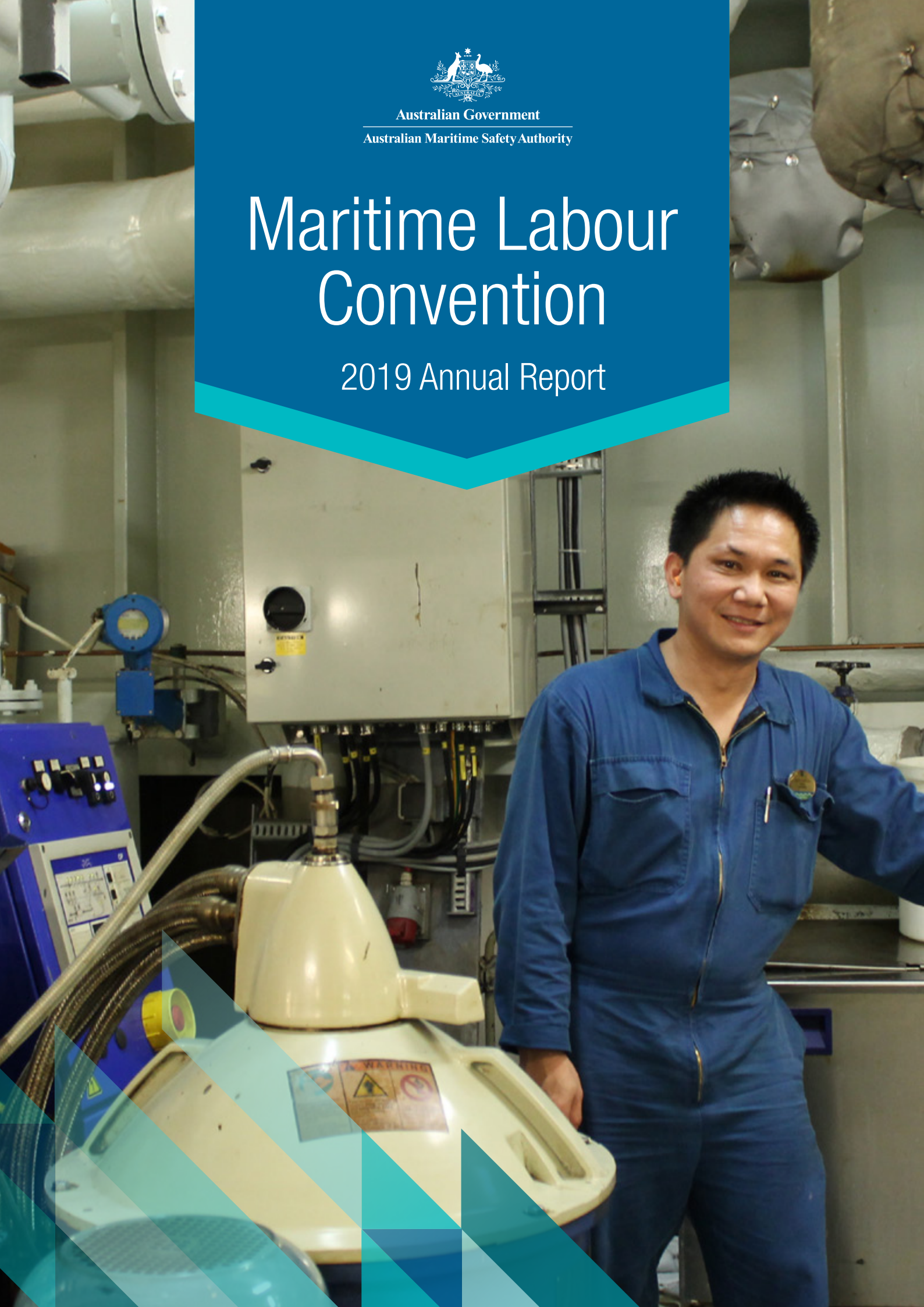




Australian Government  
Australian Maritime Safety Authority

# Maritime Labour Convention

2019 Annual Report





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Australian Government

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Australian Maritime Safety Authority

# Maritime Labour Convention

2019 Annual Report





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# Overview

## Purpose of this report

The Australian Maritime Safety Authority (AMSA) is pleased to present the first Australian, *Maritime Labour Convention, 2006* (MLC) annual report. This report presents an analysis of MLC complaints, compliance and follow up actions undertaken in Australia. The data represents 2019 statistics, with a comparison of previous years since the MLC was implemented.

Research<sup>1</sup> shows that the most dangerous risk to seafarers is not from job-related accidents, but social conditions on board, both at sea and in port. Fatalities associated with social causes are the largest group. Providing seafarers with a positive living and working environment contributes to safe working practices, reduced injuries, better safety outcomes, increased employee satisfaction and ultimately, employee retention. With this in mind, the protections offered by the MLC are clearly leading to positive outcomes<sup>2</sup>.

The available evidence indicates that the application of the MLC and AMSA's approach to on board compliance has improved the reporting culture which has led to increased involvement by AMSA and ultimately better outcomes for seafarers.

This report will provide a base line of findings on some of the issues uncovered following our investigations, for further evaluation and implementation of programs associated with improving seafarer welfare conditions at sea and in port.

## Introduction of the MLC

Adopted by the International Labour Organization (ILO), MLC came into force internationally on 20 August 2013. Australia implemented the convention at the same time. The MLC sets modern principles relating to the employment and social standard for seafarers globally, ensuring their right to decent working and living conditions on vessels. When the MLC was adopted, it was described as a "historic event".

The MLC provides the basic requirements for seafarers' welfare and includes:

- Minimum requirements for seafarers to work on a ship
- Conditions of employment
- Accommodation, recreational facilities, food and catering
- Health protection, medical care, welfare and social security protection
- Onboard complaint handling, inspection and enforcement.

The implementation of the MLC has made a significant contribution to the improvement of living and working conditions for seafarers. However, the data suggests that seafarers' welfare is still compromised in many aspects. Hence, AMSA is committed to continue its efforts on ensuring that seafarers get the treatment they deserve.

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1 Nielsen, M. B., Mearns, K., Matthiesen, S. B. & Eid, J. (2011). Using the Job Demands-Resources model to investigate risk perception, safety climate and job satisfaction in safety critical organizations. *Scandinavian Journal of Psychology* (italics) 52, 465-475.

2 Kum Fai, Y., Hui Shan, K., Qingji, Z., Yiik Diew, W. (2018) Determinants of job satisfaction and performance of seafarers in Transportation Research Part A (italics), April 2018, Vol. 110, pp. 1-12

## Application of the MLC

The MLC applies to all commercial vessels whether publicly or privately owned. However, it does not apply to fishing vessels, vessels of traditional builds (such as dhows and junks), warships or naval auxiliaries or vessels not ordinarily engaged in commercial activities.

A list of the 93 countries that have ratified the Convention after 20 August 2013 can be found on the ILO website at ilo.org. Ships that fly the flag of any State that has not ratified the MLC do not receive any more favourable treatment than ships that are ratified, when in a port of signatory.

## Australia's obligation under the MLC

In Australia, the MLC is implemented primarily through the *Navigation Act 2012* and associated delegated legislation such as *Marine Order 11 (Living and working conditions on vessels)*. AMSA is primarily responsible for the MLC in Australia. AMSA ensures compliance with MLC conditions and the welfare of seafarers by:

- Processing all MLC complaints in relation to vessels in, or coming into, Australian ports
- Conducting port and flag State control inspections of vessels coming into Australian ports
- Ensuring registered Australian vessels are certified in accordance with the MLC, as given effect by *Marine Order 11 (Living and working conditions on vessels)*
- Taking a leading role in supporting the Australian Seafarers' Welfare Council.



## The Australian Seafarers' Welfare Council

The Australian Seafarers' Welfare Council (ASWC), promotes seafarer welfare services available in Australian ports to support and protect seafarers.

