well-established, well-capitalised, well-reserved participants have ridden out this most recent rout and will most likely ride out future routs too.

Fig 9: Oil net speculative positions vs. oil price (US$/barrel)



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CAPTAIN COOK GRAVING DOCK TURNS 70

Have you ever wondered why Garden Island, the home of the Navy in Sydney, is not really an island?

By A SPECIAL CORRESPONDENT

This is one big piece of Sydney that largely goes unnoticed under the noses of nearly 4 million Sydney-siders. The Captain Cook Graving Dock was constructed between 1941 and 1945 and was officially opened on 24 March of that year. It is one of the largest graving docks in the southern hemisphere still capable of docking most of the ships that visit Australia.

Today the dock is operated under contract by Thales Australia who provides ship maintenance services for the Royal Australian Navy and commercial vessels.

"This is a wonderful piece of history and a fantastic capability which is still fully operational and services both Navy and commercial vessels," Thales director of operations, Tony Grebenshikoff said. "Thales Australia is proud and privileged to be the operator and caretaker of this unique facility."

The crucial importance of, and critical need for this mammoth piece of maritime infrastructure became apparent during the Second World War, when Britain was too engulfed in their own battle for survival and Singapore, the only regional facility for ship repair was a long way away and too close to the enemy. The Prime Minister, R.G. Menzies, told Parliament on 1 May 1940:

On 24 March 2015, the Captain Cook Graving Dock turned 70 years old and was celebrated by Thales staff and members of the Australian Maritime Defence Council

Captain Cook Graving Dock: View of the dock under construction between the entrance end and the intermediate caisson groove, looking north-west.

"A dry dock of a larger size than any in Australia has been an important strategic consideration since the size of capital ships has increased so greatly. I do not need to elaborate the great value to Australia of a dock capable of accommodating not only the largest warships but also merchant ships of great tonnage. The possession of such a dock would make Australia a fit base for a powerful fleet and would, in certain contingencies, enable naval operations to be conducted in Australian waters without the necessity for ships to travel 4,000 miles to Singapore for purposes of refit and repair. It is estimated that three years will be occupied in the construction of the dock."

The construction involved the reclamation of 30 acres between Potts Point and Garden Island and the construction of the graving dock approximately 345 metres long, 45 metres wide and 14 metres deep. It was an incredible engineering achievement, made even more so because it was constructed during the depravations of the War.

At the end of it Garden Island was no longer an island and Sydney had a facility capable of docking and maintaining the biggest vessels afloat.

Even today, the Royal Australian Navy's biggest ship HMAS Canberra, designated a landing helicopter dock, is able to dock down in Captain Cook graving dock, 70 years after Menzies' vision was realised.

Photo credits: Thales Australia and RAN

Members of the AMDC in the dock with HMAS Stuart

Our role in the industry is the provision of safe and reliable towage at 35 Australian ports to help shippers and shipping lines meet their schedules. As well as shoring up supply chains vital to the economy, our tugs and experienced mariners are on standby to safeguard coastal waters for the Australian Maritime Safety Authority.

A PART OF THE MAERSK GROUP

SVITZER

AAL steps in to provide blue-water training opportunities for Australian seafarers

By CHRISTOPHE GRAMMARE, managing director, AAL Liner Services

This is a good news story for Australia, it shows a pathway for developing maritime skills and training Australian seafarers, it's a good news story for our domestic skills base, and it comes from an unexpected source.

AAL, an international shipping company celebrating 20 years of service in Australia, has teamed up with Svitzer, another Shipping Australia member, to provide real blue-water training and career progression opportunities for young Australians.

This initiative highlights another important contribution that foreign flag shipping makes to Australia. It proves wrong the rhetoric of the opponents to opening coastal trade to international vessels and shows that responsible foreign flag shipping companies can provide a training ground for Australian seafarers. *Editor*

It is widely accepted that professional Australian seafarers are becoming a rare and ageing breed. Their numbers are reducing year-on-year, primarily because there is a lack of quality training opportunities, particularly real blue-water experience, available to attract new recruits into the industry.

To reverse this trend, global break-bulk and heavy lift operator AAL and its sister company CSM (Columbia Ship Management) have joined Svitzer to support a pioneering education program, to strengthen maritime expertise in Australia and help generate valuable new jobs.

The programme was started almost two years ago by Svitzer and, each year, offers would-be Marine and Power Engineers the chance to enrol in a cadet programme at Hunter Tafe's Newcastle maritime training centre. The course covers all technical subjects as well as providing ship and sea time required as practical experience to qualify as an Engineer Class 2.

AAL and CSM will help guide 30 cadets through key stages of their professional and practical development in the programme, including the provision of valuable

AAL Nanjing

Cadet Oliver Nicholson working in AAL Brisbane

ship time at sea; a crucial requirement for each engineering cadet.

Together with our sister company, CSM, we have registered CSM Australia; a company whose primary role is to assist in the training and development of Australian cadets and seafarers.

A large portion of the cadets will gain their sailing time and training on AAL's multipurpose vessels, operating into and out of Australia. In 20 years, the company has grown into one of the world's leading break-bulk, project and heavy lift operators and its Australia Liner Services division, which these vessels serve, is one of the most reliable and trusted in the region.

The vessels are also part of AAL's growing fleet of multipurpose vessels that is the sector's youngest and most advanced.

AAL is committed to the Australian market and has been providing break-bulk and heavy lift shipping services to and from Australia for 20 years. The company could see that the number of Australian seafarers was dwindling and their age profile increasing. We recognised that there were few opportunities for Australian's to gain real quality sea time in blue-water ships. We knew that there needed to be a pathway for consolidation of knowledge learned in the classroom to gain the competencies and experience if the industry was to attract new entrants. So we decided to do something about it.

AAL ships are an excellent training ground. Our heavy-lift and break-bulk ships have a wide range of equipment that requires monitoring and maintenance, this is exactly what is needed to enable cadets to gain experience and consolidate their skills. Teaming up with Svitzer extends the diversity of experience and broadens career opportunities.

As we celebrate 20 years of operations in Australia it is a privilege to play an active role, alongside other industry majors, in helping to develop the region's next generation of seafarers.

More information is available at: www.aalshipping.com and www.columbia-shipmanagement.com

A Svitzer tug

Cadets participate in engine overhaul

Digitisation of trade and trade finance

By HARI JANAKIRAMAN, head, global core trade product transaction banking I&IB, Australia and New Zealand Banking Group Limited

Use of physical (paper) documents to represent the underlying commodity traded has been in vogue in international trade for centuries. The documents, especially the bill of lading, act as proof of existence of the commodity and signify ownership/control of the commodity shipped. The bill of lading, along with other commercial documents such as invoices and certificates, are passed to the buyer in exchange for payment, or a promise of payment. ,In many cases this payment or promise of a payment comes from a bank, which has issued or negotiated a letter of credit.

While this method is effective it slows down the overall supply chain as it takes time for documents to move through the banking channels, especially when a letter of credit or a documentary collection is used as the settlement instrument. In addition, handling paper documents incurs cost and in many cases paper documents are created only for presentation to banks, port and customs authorities.

With the technology evolving at a rapid pace, the time is now ripe for looking at digitisation of trade through use of electronic documents (eDocuments), as an alternate solution to paper documents.

Demand for digitisation

The demand for digitisation in trade and trade finance is primarily being driven by large corporates in the commodity space, to whom the main advantages of digitisation are cost optimisation through process efficiencies and working capital improvement through early realisation of payments, which moves cash onto their balance sheets more quickly.

Electronic documents

The key aspect of digitisation of trade is moving from paper documents to electronic documents. eDocuments are used as a means to streamline the trade processes by removing the need to handle physical documents. eDocuments can include invoices, electronic bills of lading, certificates of origin, independent inspection certificates, etc. eDocuments can be in the form of an image or can exist purely as data. Typically, eDocuments are transferred from the seller to the buyer via a web based secure platform. Depending on the type of settlement method, a bank can become part of the chain. For example: in an open account trade, eDocuments are transferred directly by the seller to the buyer, whereas in case of letters of credit, eDocuments are transferred from the seller to the buyer through their respective banks. Where eBills of lading are used, the title is transferred through a title registry.

Benefits of digitisation

The main benefits to corporates are:

- Increased automation which reduces costs and improves efficiencies. Utilising a web based platform allows parties to a transaction to upload and access various documents pertaining to a transaction instantaneously, which can reduce the duration of the typical transactional flow by about half.

- Increased visibility of information, which reduces risk. eDocuments provide more security given that the creator, issuer, and endorser of a document can be tracked throughout the transaction cycle. For example, parties to a trade can track creation and transfer of an eBill of Lading, throughout its cycle, thereby reducing possibility of fraudulent document or endorsement.

- Improved working capital efficiency. eDocuments speed up the financial supply chain. Financing is possible through electronic letters of credit or Bank Payment Obligations (BPO).

