Commonwealth Fisheries Association

SUBMISSION TO

Senate Legal and Constitutional Affairs Reference Committee

Inquiry into the framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements

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Contact:

About the Commonwealth Fisheries Association
The Commonwealth Fisheries Association (CFA) is the peak body representing the Commonwealth fishing industry.

Commonwealth-managed fisheries yield around one-quarter of Australia's wild-capture fisheries production, which, at Gross Value of Production, is worth $1.3 billion each year[1] [2]. Fishing in Commonwealth waters is regulated by the *Fisheries Management Act 1998* and the *Environment Protection and Biodiversity Conservation Act 1999*, which ensures that Commonwealth fisheries meet resource and marine environment sustainability objectives. Commercial access to these fisheries resources is controlled through statutory rights, permits and licences.

The CFA recognizes the contribution that overseas workers, including those accessed through the Subclass 457 visa program have made over many years to support the viability and sustainability of many fishing operators and fisheries in Australia. Currently, many Commonwealth fishers are experiencing significant difficulties in attracting suitably qualified and experienced crews for fishing vessels operating in Commonwealth waters around Australia.

The increasing difficulties in attracting and retaining a suitable workforce has serious implications for the viability of individual businesses and for industry on maximising the economic return from the marine environment for the Australian community. Many CFA members have relied on a mix of local and international labour for many years in order to be able to operate their fishing enterprises.

The CFA actively supports its members and the fishing industry on workforce issues and particularly in relation to the well recognised and growing labour and skills shortages in the fishing sector.

Labour shortages in professional fishing

The professional fishing industry creates employment in fisheries production and processing and in downstream industries, including transportation, storage, wholesaling and retailing. The Australian seafood industry employs an estimated 100,000-110,000 people, including in the wild-catch, aquaculture, processing, wholesaling and retailing sectors[3].

The workforce shortages in the fishing and aquaculture industries, and their economic effects, are identified and are well recognised by government[4].

The main challenges faced by the industry in attracting and retaining workers are:

- Limited suitable labour supply in many regional and remote areas where fishing vessels operate.
- The fishing industry operates on a seasonal basis, in remote locations, often lengthy times at sea (weeks to months) and in difficult and sometimes hazardous situations.
- The fishing industry offers lower wages and variable financial returns compared to other industries.

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[1] In general terms, the Commonwealth manages marine resources from 3 nautical miles (nm) to 200nm; States/Territories manage fisheries within 3nm of the coast.
[2] ABARES. 2011. *Australian fisheries statistics 2010*, p.16.
3 Estimate by the Fisheries Research and Development Corporation. The ABS does not publish data on fishing industry employment (data is aggregated into a larger 'fishing, hunting and trapping' category), ABARES (2011) *Australian fisheries statistics 2010*. p. 33.
[4] Primary Industries Ministerial Council (2009) *Workforce, Training and Skills Issues in Agriculture;* AgriFood Skills Australia (2010) *Environmental Scan 2010* [also 2011, 2012]; Prime Minister's Science, Engineering and Innovation Council (2010) *Australia and Food Security in a Changing World.*

- Competition from other industry sectors. For example, many of the certified contractors within the fishing industry have pursued work opportunities in the mining industry where there is more certainty and higher wagers on offer for the skills they provide.
- Lack of community recognition (attractiveness) that many fishing industry jobs are in actual fact skilled and highly skilled occupations.

In 2012, the ongoing workforce challenges was reinforced in a landmark survey conducted by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES)that found commercial fishing and aquaculture businesses right across Australia face substantial challenges in recruiting and retaining qualified workers[5]. The difficulties include:

- finding unskilled or semi-skilled workers to enter the industry;
- finding appropriate training opportunities or providers; and
- retaining newly-trained workers.

Workforce issues were also highlighted during the Commonwealth marine reserve network planning process. Industry surveys undertaken by ABARES (published in 2012) indicated that access to labour was a major concern of industry Australia-wide. For example, in the South-west region approximately 63 per cent of survey respondents stated that access to labour was a problem[6]; for the North-west region it was approximately 95 per cent[7]; for the North region over 90 percent[8]; for the Coral Sea region access to skilled labour approximately 89 per cent[9]; and for the Temperate East region access to skilled labour at approximately 75 per cent.[10]

To date the proportion of overseas workers employed by fishing enterprises has generally been low. However, unlike many other industry sectors, it must be understood that even a minor overseas contingent can have a pivotal role in ensuring that fishing operations continue and that the security of employment of Australian workers is not undermined on an enterprise level. For example, if a full complement of crew (as required by regulation) is not available then everyone who would have potentially been working will not be.

Over the last decade, labour and skills shortages in the fishing industry – especially in regional Australia – have impacted industry productivity and output. CFA is aware of numerous instances, over many years, where vessels have not left port due to an inability to source sufficient crew members.

The Commonwealth South East Trawl Fishery – stretching from north of Sydney, around Tasmania to South Australia – for example, estimates that its fleet misses out on a combined total of 100-200 fishing days each year because of shortages of skilled crew. Given that many costs on fishing vessels are “fixed” (ie, they are incurred whether vessels sail or not) and because profit margins are low, this loss of fishing capacity represents a direct loss of profits and a significant inefficiency.

An available and appropriately skilled workforce is vital to underpinning a viable and economically sustainable fishing industry – fisheries being Australia’s fifth largest food producing sector.