ASWC was established to ensure a continued focus on a national standard in the provision of welfare services for all seafarers visiting Australian ports. ASWC's role extends to assisting in the coordination of port/regional welfare committees, with AMSA playing a leadership (chairperson and secretariat) role in the work that ASWC aims to achieve, namely to:

- Provide leadership in the implementation of Australia's obligations to seafarers under the MLC
- Promote, encourage and support delivery of seafarer welfare services at Australian ports
- Promote communication and cooperation between parties providing welfare services
- Facilitate the establishment of a national network of seafarer support arrangements



## Research activity

In March 2018, a report titled ‘Assessing the determinants and consequences of safety culture in the maritime industry’ was released. The report was the culmination of a study that was carried out jointly by the University of Queensland (UQ), Curtin University and AMSA. The purpose was to provide new insights into seafarer safety and wellbeing by examining the influence of key organisational factors related to safety culture through a science based approach. Considering that safety culture is an important determinant of safety behaviour, well-being, injuries and accidents, a systematic assessment was conducted to investigate it’s influence on safety behaviour of seafarers on Australian and international commercial vessels operating in Australian waters.

A total of 1026 seafarers sailing on vessels representing 23 flag States participated in the study.

The full report titled ‘Assessing the determinants and consequences of safety culture in the maritime industry’ can be found on the AMSA website.

## Profile of Vessel arrivals in Australia - 2019

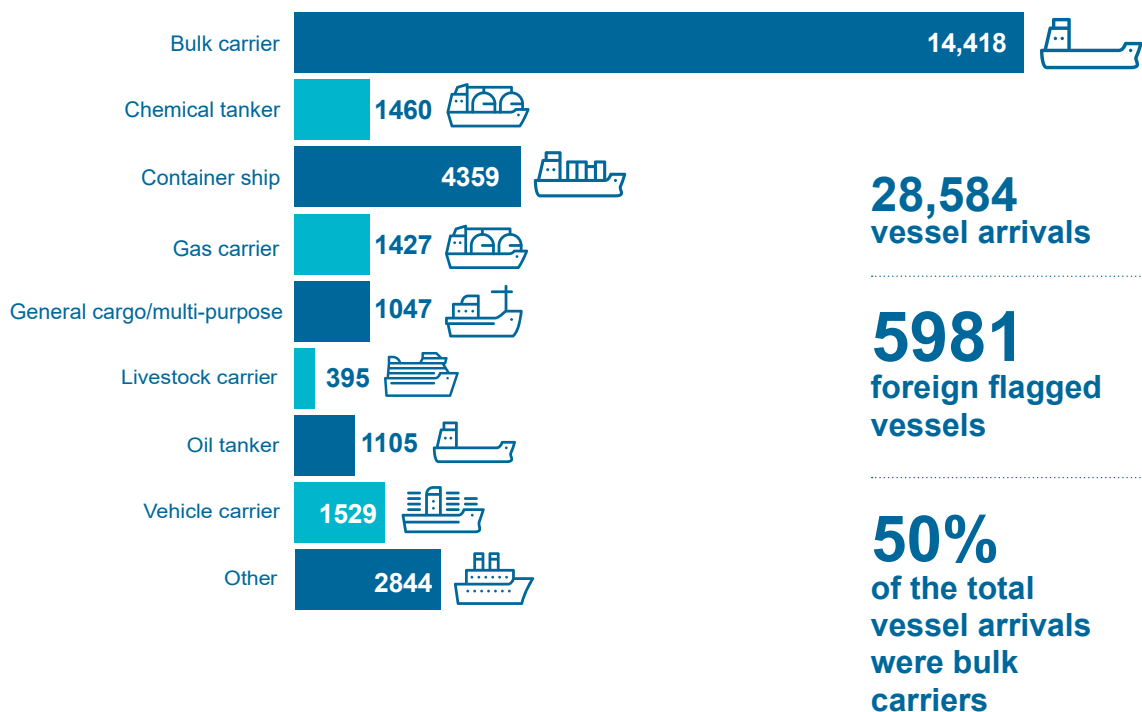


Figure 1  
Foreign vessel arrivals by vessel type

## Vessel arrivals to each State – 2019

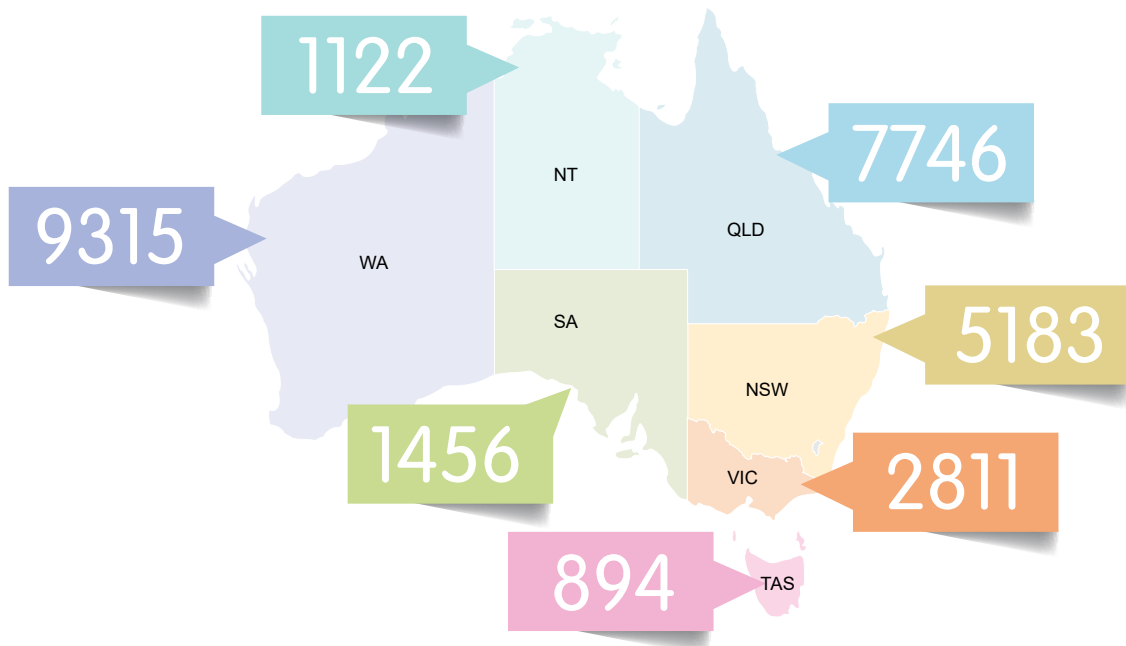


Figure 2  
Foreign vessel arrivals to each State – excluding Norfolk Island and Christmas Island

## Vessel arrivals by flag State - 2019

Nineteen per cent (19%) of all vessels arriving in Australia are registered in Panama. This is followed by Hong Kong, China (12%), Liberia (12%), Singapore (10%), Marshall Islands (9%), Bahamas, Malta and Japan.