Banks too stand to gain from digitisation, as it provides more visibility into the end to end physical and financial supply chain, and consequently there is potential for banks to mediate in the financial supply chain at a much earlier stage than happens today. For example, banks will be much more comfortable to provide pre-shipment financing if they have visibility of creation and acceptance of a purchase order. Digitisation can also allow banks to extend trade finance services to customers in locations where they do not have a physical presence.

New avenues for trade finance

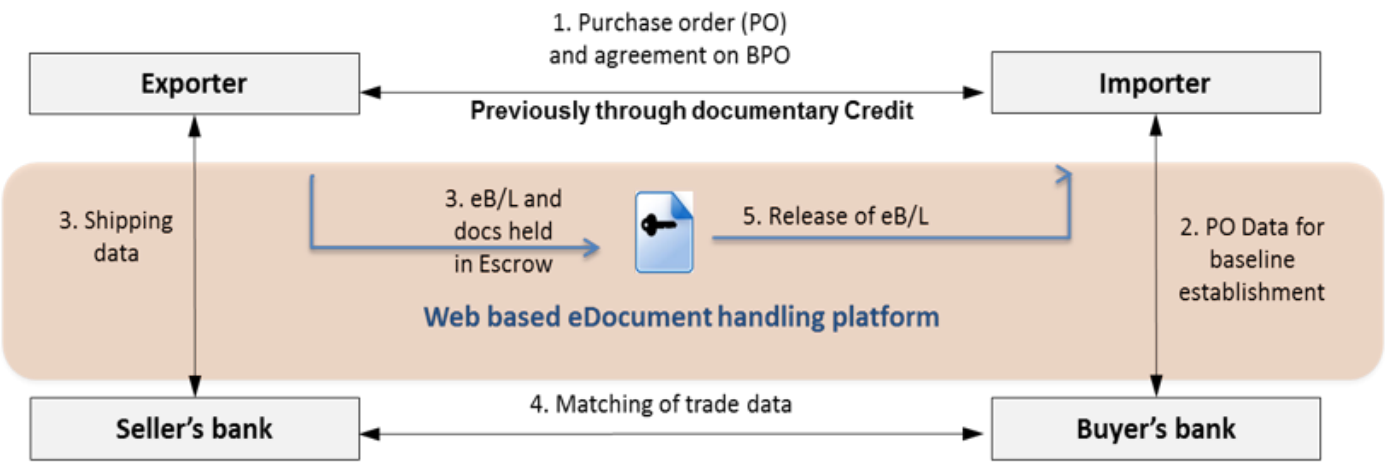
Digitisation of trade is also creating new avenues for trade finance. The most significant development in this space is the Bank Payment Obligation (BPO). Large sophisticated corporates in the bulk commodity space are already replacing traditional paper based letters of credit (LCs) with BPOs supported by eDocumentation, such as an electronic bill of lading.

Bank payment obligation

A BPO is a legally binding and irrevocable undertaking given by the buyer's bank to the seller's bank that a payment will be made on a specified date after a successful electronic matching of shipment data with purchase order data, according to an industry-wide set of rules. The payment/financing is undertaken by the banks, and can only be effected once a transaction matching application/system successfully matches the required data concerning the underlying transaction from all parties involved. BPO provides a middle ground between letter of credit (low trust/lower risk) and open account (high trust/higher risk) transactions.

By comparison, a letter of credit requires paper documentation from a number of parties involved in a transaction, eg. Shipping companies, insurers, chambers of commerce, etc. Documents flow from the seller to seller's bank; to the buyer's bank; and then to the buyer – with every step being sequential. Conversely, in a BPO transaction, once a 'baseline' of required minimum transaction data is agreed between the buyer and seller, the presentation of that data can be simultaneous through an electronic platform. This allows process efficiency and reduces a seller's working capital requirement through a reduction in their cash conversion cycle – the time it takes to convert their materials/inputs into

BPO with eDocuments



cash. The seller could choose to pocket these efficiencies or alternatively utilise the savings to make their offering more competitive by extending payment terms for their buyer(s).

Challenges

Digitisation of trade also presents some unique challenges; unlike other areas, trade transactions involve multiple parties such as shipping companies, chambers of commerce, insurance companies, customs authorities, inspection companies, etc. To completely digitise trade all these intermediaries must also move to electronic documentation and channels. While this process has begun in certain pockets, there is still a long way to go before everyone is on board.

Corporates who are looking for digital trade finance solutions do not want to be tied to a single web- based platform or system and therefore prefer third party multibank/multiparty solution providers. This requires investment in technology and change in practices by all players in the industry.

Outlook on the future

While digitisation will not be a game changer in the short term, it will be vital for any serious trader in future. Parties who do not invest in technology and adopt digitisation will not be able to realise process efficiencies and cater to customer demands. They will risk losing market share to their more innovative competitors.

Some intermediaries in trade, like ANZ Bank, are taking a proactive approach by building capabilities to handle eDocumentation and data files. ANZ is the first Australian bank to be Bank Payment Obligation (BPO) enabled and is one of the few banks globally with ability to combine BPO transactions with eDocumentation. In addition to building capabilities, ANZ is also engaged in industry forums to promote digitisation of trade finance.

Transforming Australian border management

By ROMAN QUAEDVLIEG, chief executive officer, Australian Customs and Border Protection Service

A new era in Australian border management begins on 1 July 2015, with the establishment of the newly integrated Department of Immigration and Border Protection.

The Australian Customs and Border Protection Service (ACBPS) will cease, and the Australian Border Force will stand up as the operational arm of the new Department.

This is an exciting time for Australia as it presents a once in a generation opportunity to create a more streamlined and effective border function through consolidation and enhanced operational capabilities.

Working in partnership with industry is fundamental to how we will continue this transformation and build on what has already been achieved. ,So too is the dedication and experience of ACBPS officers, which will continue under the new, integrated Department.

We know that the number of people and the volume of goods crossing our borders have increased and will continue to grow exponentially. These trends are projected to continue in the globalised world we now live in. Supply chains for goods are much more complex and people are now highly mobile.

In the 2013-14 financial year, we inspected 102,288 twenty-foot equivalent units in sea cargo that came into our 64 seaports. If you lay those containers end to end they would represent more than 623 kilometres of containers. Those volumes aren't static—sea cargo reports are forecast to increase by up to 19 per cent over the next four years.

Australia must, of course, remain very open to engaging with the rest of the world, to ensure our prosperity, as well as our place in the global community of nations, and at the same time we must protect our citizens through strong borders.

There will be improved border security across the entire border continuum. By maintaining a secure and stable border we are facilitating the passage of legitimate goods and trade, while preventing those that are illegitimate.

The Department is committed to creating a more seamless and secure trade, migration and travel experience. Our vision is to be Australia's trusted global gateway, with the systems, processes and partnerships to meet future challenges.

Collaboration and consultation with industry remains a priority for the Department.

As we bring together our capabilities: our people, systems and processes, we will be working with you in different ways. We will be looking for ways to strengthen our alliance in providing a stronger and more secure Australia, with opportunities to support growth in trade.

One of those opportunities is for greater partnership with Australian businesses, particularly through our forthcoming Trusted Trader Programme.

The programme provides a differentiated trust-based regulatory framework, based on partnerships and shared responsibility. It will provide more streamlined clearance processes for accredited businesses that meet or exceed international supply chain security and trade compliance standards.

The Trusted Trader Programme is a partnership between industry and the Department, and industry has been invaluable in its design and development leading up to the programme commencing with a pilot phase on 1 July 2015. Initially, the pilot phase will focus on exported containerised sea cargo and involve no more than four export companies and their supply chain service providers.

It will be expanded over 12 months to include importers and air cargo, to allow us to implement and test new clearance processes across different industry sectors.

The Trusted Trader Programme is voluntary and open to all businesses, big and small. Participants will be subject to an initial accreditation process, followed by ongoing monitoring.

Accredited Trusted Traders will gain access to a range of phased benefits. Initially, expedited border clearance, reduced or priority processed interventions, priority access to trade services, and a dedicated client service manager. Mechanisms for the delivery of other benefits, including duty deferral and streamlined reporting arrangements, are currently

being explored.

By offering industry incentives for participation in the programme, a growing proportion of international trade will be secure to an internationally recognised standard. The Department is then able to focus greater attention on the remaining cargo that is of unknown or high risk.

It will not only secure international supply chains and protect traders, brokers and fowarders, but it will also boost the international competitiveness and prosperity of our country.

The Trusted Trader Programme is a fundamental part of how we are adapting to meet the changing nature of the border. We are continuing to develop our capabilities through intelligence, data and analytics, and risk profiling to minimise our interventions in relation to low-risk border movements and concentrate our effort where it is needed most.

As we start to move away from the traditional divide between immigration and customs roles and functions, we are already seeing the benefits of a more integrated, effective and efficient border management organisation.

All of the non-operational functions, including policy and programme management, and corporate and enabling functions, will be managed in the new Department's corporate, policy and programme areas; while the Australian Border Force will deliver the operational customs, immigration and border facilitation and control functions, as part of the new Department.

