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DEL AGUILA Fiorella

From: Sutton Michael
Sent: Wednesday, 2 December 2015 5:23 PM
To: BRYANT Katherine
Cc: OPOKU Naa; DRINKELL James
Subject: qtb 253 [SEC=UNCLASSIFIED]
Attachments: QB15-000253.docx

Katherine – I think we will need to modify 253. This will be to flatten out the talking points about the alcoa TL to take account of the current court case, and update the background

Naa – will discuss in the morning; i think it should be straightforward (what I have in mind is that the DPM would just make the factual statement that a TL was issued on 22 october, and also indicate that the TL is currently the subject of action in the Federal court – very flat and brief. Update the background to reflect the hearing on the 14th)

Thanks

michael

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MV Portland

Talking Points

- I understand that the MV Portland is near the end of its operating life. It is 27 years old and the costs of keeping it in service are becoming prohibitive.
- Alcoa has advised the Government that decommissioning the ship as one of a number of cost saving measures being taken in an attempt to help protect more than 2,000 direct and indirect jobs associated with the Portland aluminium smelter.
- It is entirely a commercial decision, and in this case the owner of the ship (Alcoa) has determined that it is no longer viable to operate the licenced vessel.
- This decision has been taken and implemented under the current legislative framework – put in place by the former Labor Government when they were in office.
- It is unfortunate that yet another major licenced Australian trading vessel is going out of service, but it is symptomatic of the urgent need for reform of the current legislation, which is simply not working.
- The number of licenced major Australian trading vessels had already fallen from 30 to 15 between 2006-7 and 2013-14.

[If asked] Alcoa's temporary licence application

- Alcoa applied for and was granted (on 22 October) a Temporary Licence under the provisions contained in the former Labor Government's *Coastal Trading (Revitalising Australian Shipping) Act 2012* to transport alumina between WA and Portland up to October 2016.
- The application was processed by the Department in accordance with the standard processes under the coastal trading legislation, including consultation with Australian General Licence holders and other interested stakeholders including shipping associations and maritime unions.
- No comments were received from any party, including the Maritime Union of Australia.
- The MUA's letter complaining about the issue of the Temporary Licence was sent on 6 November, weeks after the consultation process had concluded and the temporary licence was issued on 22 October .

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- Alcoa's decision not to replace the MV Portland is a commercial decision by the company under the regulatory regime in place through the current *Coastal Trading (Revitalising Australian Shipping) Act 2012*.
 - It has not been caused by the Government's reforms contained in the *Shipping Legislation Amendment Bill 2015*
 - The decision by Alcoa is further confirmation of the need for reform to secure the future of shipping in Australia

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BACKGROUND

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

Alcoa has advised the Government that decommissioning the MV Portland is one of a number of cost saving measures being taken in an attempt to help protect more than 2,000 direct and indirect jobs associated with the Portland aluminium smelter. Alcoa has worked with ASP to help ensure that any affected crew from the MV Portland receive appropriate entitlements and assistance.

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

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

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

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

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

On 24 November 2015, the MUA filed an application in the Federal Court for a judicial review of the decision to grant Alcoa a temporary licence.

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DEPARTMENT INFORMATION CORRECT AS AT: 25 November 2015

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PDMS: QB15-000253