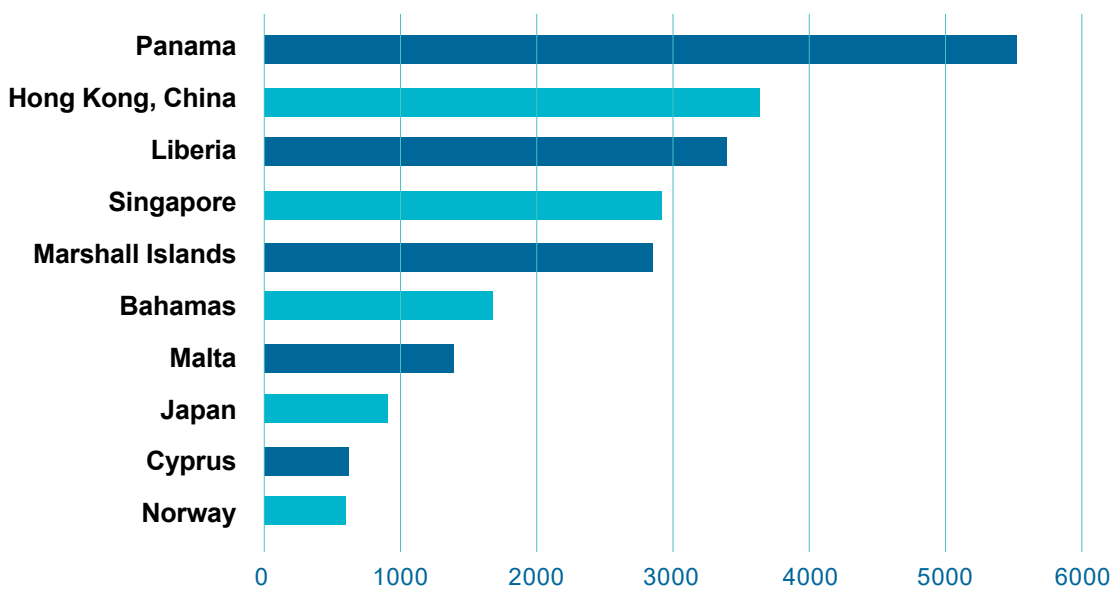


Figure 3  
Top 10 foreign vessel arrivals by flag State

# Complaints data

## MLC complaints data: 2015–2019

The MLC requires all vessels to have an on-board complaints procedure, allowing seafarers the opportunity to make complaints without concern or repercussion. The MLC also has provisions which gives rights to seafarers to make a complaint to the relevant port State authorities when they believe that their living and/or working conditions on board are below standard.

There has been a consistently increasing trend in the number of complaints received by AMSA between 2015–2018. In 2019 however, there was a 15% decrease in the number of complaints received when compared to 2018. 2018 and 2019 also shows an increase of complaints coming directly to AMSA from seafarers when compared to 2017.

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There has been an increasing trend in complaints received between 2015–2018. However there was a 15% decrease in complaints received in 2019 compared to 2018.

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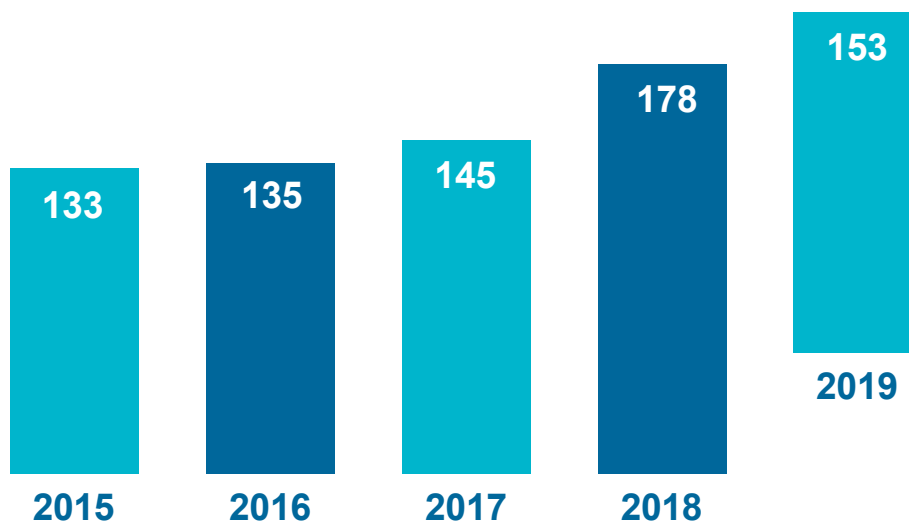


Figure 4  
MLC complaints received by year

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AMSA received and processed a total of 859 complaints since the implementation of the MLC (August 2013)

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When complaints are received by AMSA, all necessary actions are taken to ensure the confidentiality of the complainant. AMSA encourages resolution of complaints at shipboard level if appropriate. If it can't be resolved, AMSA has the jurisdiction to issue deficiencies and detain vessels. AMSA has also banned vessels from Australian ports for serious offences related to MLC.

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In 2019, AMSA received a total of 153 complaints. Follow up investigations resulted in 30 deficiencies being issued, with 8 vessels detained.

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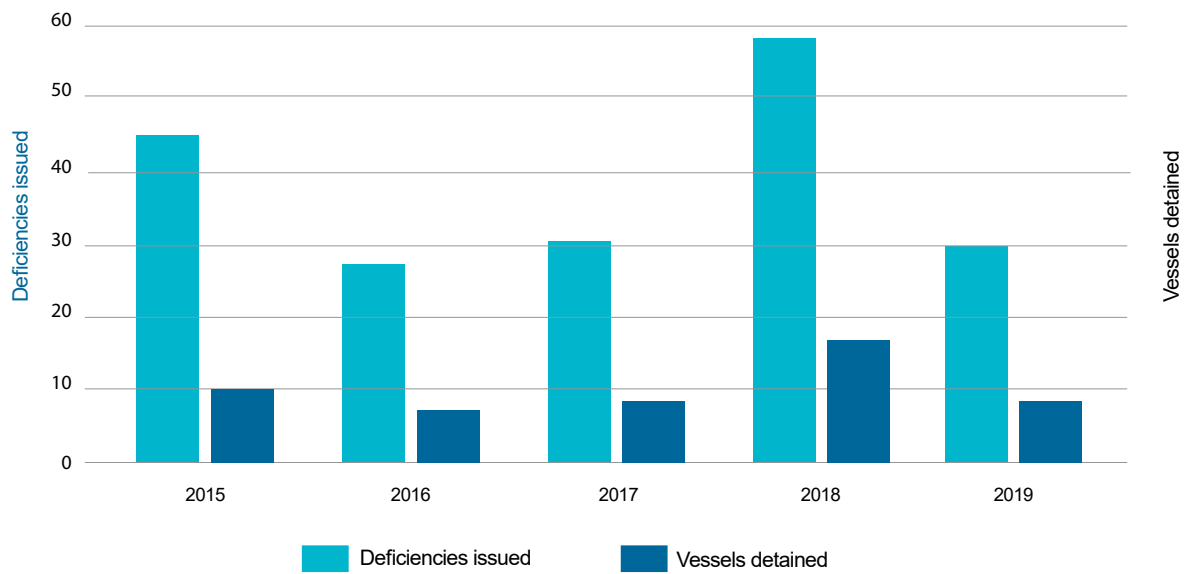


 Figure 5  
Breakdown of deficiencies and vessels detained for MLC complaints received between 2015–19

In 2019, 58% of complaints received were from seafarers engaged on bulk carriers.

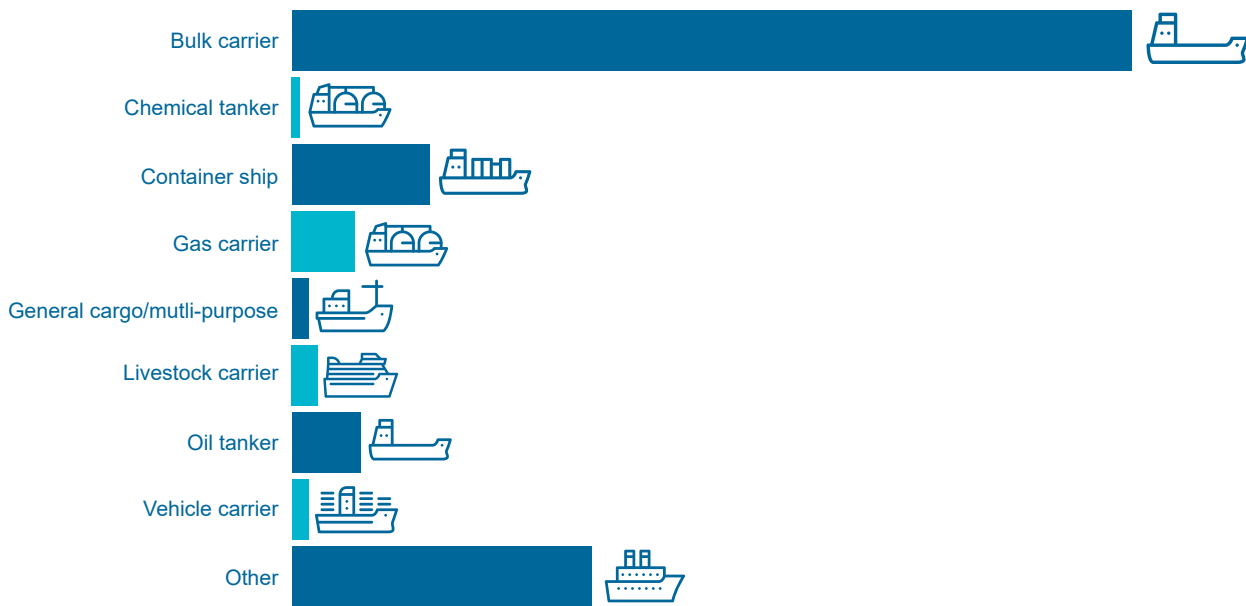


Figure 6  
Breakdown of complaints received by vessel type for 2019.