The Department is committed to supporting the Government's increased digitisation of services, and we are focused on finding solutions to help our traders, travellers and border facilitators. We are working to improve opportunities to automate and digitise border-related activities for industry.

We are streamlining our business processes with investment in leading technology and developing more convenient, cost-effective and nationally consistent online services to make it easier for our clients and partners.

Work is already under way to transition high-volume manual forms to digital solutions. We are expanding digital reporting beyond existing electronic cargo reports, import and export declarations, to capture the full spectrum of information required to move goods and people beyond the border. These changes will be incremental as we work with our stakeholders to get it right.

Border protection officers checking container seals

Some changes will be immediate. On 1 July 2015, the old Department and ACBPS websites will be amalgamated and re-launched at www.border.gov.au

The website will reflect the new Department and Australian Border Force with a focus on useability and the needs of our industry stakeholders. You will need to update any links and bookmarks you have.

Our email addresses will also be changing, from an @immi.gov.au or @ customs.gov.au email address, to @ border.gov.au, on 1 July 2015.

However, existing applications, including the Integrated Cargo System (ICS), will continue to be accessible, exactly as they were before. More information on what will and won't be changing on 1 July, is available on www.customs.gov.au

I look forward to the next chapter working with you from July 1, as the integrated Department of Immigration and Border Protection and the Australian Border Force.

The Baltic ECA – an imperfect odyssey to an ideal goal

By JOHN PAGNI

The establishment process for the world's first emission control area in the Baltic Sea began back in 1990 and reached its ultimate 0.1 per cent sulphur (SOx) goal at the beginning of 2015. Naturally there were first-of-a-kind hiccups on the way. **John Pagni** from Finland charts this voyage and its ultimate implications, not only for the Baltic and other ECAs, but for the entire global maritime industry.

Currently, most of the world's seas permits bunker fuel containing 3.5 per cent sulphur. By 2020 (or at the latest by 2025) this level will be reduced to 0.5 per cent. Since January this year, inside current ECAs in the Baltic and North Seas, the English Channel, the North American coastlines and the US Caribbean, just 0.1 per cent sulphur is permitted. ECAs are also being mooted for the Mexican, Japanese and Malaysian coasts or territorial waters.

Nitrogen oxides ECAs are around the corner too. North America has established a NECA along with its sulphur and particulate matter limits. Norway has already established a fund to compensate shipping companies that invest in new NOx-cutting technology ships.

Olof Widén, managing director, Finnish Shipowners Association

Global and ECA fuel sulphur limits

Preparation for the present and future

"LNG is the future fuel of shipping – I'm sure of it," exclaims Olof Widén, managing director Finnish Shipowners Association, "It's absolutely the most promising solution for short-sea ships and solves all the sulphur oxide, nitrogen oxide and particulate matter problems. In ten years, it will be more common than now and there will be more ships burning it."

This forthright opinion may not be popular, but it is widespread in the Baltic and Widén backs it up with sound reasoning. "International Maritime Organization ECAs will then be more numerous. Look at matters from the shipowner's viewpoint. If you are thinking of ordering a new-build now, you must take into account not only current regulations on emissions, ballast water, SOLAS and so on, but those that are coming or look likely to come into force locally or globally during a ship's lifetime of say 40 years."

Bearing this in mind, it is probably the main reason why Tasmania's SeaRoad has an LNG-only ship (plus option) being built by Flensburger in Germany to be delivered in 2016. While the debate rages on about the pluses and minuses of ECAs and LNG ships, let's take a look at what has happened in actual ECAs in northern Europe.

Setting course to an ECA

In 1997, all the Baltic Sea coastal states applied to the IMO to set up a sulphur emission control area through Annex VI of MARPOL. "This was for health, but also environmental reasons," states Widén. "Something had to be done as road and other modes of transport were being regulated."

According to the IMO, an ECA can theoretically be set up in 22 months, but this means unanimity is crucial for an ECA involving more than one

state. So all nine Baltic governments - Russia is not an EU member - had to agree to its establishment. Then came the difficult business of setting the limits and timelines. "We agreed that eventually, fuel should be limited to 1.5 per cent sulphur," reveals Widén, "But in the MEPC, this changed."

The IMO's Marine Environment Protection Committee is where national submissions are discussed, negotiated and decided. Based on the 1997 decision, the global 4.5 per cent sulphur limit set in 2000 would be lowered to 3.5 per cent from 2010. In ECAs, it reduced to 1 per cent from 2010 lower than the original 1.5 per cent target. At the next MEPC disagreement reigned. "No new submissions that have not circulated previously could be introduced. Then somebody unearthed one from the USA Environmental Protection Agency advocating 0.1 per cent sulphur and this was agreed in 2008 to take effect from 2015," recalls Widén.

So in just fifteen years, the ECA sulphur bunker content had to fall from 3.5 per cent before 2000, to 1.5 mid-2010 and finally 0.1. While the Baltic was the first ECA to be created, it was closely followed by the North Sea and English Channel. The North America and the US Caribbean ECAs were on a similar timetable, but stretched their geographic extent further to include the 200nm economic exclusion zone and additionally, included limits on NOx and PM.

"But all governments must agree on an ECA as without unanimity, nothing can happen as they must go to the IMO together," emphasises Widén. "Here the process with the nine nations was carried out through HELCOM (the Baltic Marine Environment Protection Commission, based in Helsinki)."

So first is the political decision, then technocrats work out the complex details, followed by final ratification. The 2008 decision for 0.1 per cent level in 2015 caused much angst – business and shipping worried about the extra maritime transport costs (estimates rose to €2 billion for Finland alone) and its international trade consequences with a loss of competitiveness to the south which would have no such limits until 2020[1].

Alternatives, options and decisions

"Back in 2008, the new low-sulphur fuel was estimated to result in a 70 per cent fuel bill increase coinciding with drops in freight volumes and rates, thus we falsely believed in a postponement," continues Widén, "Shipowners had to decide between a range of compliant fuels or abatement technologies in order to use HFO. Freight generally opted for scrubbers while passenger ferries chose a low-sulphur distillate as almost all have SCR (selective catalytic reduction) and have burnt 0.5 per cent sulphur for years anyway."

The pioneer here is Viking Line, whose main owners are based in the archipelago between Finland and Sweden and take their sensitive environment's responsibilities seriously. Viking's fleet consists mainly of SCR-fitted ferries, the world's only HAM (humid air motor) ship and the largest LNG passenger ship *Viking Grace* (see Shipping Australia Magazine, Summer 2012). Company policy requires a raft of green measures are performed such as use of shore power, a process known as *cold ironing*, when in port, responsible solid and wastewater disposal plus maximising recycling.

Susanna Airola, Viking's environmental manager explains, "Except *Viking Grace*, our ships use RMB, a residual marine fuel, which is SECA-compliant and is bit cheaper than MGO. But all our ships have burnt 0.5 per cent sulphur since 1990 as company policy."

Cargo carriers opted generally for scrubber installation. Finnlines, the Grimaldi Group's Baltic subsidiary, has recently invested millions in fitting twelve of its ships with scrubbers from Wärtsilä, Alfa-Laval and EcoSpray Technologies. Costs range between €2-5 million, even though the equipment has been criticised for unreliability.

Airola confirms that Viking went for low-sulphur fuel because of concerns over scrubber technology. "The situation would have been completely different had there been tried, tested and proven (scrubber) products on the market."

Therefore it was a difficult situation for shipowners who could not afford to wait and see as they needed to take measures in time. One small Finnish shortsea company, Langh Ship, owned by shipping equipment inventor Hans Langh, was so horrified by the prices and ineffectiveness of scrubbers on the market, he developed his own. These are significantly cheaper and work so well they received approval from Germanischer Lloyd classification society last July.

A Langh scrubber was trialled on one of his own vessels for a year and is now aboard all five. The first outside sale to Bore is now installed too. A new company, DeltaLangh was formed to market the new closed, open and hybrid scrubbers. Closed-loops are needed in low-alkaline waters like the Baltic, so lye is used as the washing agent. Hybrid is for ships to switch according to different national regulations and seawater conditions. Open-loops use seawater naturally high in alkaline and are especially suitable for ocean-going ships.

Sweden's Stena Line is the only one to experiment with methanol fuel. They received financial help from Trans European Transport Network's Motorways of the Seas programme for the €22 million retrofit of its *Stena Germanica* ferry. Stena Line's CEO Carl-Johan Hagman stated, "We're constantly evaluating different fuels for the future and to be the first to use methanol is a big step towards sustainable transportation."

Stena Line dropped LNG because of handling and infrastructure costs and methanol has similar emissions levels[2]. Based on the methanol project, all eighteen Stena Line ferries will be converted. So far the LNG network in the Baltic is at the development stage and even then its main customer segment is onshore industry and households, but terminals can be adapted quickly for marine clients.

Causes and effects

Despite the forebodings, international maritime trade has not collapsed. "We've continued as usual," comments Widén, "and we noticed that supply (of SECA-compliant fuels) has sufficed. However, we got this unexpected gift: the freefall in bunker prices! It meant a very soft landing as low-sulphur distillate is cheaper now than HFO was last August. Absolutely nobody saw this coming!"

Naturally there have been pluses and minuses. Sulphur emissions have fallen, raising air quality especially in cities with ports inside or nearby. Port of Gothenburg, the Nordic's largest with 11,000 calls annually and 30 per cent of Sweden's foreign trade, recorded a drop of 80 per cent in sulphur air content so far this year. Older tonnage has been sold off or chartered for static accommodation, such as three Tallink ferries.

Silja Europa, non-compliant with Baltic ECA, is now used for accommodation in Western Australia

One, *Silja Europa*, is now a floatel off Western Australia for workers on the Gorgon project. Other elderly ships have been sent to the Mediterranean on charter or operating on the spot market there. But the EU's Southern Directive will catch up with them in 2020, though only for the 12nm limit, it will prevent ships entering any EU port without using the 0.1 per cent fuel or appropriate exhaust cleaners.

For those that switched to low-sulphur fuel, all was not smooth sailing either, as fuel tanks had to be be cleaned beforehand. Linda Langh, daughter of Hans, heads Langh Ship & Industrial Cleaning Services and informs that last year and early this was a boom time for cleaning ship tanks.

Finnish refiner Neste launched a new product last year which is now fuelling Tallink Silja's fleet plus two Finnlines ro-paxes on the short service from Finland's west coast to Sweden's east Naantali-Kapellskär.

Eckerö Line's single fast ferry on the other hand, "Uses ULSFO RMB 30 as its engines are designed to run on that and it's more economical than MDO/MGO," explained Juhani Aarnio Eckerö's technical superintendent adding, "The price drop helps to compensate for the higher new bunker fuel above the HFO rate."

Breaking the law

Enforcement is the last piece in the ECA jigsaw. Finland Shipowners Association has calculated that using HFO can save about €150,000 per round trip, so catching culprits is paramount to maintain a level playing field. Pre-2015 Swedish ports employed a carrot-and-stick policy whereby ships using green fuels received rebates on fairway fees. Now that it is compulsory, rebates have stopped. But NOx paybacks continue in Swedish ports as the Baltic NECA has been postponed.

Port of Gothenburg, is the first to use a *sniffer* - in this case a washing machine-sized measurer of ship's plumes. Though connected to a vessel's AIS, it is just an indicator and unreliable in bad weather, so fuel samples in port remains the preferred method. Sniffing plumes by plane, on buoys and on land near the shipping lanes are also employed – even drones have been suggested.

In Finland, the Traffic Transport Safety Authority has taken 75 samples in the first three months, which means 300 for the year. Only one was found non-compliant and it was using the old 1 per cent sulphur fuel. The ship could not leave port until re-fuelled with 0.1 per cent fuel, a delay of 1½ days and she now faces prosecution and fines.

Nobody is abandoning ships

The authorities have been sympathetic to the plight of the shipping industry. They know how important it is to trade and the EU promotes maritime transport via its "Motorways of the Seas" policy to encourage relatively efficient and green shipping rather than moving goods by road and rail. The EU Commission has extended the power tax discount to 2020 for ships using cold ironing when in port.

For Port of Gothenburg (PoG), which was the first in the world to offer this in 2000, this is both positive and encouraging. Currently, about one third of all its ship calls connect while at quayside. The port estimates that 6,400 tonnes of CO2 emissions were cut in 2013 via cold ironing. Last year the port claimed another global first by offering district heating connections to ships to further cut pollution and engine use when docked.

PoG's tax discount is a big incentive, amounting to 97 per cent. It aims to have all new berths connected to the grid and in the short-term to have all ro-ros using shore power. If a company announces that it would like to use cold ironing, arrangements will be made within a year.

PoG also provides a 10 per cent discount on port tariffs for vessels that score 30 points on the Environmental Ship Index. LNG-fuelled ships get an addition 20 per cent port tariff reduction for 2015-2019. An LNG terminal is also under construction.

The Swedish Shipowners Association is grateful for this help. Their environment director Carl Carlsson stated "It's not technology that is the limiting factor, it is financial considerations. We will attempt to convince others to offer the same support."

LNG new-builds are not cheap, but Widén points to other benefits in addition to health and the environment. "LNG is for new-builds as retrofits are exorbitantly expensive. Redundant tonnage has led to more efficient operations as new-builds incorporate the latest technology, better trained crews therefore reducing the risk of accidents," Widén sums up. "Plus if there is an LNG leak or accident, the colourless, odourless gas simply evaporates into the air with no pollution or costly clean-up necessary."

So the tough Baltic ECA limits have been met and shipping has survived. But without early Government concessions and subsidies, port tariff reduction incentives and a fortuitous halving of fuel oil prices the result might have been different.

[1] In 2020, the IMO proposes a global limit of 0.5 per cent sulphur subject to a fuel availability report in 2018. If this finds that supply is insufficient, then a 5-year postponement is possible. The EU will however impose 0.5 per cent sulphur in all its coastal waters in 2020 regardless.

[2] LNG emissions are practically zero for S and PM, 85 per cent less nitrogen and 25 per cent lower for CO2 compared with conventional HFO.

AUSTRALIAN SEAFARERS' WELFARE COUNCIL

The shipping industry depends on the seafarers that crew the ships of the world's commercial fleets.

The welfare of those seafarers is a major factor in the safe working and operation of the industry. However, until early last decade, there had been little in the way of a coordinated national approach to this vital human aspect.

The *Maritime Labour Convention 2006* encourages the development of welfare boards at the port, regional and national level.

The Australian Seafarers' Welfare Council (ASWC) promotes the development of existing welfare facilities and assists in coordination of port/regional welfare committees.

Australian Government
Australian Maritime Safety Authority

Australian Government
Australian Transport Safety Bureau

Shipping Australia Limited

The Mission to Seafarers
Caring for seafarers around the world

RioTinto

itf

Apostolatus Maris

Ports Australia

SSH

ASA
Australian Shipowners Association

For more information on the ASWC please visit

www.amsa.gov.au/seafarers_welfare

The importance of limitation of marine liability

By MARCUS JOHN, managing director,
Thomas Miller (Australasia) Pty Ltd

Limitation goes back to biblical times.

Exodus XXI 28 says:

> 'If an ox gore a man or a woman that they die, then the ox shall be surely stoned and his flesh shall not be eaten, but the owner of the ox shall be quit.'

In other words the owner of an offending item could discharge his liability by giving up the item that caused the loss. Thus liability was limited to the transfer of ownership of the article itself (in this case the ox) to the injured party. Or to the value of the offending article, in a similar concept found in Roman law.

Limitation of liability in civil law jurisdictions can be traced as far back as the 11th century.

Limitation is common in the transport field. In aviation for example the Warsaw Convention restricts the amount that an aggrieved party can claim from an airline. In Europe the CMR Convention operates in favour of road hauliers, and the Budapest convention applies to inland waterways.

In the Maritime field there are plenty of limits enjoyed by parties connected with shipping. Not all by statute, some by time honoured contractual arrangements. For example, the UK Standard Towage Conditions used by tug companies have been highly effective in reducing a tug's liability to zero, where the tug has been negligent.

Terminal user agreements, though less like the tablets of stone handed down from the towage operator mountain, are enjoyed by stevedores to restrict the level of claims that can be brought against container terminal operators, where they have been negligent.

By statute, pilots have limited, or no liability terms, in most parts of the world. In Australia that is given by the Navigation Act.

Limitation provisions can also be found in other international conventions, such as the International Convention on Civil Liability for Oil Pollution. This applies to tanker owners. The Athens Convention 1974 in relation to claims by individual passengers, is relevant to cruise ships, although as Australia has not signed up to that, it is of less direct relevance here.

The Hague and Hague Visby Rules have wider application in that these apply not only to shipowners, where they issue a bill of lading, but also non-vessel owning carriers (NVOCC's), charterers and also to freight forwarders, where they are the contractual carrier for a shipment. Hague Visby provides a financial limit, in exchange for preferential assumption of liability against the carrier, and is calculated on cargo weight or package limits.

For example, a Bugatti Veyron has a weight of 1,888 kg and a book price of $2.8 million. Article IV(5)(a) Hague Visby package limit allows for 2 SDR's (Special Drawing rights) per kilo to a carrier who has negligently shipped this vehicle. This gives total limitation on claim for a written off Bugatti of 3,776 SDR's. At current exchange rates that would limit a claim in the carrier's favour to $6,733. A significant shortfall for the cargo owner in its recovery action.

So, the application of Hague Visby has the effect of reducing carriers' liability, insurer's spend and in broad terms, premium required. That loss on such a claim as this is not lost to the insurance market though, as the prudent Bugatti owner would have taken out marine cargo cover, which will be paying this claim in full, less the $6,733 recovery and less the cargo owner's insurance excess.

Hague Visby Rules provide an additional limit of benefit to carriers and their insurers. Article III (6) incorporates a one-year time bar that runs from the date of delivery or the date that cargo should have been delivered, if it has been lost.