Table 1 – Breakdown of complaints by vessel type 2015–19

Vessel type	2015	2016	2017	2018	2019
Bulk carrier	99	90	95	117	88
Chemical tanker	4	5	4	5	2
Container ship	14	11	17	18	11
Gas carrier	3	2	2	0	6
General cargo/multi-purpose	2	4	7	4	3
Livestock carrier	1	3	5	9	4
Oil tanker	3	6	7	11	7
Vehicle carrier	1	4	1	3	4
Other	6	10	7	11	28

Figure 7 shows a breakdown of 2019 complaints received by the State in which the vessel arrived. Western Australia represents the highest number of complaints (27%) noting also that Western Australia represents the majority (44%) of vessel arrivals in Australia.

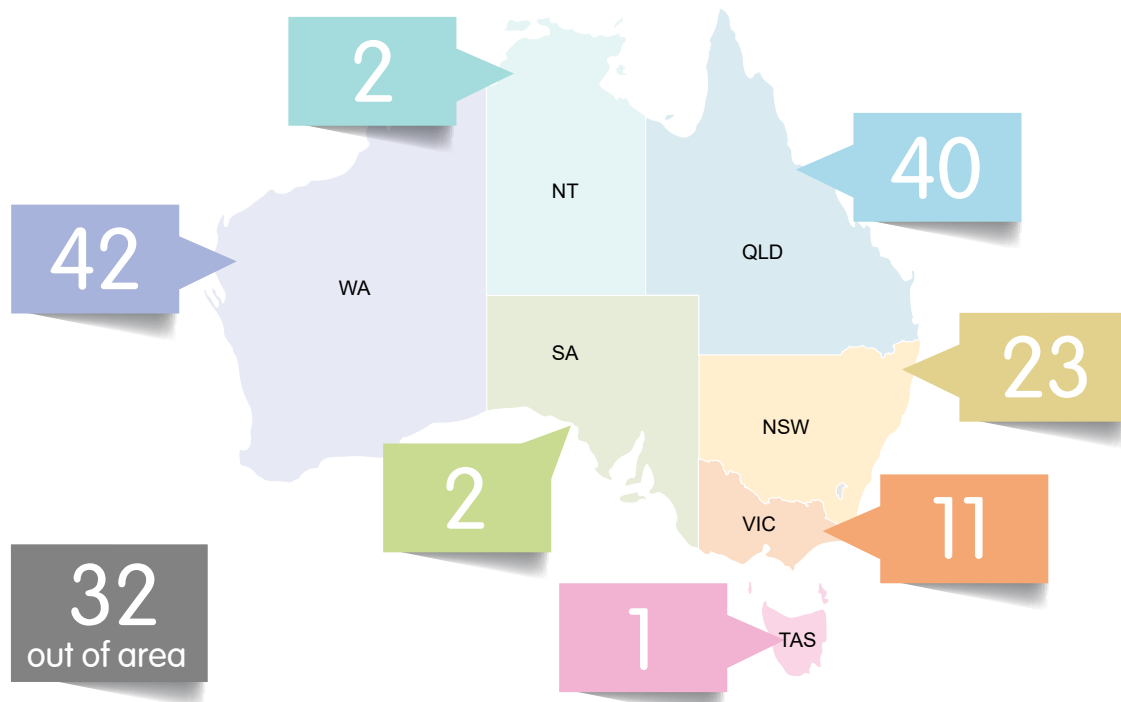


Figure 7  
**Number of complaints received by State for 2019**

The main body of the MLC (the regulations and the code) is grouped into five main areas (titles) with the data coded accordingly.

- Title 1** – Minimum requirements for seafarers to work on vessels
- Title 2** – Conditions of employment
- Title 3** – Accommodation, recreational facilities, food and catering
- Title 4** – Health Protection, medical care, welfare and social security protection (including bullying and harassment)
- Title 5** – Compliance and enforcement

Figure 8 categorises the complaints received according to the MLC titles<sup>3</sup>. The majority of complaints were related to conditions of employment (Title 2 of the MLC). This includes seafarer employment agreements, wages, hours of work and rest, entitlement to leave, repatriation, seafarer compensation, manning levels and career development. This trend has been consistent since 2015 (see Table 2 for the 2015 to 2019 MLC categorised data).

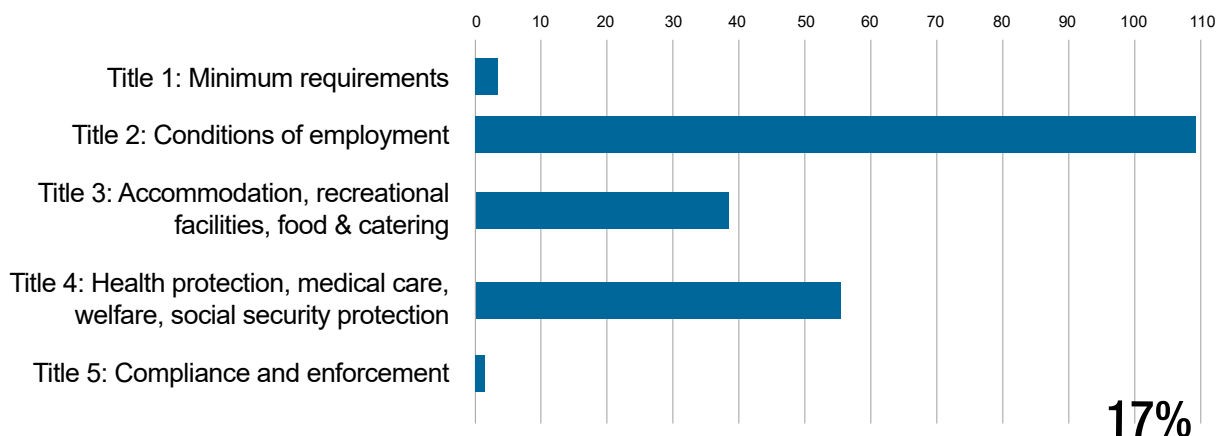


Figure 8  
Breakdown of complaints by title for 2019

Table 2 – MLC complaints breakdown by title 2015–19

MLC Title	2015	2016	2017	2018	2019
Title 1 Minimum requirements	0	1	2	1	3
Title 2 Conditions of employment	122	99	108	157	108
Title 3 Accommodation, recreational facilities, food & catering	50	50	48	48	38
Title 4 Health protection, medical care, welfare, social security protection	49	29	35	61	55
Title 5 Compliance and enforcement	0	1	1	7	1

<sup>3</sup> In some cases more than one regulation has been detailed in a single complaint.