This also reduces overall claim pay-out across an insurers book of business, as now and again hapless claimants miss a time limit and therefore loose an otherwise legitimate recovery reimbursement. But Article III's true value is that it helps effective file management.

It accelerates the speed at which claims are notified and resolved, allowing more prompt and efficient claims disposal. This reduces claims administration costs. It allows the insurer to close off its

books within a shorter time frame than would otherwise be available to its actuaries to assist accurate financial reporting to help manage solvency.

Uniformity of claims-handling regimes in different jurisdictions is also important to efficiency. For land-based businesses it is open to them to have fixed arrangements with customers and suppliers and clients. Carriers do not operate in such a homogeneous environment. Compatible claims regimes allow for efficient handling.

The main provision that relates to limitation of liability in maritime law applied to shipowners (the definition in the Convention includes its operators or charterers) is the Convention of Limitation of Liability for Maritime Claims (LLMC). This is enacted in Australian Law by the Limitation of Liability for Maritime Claims Act.

Tonnage limits were first introduced by the International Convention Relating to the Limitation of Liability of Owners of the Seagoing Ships 1957. It is known as the Tonnage Convention and restricts the amount for which a shipowner may be liable for damage caused by the ship, calculated on the ship's size.

LLMC was amended in 1976 and provided significantly increased tonnage limits for the claimant, in exchange for, in-practice, unbreakable limits, unless caused by wilful or reckless conduct. These limits were increased by protocol in 1996 and again 2012. These new limits will come into force in June this year.

Claims for loss of life or personal injury, on ships not exceeding 2000 gross tonnes, will be increased to SDR 3.02 million. For larger ships, the following additional amounts will apply:

For each tonne from 2,001 to 30000 tonnes
SDR 1,208
(up from SDR 800)

For each tonne from 30,0001 to 70000 tonnes
SDR 906
(up from SDR 600)

For each tonne over 70,000 tonnes
SDR 604
(up from SDR 400)

The above figures constitute an

increase of 51 per cent on 1996 protocol figures.

To illustrate the significance of the above increases, a bulk carrier with a gross tonnage of 50,000 GT would see the increase of liability exposure for property damage as follows:

The development of limitation funds over time

1957 Convention
SDR 3,333,500
A$ 5,944,844

1976 Convention
SSR 7,593,500
A$ 13,541,975

1996 Protocol
SDR 28,144,000
A$ 50,190,998

2015 New Limits
SDR 42,500,000
A$ 75,792,972

Uninsured losses, if of sufficient magnitude, can put people out of business.

Griffiths in 'Garden City No2.' stated that limitation of liability:

> '…is of long-standing and generally accepted by the trading nations of the world. It is a right given to promote the general health of trade and in truth is no more than a way of distributing insurance risk. '

Insurance, amongst other things, is a financial instrument to facilitate commercial activity and trade. Liabilities can be open-ended. Insurance cover, in whatever form, is limited, and it is in seeking to reconcile that tension that limitation is brought into play.

For first party property insurance, including cargo cover, the financial exposure to the insurer is limited to the value of the thing being insured. That may be its market value, replacement value, new for old, in the case of cargo cover - its landed value. Whatever basis, that sum is more transparent. Liability insurers have no such luxury.

Insurers are subject to Government regulation, which amongst other things, seeks to ensure that regulated insurers operate on a solvent basis. Solvency in part, involves collecting sufficient premium to ensure that there is enough in the pot to pay claims. Establishing what is sufficient is more difficult where the exposure is unknown.

Limitation is an attempt to put framework or structure around the unknown, so that the insurance market has sufficient premium in the pot to pay its claim liabilities, and stay in business.

Protection and indemnity (P&I) Club's pay out the majority of claims for damage done by ships. These are mostly insurance mutual's that provide insurance at cost. In effect, shipowners are both the insurer and the insured.

Removing or increased liability limits would increase total claims liabilities for these mutual's. It is a question of degree as to what would be passed on to shipowners, as pricing does not focus on one part only of risk in ship operation. Increased calls however, have the capacity to be reflected in increased freight rates.

The case of the sugar in the concrete

By STUART HETHERINGTON, partner, Colin Biggers and Paisley, President Comité Maritime International

South Coast Basalt P/L ("SCB") and Pioneer Concrete (NSW) P/L ("PC") v RW Miller and Co P/L ("Miller"); and Miller v Hethking Steamships P/L ("Hethking"): unreported, Yeldham J, Supreme Court of NSW, 22 April 1977; and [1981] 1 NSWLR 356 (Privy Council).

The Facts

The two plaintiffs (SCB and PC), were wholly owned subsidiaries of Pioneer Concrete Services Pty Ltd. SCB was the lessee of a basalt quarry at Bass Point, six hours by sea south of Sydney. From about 1973 basalt, which had been extracted from the quarry, crushed and graded into aggregates of various sizes, was shipped to Blackwattle Bay in Sydney, where PC used it in the manufacture of ready-mixed concrete.

Miller entered into a long-term Contract of Afreightment (COA) to carry the basalt for SCB on 22 June 1973. Initially it used its own vessel, the *Lisa Miller*, for that purpose but it had grounded and the *Hexham Bank* had been used for one voyage whilst *Lisa Miller* was undergoing repairs. Miller time chartered the *Cobargo* from Hethking under a Baltime 1939 Uniform Time Charter, dated 3 October 1974 to perform the COA. The *Cobargo* was managed by Hetherington Kingsbury Pty Ltd. It had been acquired by Hethking in about July 1973 and had carried sugar from the northern rivers of NSW to Sydney. The first two voyages under that charter involved the carriage of coal. On 15 November 1974 basalt was carried from Bass Point to Blackwattle Bay.

It was alleged by the plaintiffs that during that voyage a quantity of water in the No. 2 hold could not be removed by reason of a defective bilge pumping system. The water had derived from an excessively wet cargo of coal. It was further alleged that quantities of sugar, which also remained in the hold became dissolved and approximately 400 tons of 10mm aggregate, which was stowed in the hold, became contaminated. As a result it was alleged much of the concrete made from that basalt failed to set properly causing substantial damage to the plaintiffs.

The judgment of the Privy Council, to which reference is made later, contains the following description of the detection of the problem: "The mode of its discovery was bizarre. As a result of the evaporation by the summer heat of the water in which the sucrose was dissolved, clouds of bees were attracted to the deposited sugar in a batch of aggregate passing along the conveyor belt to the Blackwattle Bay plant".

The claim by SCB against Miller

SCB's claim against Miller alleged breaches of the COA, including clause 21(c), which provided that: "Miller shall ensure that there is no contamination of aggregate by coal or other materials (excluding sea water) or by different sizes of aggregate from the time of loading at Bass Point until discharge onto Basalt's Conveyors".

It was also asserted that Miller was in breach of an implied warranty of seaworthiness. Allegations of negligence were also made by the plaintiffs (PC only suing in tort).

The defence of Miller

By its defence, Miller denied that clause 21(c) had the effect contended for or that there was any implied warranty of seaworthiness, and that it was not in breach of either allegation. It also denied any causal connection between the damage suffered by SCB and any such breaches, and relied upon clause 17, the force majeure/exception clause in the COA which, inter alia, protected Miller from acts or neglects of the Master in the navigation or management of the ship. In answer to the negligence claims Miller also denied any negligence, or that any negligence was causally related to the damage claimed, and asserted contributory negligence. Clause 17 was also raised in response to the claim in tort by SCB.

The reply by SCB

In response to the reliance on clause 17, SCB relied on s.5 of the Sea Carriage of Goods (State) Act 1921, which made certain provisions in "any bill of lading or document" null and void.

Miller's claim against Hethking

The claim against Hethking by Miller relied on breaches of clauses 1 and 3 of the Time Charter. Clause 1 described the vessel as "being in every way fitted for bulk cargo service with all cargo spaces swept clean".

Clause 3 required "the owners to provide and pay for all provisions and wages, for insurance of the vessel, for all deck and engine room stores and maintain her in a thoroughly efficient state in hull and machinery during service". Reliance was also placed on an implied warranty of seaworthiness.

Hethking's defence to Miller

Hethking denied those allegations and also relied on clauses 9 and 13 of the Charter. Clause 9 provided: "The Owners not to be responsible.... for damage to or claims on cargo caused by bad stowage or otherwise". Clause 13 provided: "The Owners only be responsible for delay... and for loss or damage to goods on board, if such delay or loss has been caused by want of due diligence on the part of the Owners or their Manager in making the Vessel seaworthy and fitted for the voyage or any other personal act or omission or default of the Owners or their Manager. The Owners not to be responsible in any other case nor for damage or delay whatsoever and howsoever caused even if caused by the neglect or default of their servants..."

Miller's reply to Hethking

In response to Hethking's reliance on the charter party provisions Miller, in turn, relied upon s.5 of the Sea Carriage of Goods (State) Act 1921.