## Conditions of employment

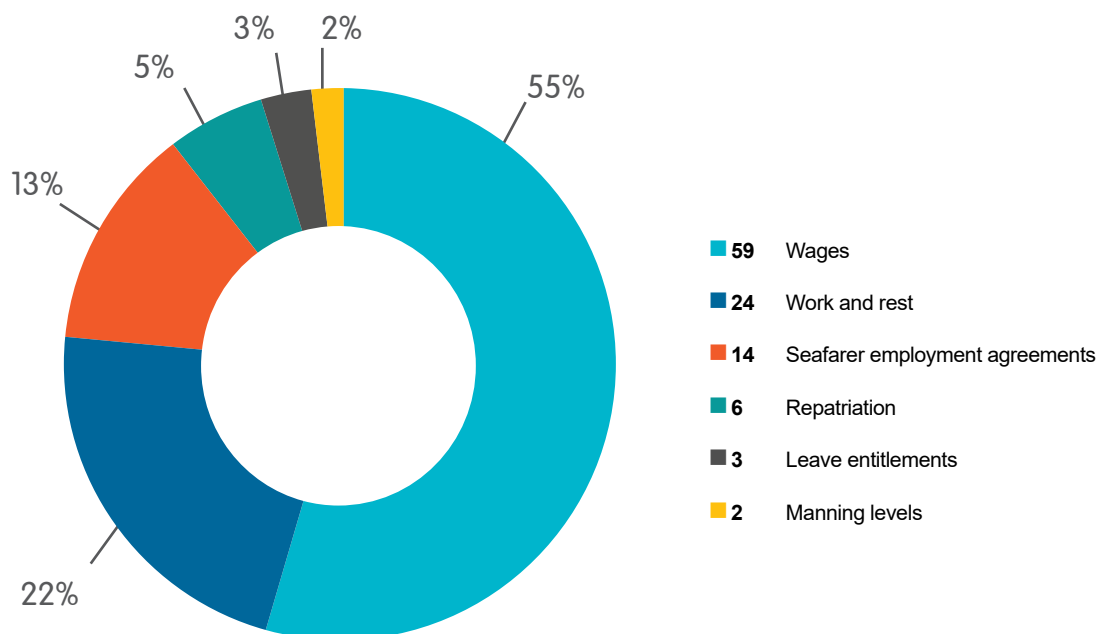


Figure 9  
Breakdown of Title 2 by regulation for 2019

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Of the **744 complaints** received since 2015,  
39% were related to issues involving wages

---

AMSA assesses every MLC complaint received, which may include reviewing a vessel's onboard complaints procedure. AMSA may also request further information from the vessel owners, managers or agents. A decision will then be made as to whether a vessel will be inspected. A more detailed inspection is usually limited to matters within the scope of the complaint.

AMSA endeavours to investigate all MLC complaints—and has done so—unless the vessel was out of area. In such cases, AMSA will place alerts on the vessel using an international database and make sure the complaint will be investigated when the vessel next arrives in Australia. In some cases we may also refer the complaint to the flag State or port State of the vessel's next arrival. In all cases we try to ensure the confidentiality of the complainant is maintained.



Of the complaints received in 2019, 100% were actioned, some in close collaboration with seafarer welfare groups.

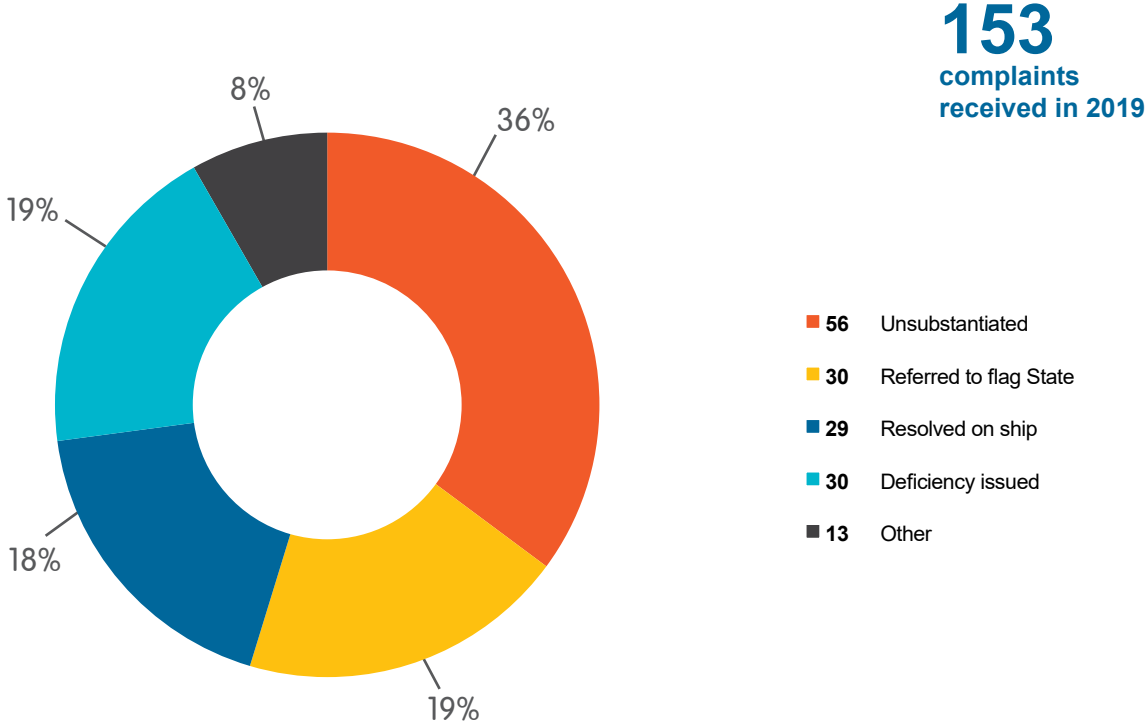


Figure 10  
Breakdown of complaints by outcomes for 2019

Figure 11 shows a breakdown of complaints by vessel flag State for 2019. These figures have been consistent since 2015, with the largest flag States coming into Australian waters showing the most referred complaints.

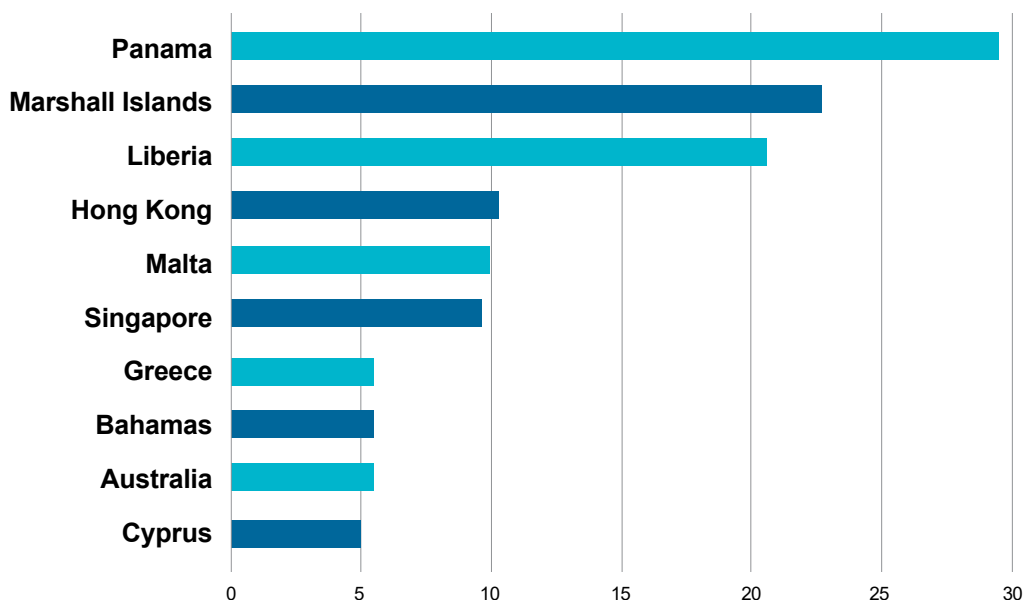


Figure 11  
Breakdown of complaints by the top 10 flag States for 2019

A weighted percentage of complaints by vessel flag state visits was calculated. Figure 12 identifies the top ten countries in order of highest to lowest that present the highest rates of complaints normalised by the flag state visits.

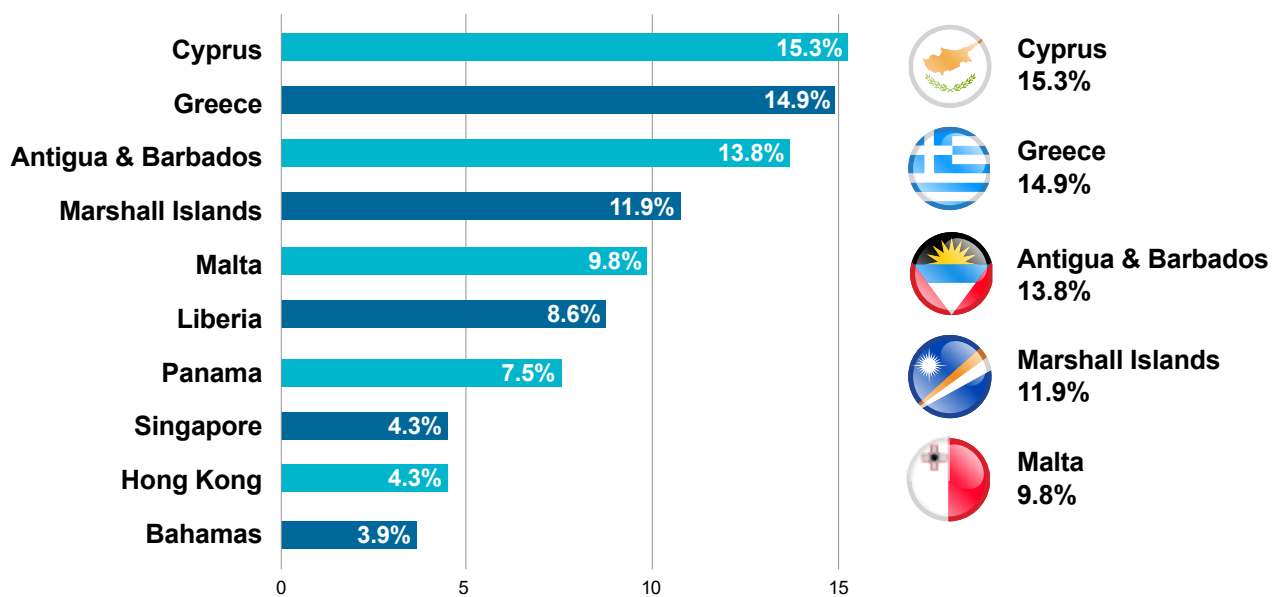


Figure 12  
Weighted percentage of total complaints by vessel flag State visits for 2019

The number of complaints originating directly from seafarers has increased across the years, reaching 45% in 2019. In addition, the use of social media by seafarers as a means of communication for complaints is on the rise.

This could possibly indicate more awareness of the rights of seafarers under the MLC and the knowledge that Australia takes seafarer rights seriously. Seafarers are therefore more confident that their concerns are taken seriously and treated confidentially when in Australia.

AMSA has also built a strong relationship with other stakeholders including the International Transport Workers Federation (ITF), welfare groups and other Government agencies, to allow more channels for seafarer complaints.

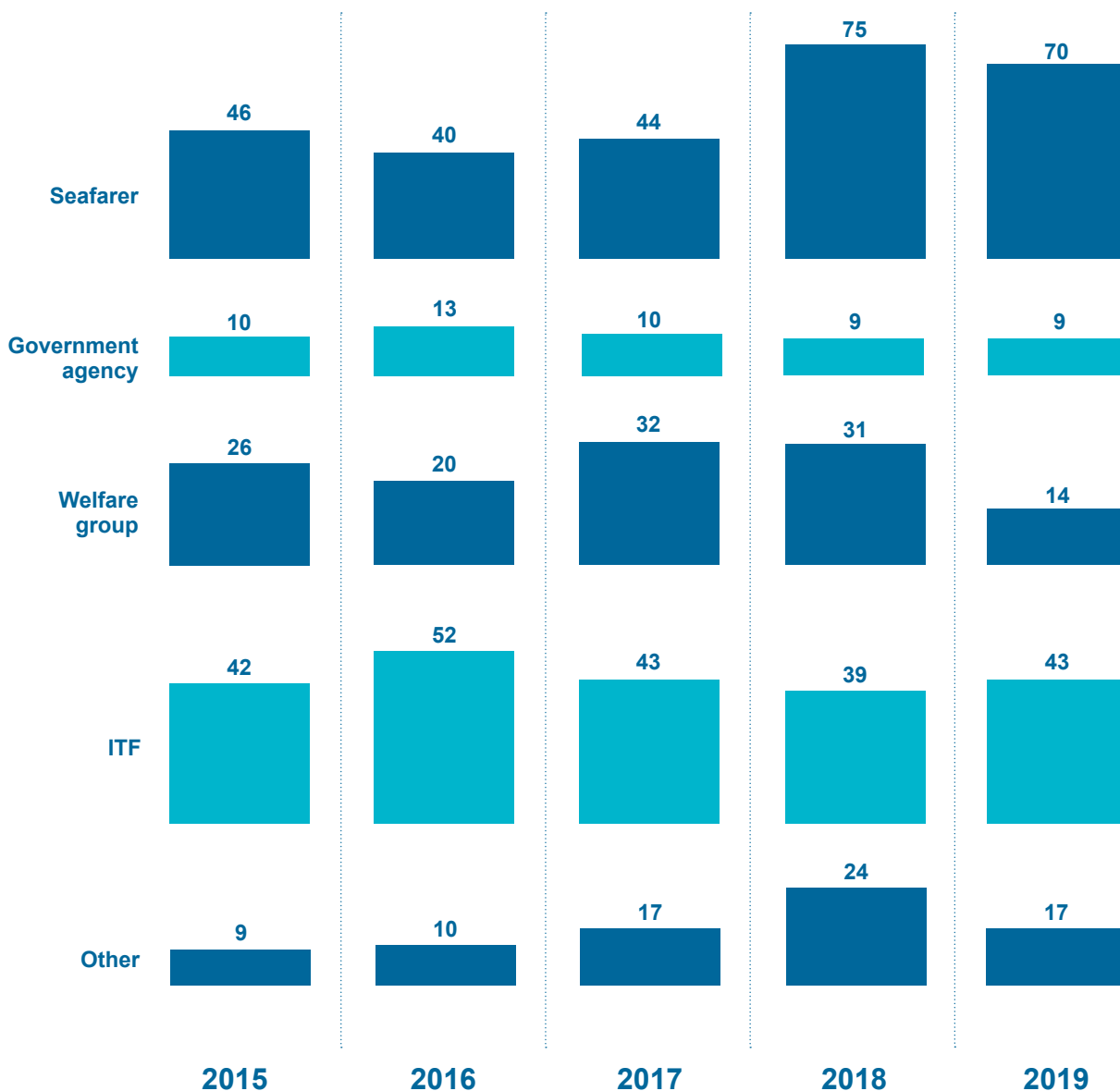


Figure 13  
Breakdown of the source of the complaints per year

AMSA has a zero tolerance approach in relation to MLC breaches. Since 2015, a total of nine vessels have been banned from using Australian ports for reasons that include payment of wages under the MLC.

In 2019, AMSA found two cases of failed compliance with MLC where wages were knowingly and deliberately withheld. These vessels were prohibited from using an Australian port, one for a period of 18 months and the other for 12 months.

Working together with Port Welfare Committees and the ITF we believe we have made a difference to seafarers' lives. The following case studies highlight the conditions that some seafarers endure.

The MLC has allowed for these issues to be brought to light in Australian waters, demonstrating its effectiveness and AMSA's commitment to ensure compliance.

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Since 2015, **9 vessels** have been banned from  
Australian Waters due to MLC related detentions.

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# Case studies

## 2019 – *Fortune Genius*

In September 2019, AMSA was notified of unpaid crew wages. AMSA attended the vessel and an inspection was conducted which revealed the crew had been deliberately underpaid by the operator by about AUD \$100,000 for the months of April to August.

The vessel had been operating with two sets of wage accounts, one showing the amount of wages the crew should have been paid and the other showing what they had actually been paid.

In addition it was identified that the vessel did not have sufficient food provisions onboard.

The vessel was detained with several MLC deficiencies issued and consequently banned for a period of 12 months.