The hearing before Yeldham J in the NSW Supreme Court

The hearing lasted nine days. Expert evidence was given to the effect that a small amount of sugar in a concrete mix has a harmful effect on its setting properties. Yeldham J found that sugar had remained on the gusset plates, limbers, sheathing, tank top, and under the ceiling timbers forming the floor of the hold, and between the side hopper boards and the skin of the ship. He also found that when in solution, as a result of the water lying in the hold, it coated a considerable proportion of the basalt with sucrose.

Yeldham J accepted that the bilge pumping system was prevented from operating by reason of "thick and sticky quantities of sugar lying in the bottom of the hat box; in the pipe which protrudes up into it from below and in the holes in the strum box or straining surrounding such pipe".

Miller's liability to SCB: under the COA

In considering the liability of Miller to the plaintiff under the COA, Yeldham J construed the interaction of clauses 17 and 21(c) as not making Miller a guarantor or insurer against contamination. He held, however, that Miller was in breach of its obligation under clause 21(c). That obligation he construed as being "to take reasonable steps for the purpose of making sure that no contamination occurred i.e. that no foreign substances, whatever their likely effect, were present". He thought "contamination" in this context referred to "the rendering of the aggregate impure by the presence of foreign substances irrespective of whether that impurity is likely to be relevant to the manufacture of concrete". Yeldham J found that Miller should have taken steps to ensure that the residues of sugar were removed from the vessel.

Miller's liability to SCB: implied warranty of seaworthiness

He also found that there was an implied warranty of seaworthiness, which applied at the commencement of each voyage under the COA. He accepted that the warranty included "both the fitness of the ship to encounter the perils of navigation and her fitness to carry the cargo" [Anglo Saxon Petroleum Co Ltd v Adamastos Shipping Co Ltd [1957] 2 QB 233]. Yeldham J concluded that although Miller and its employees were unaware of the likely effect of sugar on concrete made from aggregate contaminated by it "the vessel was not fit for cargo of any kind by reason of the presence of sugar dissolved in water'.

The exception clause

He then considered clause 17 of the COA. He found that clause 17 did not avail Miller, as the master and crew were not servants of Miller and, if they were, the negligence was not in the navigation or management of the vessel [Gosse Millard Ltd v Canadian Government Merchant Marine Ltd [1929] AC 223].

Sea Carriage of Goods (State) Act 1921

Interestingly, in his consideration of s.5 of the Sea Carriage of Goods (State) Act 1921, Yeldham J concluded that the reference to "document" included the COA, as it was "a document relating to the carriage of goods by sea, just as is a bill of lading".

Remoteness of damage

Cobargo loading at the NSW south coast port of Tathra

In considering Miller's arguments to the effect that any damages suffered by SCB by reason of Miller's breach of its contractual obligations to SCB were not causally related, Yeldham J had to consider questions of remoteness. In reliance on well known cases [Hadley v Baxendate [1854] 9 Ex 341; Victoria Laundry (Windsor) Limited v Newman Industries Ltd [1949] 2 KB 528; Koufos v C. Czarnikow Ltd [1969] 1 AC 350], Yeldham J held that SCB was entitled to recover the damages claimed on the basis that Miller "should reasonably have contemplated that if the vessel was unseaworthy, in the sense of not being fit for the reception of the aggregate, contamination could occur which would affect the final product and involve the first plaintiff in liability at the suit of those who purchased the aggregate from it".

In considering whether Miller could benefit from an argument that SCB was not strictly liable to its customers (by reason of its own terms and conditions), Yeldham J applied the reasoning of Banco de Portugal v Waterlow & Sons Limited [[1932] AC 452]; Levi Strauss (Australia) Pty Ltd v Mayne Nickless [Court of Appeal NSW, unreported 17 December 1976] in holding that SCB had acted reasonably.

His Honour also found that there was no liability by one plaintiff to the other under any condition implied by section 19(1) of the Sale of Goods Act, and his Honour considered a number of cases, including some, then, recently decided leading cases such as Cammell Laird & Co Ltd v Manganese Bronze & Brass Company Ltd [[1934] AC 402]; Hardwick Game Farm v S.A.P.P.A [[1969] 2 AC 31]. and Ashington Piggeries Ltd v Christopher Hill Ltd [[1972] AC 441].

Miller's liability to PC

In relation to actions in tort, his Honour had no difficulty finding that Miller owed PC a duty of care and applied the decision in Overseas Tank Ship (UK) Ltd v Morts Dock & Engineering Co Ltd (Wagon Mound

Sydney's Blackwattle Bay today

No. 1) [[1961] AC 388] and the requirement that "foreseeability of harm is the essential criterion for both the liability and the extent of compensation payable by one who is so liable". Yeldham J also referred to a number of other cases, such as the Wagon Mound (No 2) [[1967] AC 617]; Bolton v Stone [[1951] AC 850], Koufos v Czarnikow Ltd [[1969] 1 AC 350]; Dorset Yacht Co Ltd v Home Office [[1970] AC 1004]; Mount Isa Mines Ltd v Pusey[125 CLR 383] and Caterson v Commissioner for Railways [128 CLR 99].

His Honour held that it was "not foreseeable prior to the loading of the cargo of basalt into the hold on 15 November and its carriage to Blackwattle Bay, that the presence of dry sugar in the hold in the places and in the quantities in which they existed would be "not unlikely" to deleteriously affect the concrete, for the manufacture of which the basalt was used, in any way which may have required its removal". Accordingly Miller, he found, was not in breach of its duty of care to PC because damage of the general nature of that which occurred, in so far as sugar contributed to it, was not reasonably foreseeable by the defendant."

Furthermore, he held that even if he was wrong in that regard, the knowledge of the plaintiff's employee at the load port of the presence of the water in the hold, brought about by defects and blockages in the bilge pumping system, such water giving to the sugar a harmful effect, was an intervening act of such a kind as was itself not reasonably foreseeable.

Liability of Hethking to Miller

Clause 1

In relation to Miller's cross-claim against Hethking, which relied upon clause 1, (which required the vessel to be presented "in every way fitted for the bulk cargo service with all cargo spaces swept clean" on 3 October 1974) his Honour noted that the words "with all cargo spaces swept clean" were not on the printed form but had been added by typewriter.

Yeldham J found that there was a breach of clause 1. Although he considered the words "cargo spaces" referred to those areas into which it might reasonably be expected that bulk cargo would be received and there was no breach in the failure to remove sugar lying beneath or behind the boards which lined the after hold, there had been a lack of due diligence in removing the sugar from areas such as the gusset plates, limbers, sheathing and tank top. He relied on the decision in Brabant [[1967] 1 QB 588], where a specially typed clause had read "the decks and holds and other cargo spaces to be properly cleaned at owners risk and expense before loading."

Clause 3

Miller also relied on clause 3, which required the owners to maintain the vessel in "a thoroughly efficient state in hull and machinery".

Yeldham J rejected a submission by Hethking, that because the bilge pumps were themselves efficient (although their operation was impeded by the blockage in the strum box), there was no inefficiency in hull and machinery. Likewise he rejected a submission by Hethking, that because there was a relatively easy manner by which the water could be removed from the lower hold the bilge lines could be regarded as being in a thoroughly efficient state. His Honour also distinguished the case of Giertsen & Others v George V Turnbull & Company [[1908] S.C. 1101], relied upon by Hethking to support the proposition that clause 3 merely required the owner to bear the costs of maintenance and did not place a duty on it, breach of which made it liable in damages. Yeldham J relied on the decision in Hong Kong Fir Shipping Co Ltd -v- Kawasaki Kissen Kaisha Ltd [[1962] 2 QB 26] in finding that clause 3 was a warranty, breach of which gave rise to a claim for damages.

His Honour was prepared to hold that the clause "did not impose an absolute engagement or warranty - i.e. that it was not in the position of an insurer" but that it did require that Owners "should within a reasonable time take reasonable steps to make the vessel thoroughly efficient in hull and machinery and that if it fails to do so it is liable in damages." This they had failed to do.

Implied warranty of seaworthiness

Yeldham J did not find the implied duty of seaworthiness, which Miller relied upon, had been breached by Hethking at the time the charter took effect on 3 October 1974.

Exception clauses

Having found that Hethking was in breach of clauses 1 and 3 of the charter party his Honour had to consider whether the provisions of clauses 9 or 13 protected Hethking.

Clause 9

The relevant part of clause 9 read:

"The Owners not to be responsible for shortage, mixture, marks, more than the number of pieces or packages, nor for damage to or claims on cargo caused by bad stowage or otherwise."

In seeking to rely on clause 9, Hethking sought to argue that the words "or otherwise" were not to be construed "ejusdem generis" with bad stowage. Yeldham J held that

clause 9 did "not purport to nor does it deal with circumstances such as those with which the present case is concerned."

Clause 13

In dealing with clause 13 (which has been set out earlier) Yeldham J quoted extensively from Westfal-Larsen & Co v Colonial Sugar Refining Co Ltd [[1960] NSWR 170], which also had to consider this clause. It was a decision of Walsh J in the New South Wales Supreme Court, and had been approved by McNair J in "the Brabant". Yeldham J held that Hethking was guilty of "personal default by failing to institute and supervise a proper system of reporting and effecting repairs".