The company was ordered to repatriate crew from Gladstone, after full payment of their wages, without any deduction for repatriation expenses.

## 2019 – *Xing Jing Hai*

On 11 September 2019, AMSA boarded the *Xing Jing Hai* in Brisbane following complaints related to unpaid crew wages. The operator had previously been warned over unpaid wages to a sister ship, the *Xing Ning Hai* previously detained in Australia.

The vessel *Xing Jing Hai* was subsequently detained and banned for a period of 18 months following evidence which found that the crew had been paid late for the months of May and June, while wages for July and August amounting to approximately AUD \$140,000 were still outstanding.

# Port State Control MLC data

Port State Control (PSC) is conducted in accordance with the International Maritime Organization's (IMO) requirements. Primarily, compliance activity may involve issuing deficiencies or a detention (a prohibition on the ship being allowed to depart the port). These compliance actions are given effect in Australia by the *Navigation Act 2012*. This Act provides for prosecution actions and also for other actions such as a direction, banning a ship from Australia for a period of time determined by AMSA.

Detentions, bannings and associated public release of information, provide for an effective compliance tool to ensure corrective and timely action is undertaken by the vessel to continue to comply with regulatory requirements.

As part of the standard PSC inspection, AMSA examines compliance with the MLC. Where the inspection is undertaken in response to a complaint, the inspection will consider the specifics of that complaint as part of the inspection.

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In 2019, AMSA conducted a total of  
**3222** PSC inspections resulting in 163 detentions.  
**12** of these detentions were directly related to breaches of the MLC.

---

Figure 14 shows the number of MLC deficiencies issued following PSC inspections. There has been a decreasing trend, with a 49% decrease in the number of MLC related deficiencies since MLC was implemented. This is supported by the MLC deficiency rate per inspection, which in general also shows a decreasing trend.

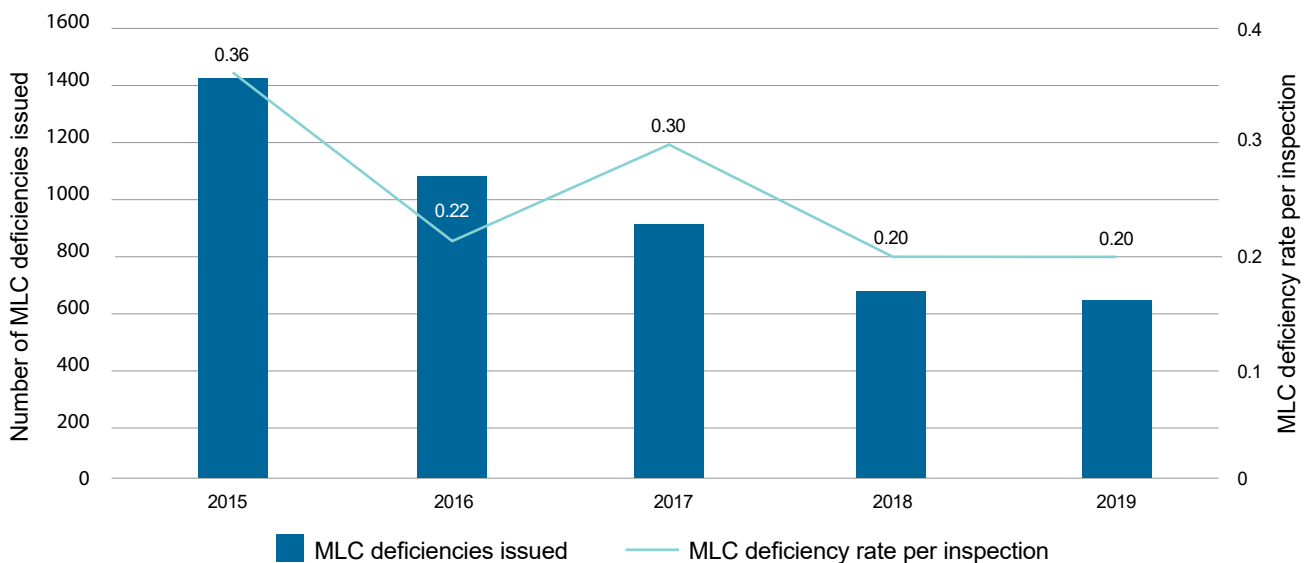


Figure 14

Total number of MLC deficiencies issued per year including the MLC deficiency rate per inspection.

Figure 15 shows the number of MLC related detentions per year. Although the number of detentions has been stable for the past few years the data reflects a decrease in MLC related deficiencies and subsequent detentions for 2019.

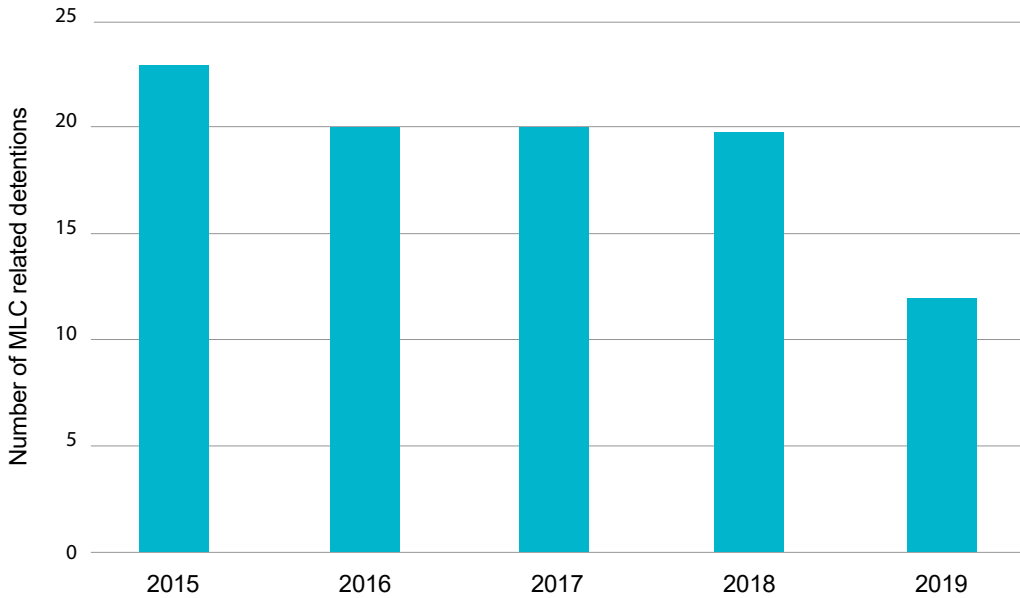


Figure 15  
Number of MLC related detentions per year.

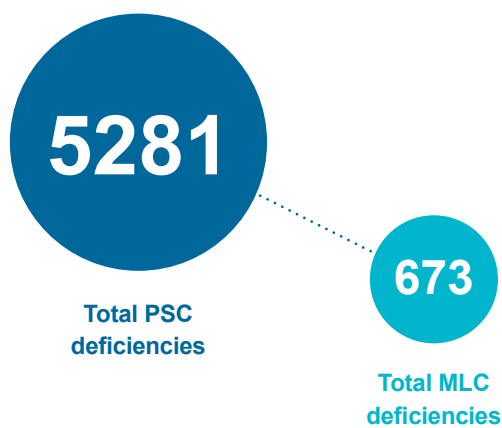


Figure 16  
Total PSC deficiencies as compared to MLC related deficiencies for 2019.