Evidence

In a masterly cross examination of Mr Deane, the only working director of Hethking, Murray Gleeson QC, for Miller, obtained the following evidence:

"Question: Would you agree with me if you had known on 15 November 1974 what you know about the entries that appear in the daily work book concerning the bilge pumps in October and November you would not have permitted the vessel to go to sea?

Answer: That is correct.

Question: What system was there within Hethking Steamships in October and November 1974 for bringing to your attention the entries that you now know exist in the daily work book of the vessel?

Answer: Those entries would have been brought to my attention by reports from the superintendent engineer.

Question: But they were never were brought to your attention, were they?

Answer: No, they were not."

Sea Carriage of Goods (State) Act 1921

Hethking had also relied upon Section 5 of the Sea Carriage of Goods Act and argued that it did apply to the time charter agreement between Hethking and Miller. Yeldham J held that had Hethking been entitled to rely on clause 13 it would not have been deprived in so doing by Section 5, because it did not encompass a time charter as a "document".

Remoteness of damage

As to whether Hethking was obliged to indemnify Miller against its liability to SCB, the question next arose as to whether the damages which SCB was entitled to recover from Miller and which Miller sought to recover from Hethking were too remote (as Miller had unsuccessfully argued as against SCB), or the intervening negligence of Miller, as well as members of the Pioneer Group, broke the chain of causation. For the reasons discussed in relation to the SCB claims against Miller, and on the basis that his Honour considered that those involved with the management of Hethking should reasonably have contemplated that Miller might be liable in damages to the shipper, Hethking was found liable to indemnify Miller against its liability to SCB.

Privy Council

SCB and Pioneer appealed to the Privy Council against that part of Yeldham J's judgment that denied them recovery of the losses claimed by Pioneer. (Interestingly Sir Garfield Barwick (Chief Justice of Australia) sat on the appeal, together with Lords Diplock, Fraser, Scarman and Richmond). The plaintiffs were successful in having that part of his Honour's judgment overturned, that is the entitlement of SCB to recover from Miller the losses which Pioneer had claimed against SCB. Their Lordships found that the sale from SCB to Pioneer was subject to s.19(1) of the Sale of Goods Act. As Hethking had challenged his Honour's finding that Miller was in breach of the implied warranty of seaworthiness to SCB, their Lordships rejected that submission and confirmed Yeldham J's view that the state of the after hold of the *Cobargo* "only needs to be described to justify the Judge's conclusion". (The Board did not need to deal with the alternative claim by Pioneer against Miller in negligence).

Hethking also unsuccessfully challenged the decision of Yeldham J by which Miller's liability to SCB was passed through to it. Hethking had sought to argue that "although the contamination of the cargo by sucrose solution was damage of a kind that was a foreseeable consequence of the breach, the actual seriousness of the damage caused by such contamination to aggregate used in the manufacture of concrete, although it was common knowledge in the concrete industry, was not in the state of knowledge to be attributed to a reasonable shipowner, foreseeable by Hethking". Their Lordships, approving Yeldham J's reasoning, confirmed that "it is sufficient that the damage actually resulting from the breach is of a kind which a reasonable shipowner at the time of entering into the charter party would have foreseen as being a not unlikely consequence of the breach, if he had thought about the matter" (i.e. the degree of the potential loss is not relevant).

The ship takes her name from the picturesque NSW south coast township of Cobargo

Newcastle Mission to Seafarers

By REVEREND CANON GARRY DODD, senior chaplain to the port of Newcastle

The Mission to Seafarers started in Newcastle 140 years ago, in 1875, only 19 years after the Mission to Seamen was established in London. The present building was, "*erected as a memorial to the deeds of Seamen who served in the Navy and mercantile marine, during the two great wars, on 28th April 1944.*"

Over the 71 years the Mission building has been in Wickham, Newcastle, the port of Newcastle has seen many industries prosper and fall. Once steel was the king in Newcastle, with the former BHP steel works; currently it is coal, and who knows what new commodities will be transported through the port in the next 70 years. The Mission offers a magnificent modern centre providing free transport, internet, clothing, food, literature, welfare and spiritual support. We have worked together with the Apostleship of the Sea since 1936.

More than ever, the seafarers who enter Newcastle tell us quite clearly, they want to be connected. Connected to their families, to society and to themselves.

Connected to family and friends requires fast internet

We offer this service for free, enabling the wonderful gift of 'Skyping' home, as well as the many new ways to keep in contact with loved ones. There have been many occasions where seafarers have seen their newly born child for the first time. The joy and beauty of that moment is always special, whilst tinged with the pain of separation. Similarly, we are there when seafarers find out a tragedy has happened at home, and we can offer practical support and comfort.

Connected with society

We are ideally located, just 15 minutes from the furthest and five minutes from a major shopping centre, with some stores open 24hrs. Many seafarers choose to walk into town so that they can literally stop and "smell the roses". They deeply long to see normal life happening all around them and are often taking photos of everyday activities down the street, as reminders when they are isolated from society for weeks on end. Our free bus provides an on-demand service where we endeavour to quickly respond to seafarers needs and time requirements, to ensure what little time they have, we can maximise their shore leave. We also take Seafarers to see medical experts and tourist attractions.

Connected with themselves

The industry is well aware of the high rates of suicide among seafarers and also the high rates of accidents and injuries as a result of fatigue. The opportunity to spend quality time right away from the vessel and the surrounding industry, is paramount. Providing a safe environment where seafarers can truly relax, away from the things that remind them of work (e.g. industrial areas where you can still see the vessel) ensures the small amount of land-based welfare is quality. It is also here where the Mission provides, not just a centre, but a home. We have over 40 volunteers who give of themselves to make a visit to the port of Newcastle a special and life giving experience.

The Newcastle Mission is ranked in the top five centres in the world by the International Seafarers Welfare and Assistance Network. Seafarers have nominated us because they genuinely feel a deep respect and love when they enter our doors. They come to a place they can own and enjoy.

Other ministries, such as our teams of Ship Visitors and hospital visitations are also integral to our mission. Very often, the fast paced industry forgets about the "human element", despite the numerous publications on the matter. Providing services such as these ensures a human and caring touch for those who are left behind. Our role as advocate and upholders of the MLC for Seafarers gives us a unique position, and gives a voice to seafarers who are powerless or scared.

Of the estimated 40,000 seafarers, visiting Newcastle in the past twelve months, we transported 12,928 and over 13,200 entered our centre. A second fulltime bus in operation will increase this statistic to an estimated 50 per cent of all seafarers. Currently we need $20,000 for a new bus, enabling us to achieve this this goal. We also visited 793 vessels (37 per cent), travelled over 60,000 kms.

The Mission to Seafarers is not a "sexy" charity and it is hard to get support for the Mission from outside the industry. We are incredibly grateful to all our sponsors who enable us to operate. Please see our website (www.mtsnewcastle.org.au) or find us on YouTube for the list of organisations who keep our doors open. To each of them we owe an enormous debt of gratitude. If you are in a position to assist us as we continue this 140 years of service, please do so. Thank you.

Victory at Waterloo!

15,000 slaughtered to change future of Europe

A VOICE FROM WATERLOO, a history of the battle fought on June 18, 1815.
By SERGEANT-MAJOR EDWARD COTTON, late of the 7th Hussars.
$!0.20 paperback Forgotten Books, 312 pages; $5.22 Kindle.

SYDNEY, 0800 hrs June 18, 1815: Somewhere around this time 200 years ago close on 200,000 soldiers and a handful of women masquerading as men, lined up amid the lush crops of a village just a few hours walk from Belgium's capital of Brussels.

All are prepared to die before the day is out altho' another 8000 have already changed their minds and left for home.

Seventy-two thousand Frenchmen led by Napoleon Boneparte, thrill to military bands. Facing them, a motley 68,000 mostly-British soldiers rally to the skirling pipes of Scottish regiments. They are led by General Arthur Wellesley, Duke of Wellington; he of the boots, the capital of New Zealand, and streets in almost every corner of today's English-speaking world.

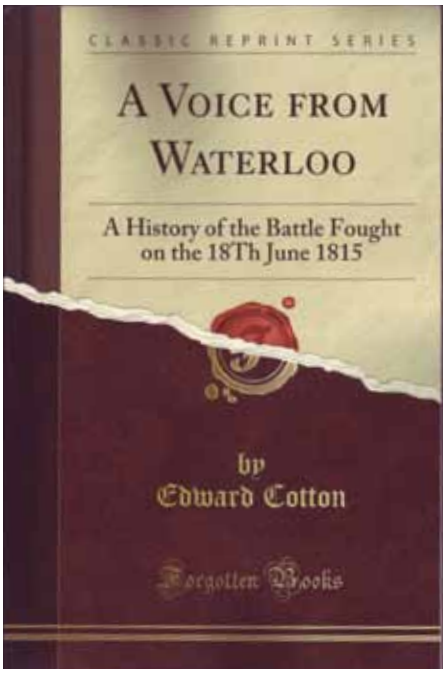
Several hours away the Prussian General Gebhard Blucher and another 50,000 soldiers hurry through torrential rain and knee-deep mud determined to kill as many French soldiers as they can.