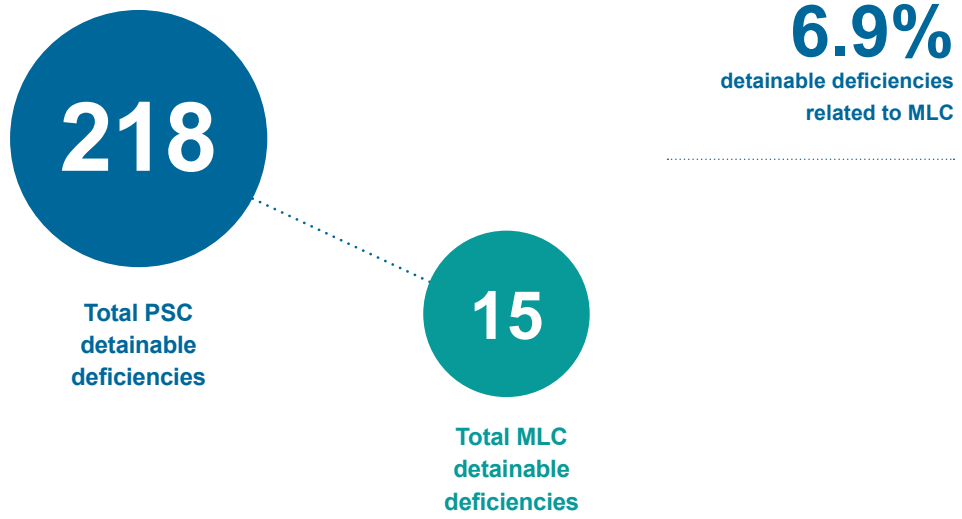


Figure 17

Total PSC detainable deficiencies as compared to MLC related detainable deficiencies.

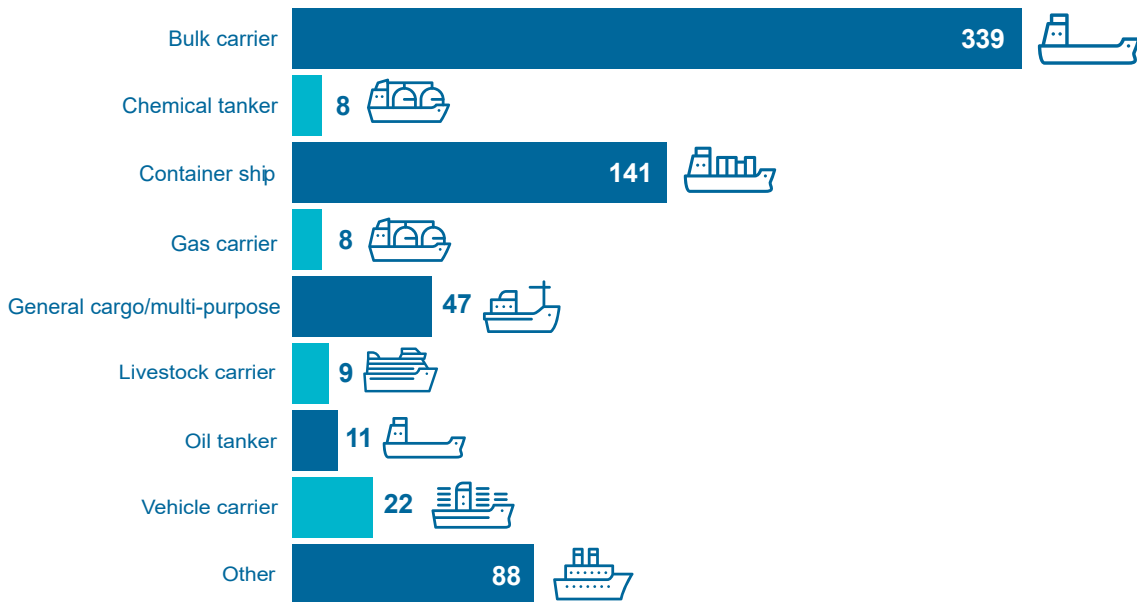


Figure 18

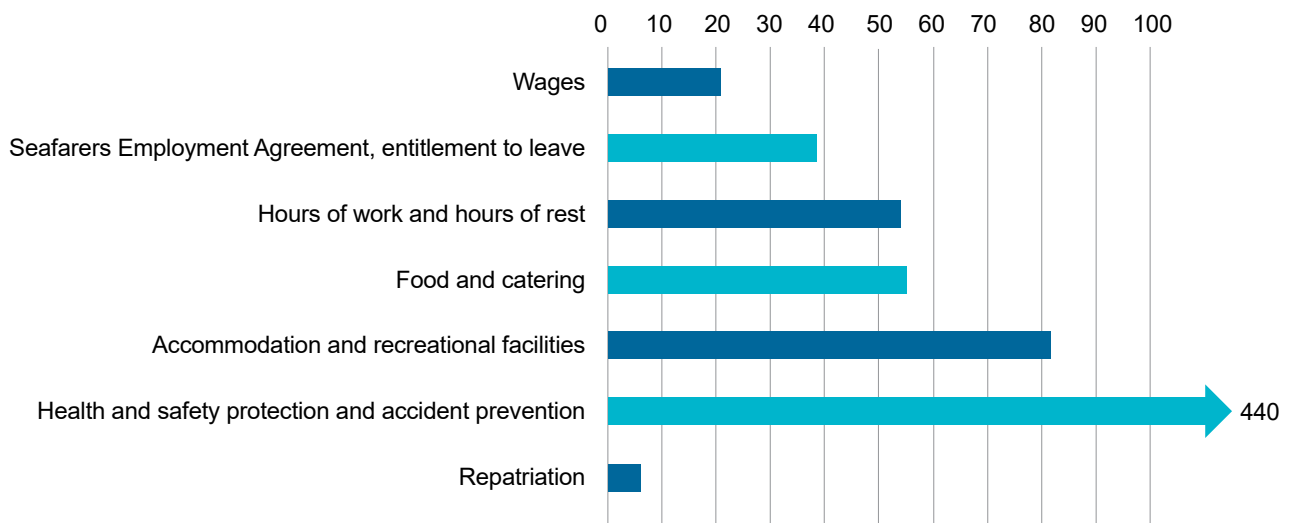
Breakdown of MLC deficiencies by ship type for 2019.



**PSC deficiency data that is related to MLC issues:**

- Health and safety protection and accident prevention
- Food and catering
- Accommodation and recreation facilities
- Hours of work and rest, manning
- Wages
- Seafarer Employment Agreement, entitlement to leave
- Repatriation; and
- Other

Figure 19 shows a breakdown of MLC deficiencies into the codes stated above. In recent years, this breakdown has remained relatively consistent. Regulation 4.3 dealing with health and safety protection and accident prevention is the major deficiency item identified. Hence, while most complaints are related to social conditions onboard such as wages, PSC MLC deficiency data has identified that health and safety protection is the largest MLC deficiency item.



**Figure 19**  
**Breakdown of deficiencies by MLC category for 2019**

# Conclusion

The MLC has provided an opportunity to strengthen the viability of international shipping by enhancing its capacity to deliver quality, safe and environmentally sustainable shipping services and providing fair and decent employment opportunities for seafarers.

The information in this report clearly shows that although port State control data points to health and safety protection and accident prevention as one of the major deficiency items under the MLC, the majority of complaints are related to conditions of employment. Most of these are associated with the payment of wages. This implies that seafarers are less concerned about their work health and safety conditions as long as they are being paid their wages. This is an unacceptable situation and AMSA has a zero tolerance approach in relation to such breaches.

There is a close correlation between social, safety, working and living conditions on board ship and improvements in these conditions are explicitly identified in the MLC.

The research supports the notion that improving social conditions on board leads to better work performance and enhanced safety of vessels, crew, cargo and the environment<sup>2</sup>. For this reason, Australia's view is that there is potential for the enhancement of crew safety through improvements in social conditions for every seafarer. This must be achieved through a variety of means including: increased job security; progressive working environment and living arrangements; upgrades to education and training; along with more leisure time enriched by better accessibility of communication with friends and family.

Although considerable effort has been made in recent years to protect seafarers, it is evident from AMSA's work in this area that seafarer welfare still remains a concern. The detention and/or banning of vessels from Australian waters, clearly indicates that some companies subject seafarers to unethical crewing practices. These include the use of unfair contracts, the delay or non-payment of wages, the denial of shore leave and the refusal of repatriation when contracts have finished.

We are conscious that serious breaches of the MLC continue to happen on board vessels, and accordingly AMSA will continue to do its part to ensure that seafarers on vessels visiting Australian ports are being afforded the requirements they deserve under the MLC.





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