A Voice From Waterloo is the story of what happened next, as written by Edward Cotton who fought throughout the battle and survived. He spent the rest of his life selling souvenirs from the battlefield and copies of his book. He died a rich man. Thousands of his fellows did not survive the day

Ed Cotton gives an eye-witness account of the first time in history and the last time until 1940 and Adolf Hitler, when all Europe united to destroy just one man. Two hundred years on it still makes shocking reading.

He describes the night before the battle: A Saturday; think of it as Double Bay in French. The Duchess of Richmond is holding a ball in Brussels. Beautiful women dance with soldiers in magnificent uniforms; none more magnificent than the Duke of Wellington, a notorious philanderer either irresistible to women, or as purposeful in love as he was in war.

At 10pm the news arrives: Napoleon and his entire army are almost on the doorstep, a few



kilometres away at Waterloo. It is Wellington's last dance for a while and the last forever for many of his officers.

"Hey," you may be thinking, "when is the review of this book going to start?" Well, this is it, buddy. When one reviews a bottle of wine one has a taste. Same with some books! Here's a sip of this one:

"It was as bad a night as ever I witnessed," Cotton writes. "Torrents burst on our comfortless bivouacs and the uproar of the elements seemed a harbinger of the bloody contest."

Come early Sunday morning the torrent turned to drizzle, the Duke gets to the battlefield at 10. All troops are in position waiting, and waiting, and waiting.

Years later Napoleon said he was waiting for the ground to dry but it gave Wellington priceless time to await the arrival of his ally, Prussia's General Blucher, and his massive reinforcements that swung the battle against Napoleon.

"The actual battle began at about 10 past noon," Cotton says, "with a British artillery barrage blowing a complete road through the mass of advancing French. It was the start of a day of carnage for both sides.

"Every gun played into the long flank of the French columns which appeared to wave like high-standing corn blown by sudden gusts of wind from the terrible effect of each discharge … men and muskets sent flying in the air after this dreadful fire."

A Scottish sergeant recalls his part in capturing an enemy's standard, "I took the eagle from its bearer, he and I had a hard contest for it; he made a thrust at my groin, I parried it and cut him down through the head.

"After this a lancer came at me and I threw his lance off on my right side and cut him through his chin and upwards through his teeth. Next a foot-soldier fired at me and then charged me with his bayonet which I also had the good luck to parry and then cut him down through his head; thus ending our contest."

And so it went on hand-to-hand all day until sunset at 8.15 over the smoking wreckage of the French army and tens of thousands of dead and injured from both sides.

Cotton again: "We the conquerors were glad to lie down among the dead and dying and snatch a few hours of necessary repose. Were I to live to the age of Methuselah, never shall I forget that evening."

Reflect on that dear reader come 8.15pm this June 18.

Winners are grinners, of course, and Wellington went on to be twice Prime Minister of Great Britain. He lies almost forgotten in a gloomy vault of London 's St Pauls Cathedral; Napoleon was eventually dug up from exile on St Helena and resides today in golden splendour within Les Invalides in the centre of Paris where thousands of tourists visit him daily. ***– ARCHIE BAYVEL.***

NEWCASTLE STEVEDORES AUSTRALIA

CARING FOR OUR CLIENTS AND THEIR CARGOES

Newcastle Stevedores specialises in Break bulk, Project cargo and containers in the port of Newcastle and works at developing client relationships ensuring a high quality of stevedoring services.

Our ability to give assurances is supported by highly trained human resources backed up by an experienced Management and operational team who excel in ships planning and ship management who are backed up with specialist stevedoring equipment and machinery

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LETTERS TO THE EDITOR

Dear editor

In the spring/summer edition of the journal former SAL president Michael Phillips, referred to the case of the *Cobargo* in a letter to the editor. He was unable to say whether I was involved in the case and I thought your readers might be interested to know something further about the case.

I was very fortunate to have had a minor role in that litigation. Normal Lyall was the Ebsworth & Ebsworth partner retained by RW Miller & Co Pty Ltd, the defendants in the proceedings and I assisted him in gathering evidence and instructing Counsel before Justice David Yeldham, in the New South Wales Supreme Court.

The case was tried over nine days in the number 4 court in the old Supreme Court building. I recall Yeldham J reminding Counsel during the course of the trial that the original hearing in the well known case of *Overseas Tank Ship (UK) Limited v Morts Dock & Engineering Co Ltd* (The "Wagon Mound") was heard in the same court.

Unfortunately the first instance judgment was so extensive (137 pages) that it was never reported in the law reports. The Judgment covers a wide range of legal issues concerning maritime law and for a young solicitor it provided me with a wonderful reference source for many of the key issues which I have had to revisit in many instances in my career. I have prepared a more detailed note of the case which the editor may care to publish and from that it will be seen how extensive the judgment is.

Michael Phillips' recitation of the facts is extremely accurate, with one omission that I think is worth recalling. He recounted that "following discharge (of the aggregate) some time later, complaints arose from various building sites around the city that cement was not setting". My recollection is that workers around those building sites noticed that large numbers of bees were being attracted to those sites where the cement/molasses mix had been poured.

Murray Gleeson QC, as he then was, was briefed by RW Miller & Co Pty Ltd. (He subsequently became Chief Justice of New South Wales and then Australia). It was my first occasion to witness Murray Gleeson QC in full flight and I have ever since regarded his cross-examination of witnesses and his submissions to Yeldham J in that case as the most impressive advocacy I have witnessed in 40 years as a legal practitioner.

Stuart Hetherington, Colin Biggers and Paisley.

Editor's Note:

Our thanks to Stuart for bringing us the details of this interesting case. His full review is an intriguing read from page 52 and provides a fascinating insight into the days when intra-state shipping was flourishing.

Dear editor

I have recently had a chance to read SAL's 'Annual Review 2014', which was, as usual, very informative and well put together. However, I do have what I believe to be an important point to bring to your attention.

The Annual Review confirmed very strongly that, at least in Australia, the maritime sector is still almost totally male dominated. In fact, the publication featured 50-plus male personalities/authors but only four women (and one of these is the SAL CEO's Executive Assistant!). Given that Australian governments and industries have been working very hard to crack the so-called 'glass ceiling' for women, I find this sort of ratio quite unacceptable.

Having worked in the maritime sector, as a mariner, consultant, barrister and academic all my life, I am well aware that this sector has historically not been very welcoming to women. However, that appears to have changed quite rapidly everywhere – except in Australia. This is despite the fact that there are quite a number of highly competent women working at various levels in Australia's maritime sector. This does not seem to be recognised by SAL, which continues to operate without a single woman on either its Board of Directors or its Policy Council. I would have thought that SAL could have provided some leadership in this area by example?

Yours sincerely

Edgar Gold, AM, QC

Editor's Response:

Thank you for your letter dated 30 March which we have received by fax.

We note your concerns that the maritime sector is still almost totally male dominated. Shipping Australia encourages female participation at all levels and there are quite a few, but generally not in the top positions. The good news is that this is changing and in the past few months we now have two female CEO's in our membership. You will be delighted to learn that our *Profile* features Lena Christenson-Duus, managing director Oceania, Hapag-Lloyd.

There is also a group of women who get together regularly to network, who are members of the group "WISTA" (Women's International Shipping & Trading Association). WISTA is an international organisation for women in management positions involved in the maritime transportation business and related trades worldwide. It is a major player in attracting more women to the industry and in supporting women in management positions. With networking, education and mentoring in focus, WISTA seeks to enhance members' competence and empower career success. Shipping Australia and Young Shipping Australia engage with this group.

You make a good point, the shipping industry is a challenging environment for women but there is light at the end of the tunnel. You would also be interested to know that more than 25 per cent of the Royal Australia Navy is female and the proportion of females in seagoing positions is even higher.

Thank you once again for taking the time to write to us.

AUSTRALIAN SEAFARERS' WELFARE COUNCIL

The shipping industry depends on the seafarers that crew the ships of the world's commercial fleets.

The welfare of those seafarers is a major factor in the safe working and operation of the industry. However, until early last decade, there had been little in the way of a coordinated national approach to this vital human aspect.

The *Maritime Labour Convention 2006* encourages the development of welfare boards at the port, regional and national level.

The Australian Seafarers' Welfare Council (ASWC) promotes the development of existing welfare facilities and assists in coordination of port/regional welfare committees.

Australian Government
Australian Maritime Safety Authority

Australian Government
Australian Transport Safety Bureau

Shipping Australia Limited

The Mission to Seafarers
Caring for seafarers around the world

RioTinto

itf

Apostolatus Maris

Ports Australia

SSH

ASA
Australian Shipowners Association

For more information on the ASWC please visit

www.amsa.gov.au/seafarers_welfare