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[5] ABARES (2012) *The Australian seafood industry: Workforce information and stakeholder responses*, Research report 12.1, January 2012.
[6] http://www.environment.gov.au/coasts/mbp/publications/south-west/pubs/abares-assessment-south-west.pdf
[7] http://www.environment.gov.au/coasts/mbp/publications/north-west/pubs/abares-assessment-north-west.pdf
[8] http://www.environment.gov.au/coasts/mbp/publications/north/pubs/abares-assessment-north.pdf
[9] http://www.environment.gov.au/coasts/mbp/publications/coralsea/pubs/abares-assessment-coralsea.pdf
[10] http://www.environment.gov.au/coasts/mbp/publications/east/pubs/abares-assessment-te.pdf

Fishing Industry Template Labour Agreement

In 2009, semi-skilled fishing jobs (deck hand and fishing hands) were removed from the list of occupations (now known as the Consolidated Sponsored Occupations List) eligible for Temporary Business (Long Stay) (subclass 457) visas. This decision was damaging to the commercial fishing industry, causing the loss of skilled, experienced and trusted employees, and creating vacancies that could not be filled locally. (See below for more detail)

In late 2011, following extensive consultation between the Commonwealth Fisheries Association (CFA) and the Department of Immigration and Citizenship, a Template Labour Agreement for deck and fishing hands in the commercial fishing industry was finalised, in recognition of widespread and persistent labour shortages in the industry.

CFA acknowledges that the template labour agreement will not solve the industry's workforce supply issues and it was not the intent of the industry in pursuing this agreement. However, workforce shortages in the agriculture, forestry and fisheries sectors are recognized by all Australian governments with various policies, programs having been implemented and future initiatives explored to build a more secure and skilled workforce supply. The fishing industry is also actively involved in identifying, promoting and implementing initiatives to attract and retain suitable workers. This includes activities not only at the enterprise level but also industry wide.

COMMENTS AGAINST TERMS OF REFERENCE

The current framework and operation of subclass 457 visas, including:

(a) their effectiveness in filling areas of identified skill shortages and the extent to which they may result in a decline in Australia's national training effort, with particular reference to apprenticeship commencements;

CFA members found overseas workers an essential component to their business operations and that, for this sector, there is no indication that Australian training effort is negatively impacted:

> *We were fortunate that approximately 2 years ago we were able to recruit some staff under the 457 visa to address our labour shortage. These staff now form the backbone of our 'crew' for our fishing vessels. As you would be aware considerable time and effort in training is required to get crew to an acceptable level. The continuity of crew is essential in ensuring the vessels operate efficiently and produce seafood to the highest quality standards. Retention rates for crew have plummeted in the 9 years that I have been involved in our operations* (Fishing operator, March 2011; communication with CFA).

> *Over the last 12 months we have turned over approximately 350 deckhands at the entry level position and although we are prepared to train these employees to the level of restricted coxswains and coxswains in their first 18 months of employment the Australian employee does not appear to be interested. We have also provided assistance in the past to those wishing to gain further commercial fishing tickets, so it is not as if we do not offer any career path*. (Fishing operator, March 2011; communication with CFA)

(b) their accessibility and the criteria against which applications are assessed, including whether stringent labour market testing can or should be applied to the application process;

The professional fishing industry has been keen to explore the opportunities opened up by the template Labour Agreement. However, the process of completing an agreement has been slow and difficult for some fishing businesses. By June 2012, seven fishing operators had signed an

agreement[11]. Ten months later (April 2013), only one other business had signed the agreement, and another seven were still in negotiations with the Department of Immigration and Citizenship.

The experience of one recent applicant illustrates the challenges:

> *The sponsorship agreement and 457 VISA application processes have been rigorous and have taken some months to complete. If the process became more complicated, it would become unworkable.*[12].

CFA endorses this comment in full and note receiving other informal feedback regarding the challenges and time it is taking to finalise an agreement. While the Labour Agreement provides an opportunity for the fishing industry to increase productivity, its actual value is diminished if the process for signing up to the agreement is overly complex and time-consuming. This creates additional costs and potentially acts as a deterrent. We note that the Department of Immigration has developed additional guidance material for the industry and the CFA will assist industry and the department where it can.

CFA fully supports applicants providing evidence of actions taken to recruit (Australian) workers. However, we suggest that overly onerous requirements, particularly for small business owners which are the majority in the fishing industry, are un-necessary particularly when acute labour shortages are an established fact for the industry. This is an industry sector that is acknowledged as facing:

> "*...worrying and unsustainable demographic situation characterised largely by an ageing workforce*." and where "*Many of the jobs in the fishing sector are not seen as attractive to a large proportion of the population*."[13] .

We also note the December 2012 Council of Australian Governments (COAG) *National Compact on Regulatory and Competition Reform*, which commits governments to 'free[ing] the business environment from unnecessary regulation' (p. 2)[14]. In an assessment of governments' performance, the Minister for Small Business told COAG that:

> *Small businesses are frustrated and overwhelmed with the regulatory burden impacting their business operating environment […] the cumulative effect of a myriad of regulations and compliance requirements* (p. 1)[15].

We strongly support this Minister's assessment.

(c) the process of listing occupations on the Consolidated Sponsored Occupations List, and the monitoring of such processes and the adequacy or otherwise of departmental oversight and enforcement of agreements and undertakings entered into by sponsors;

The removal of deck hands and fishing hands from occupations lists (now known as the Consolidated Sponsored Occupations List) in 2009 had a direct impact on fishing businesses around Australia. Australian job-seekers did not line up to fill the positions vacated by the foreign workers:

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[11] Department of Immigration and Citizenship (2012) *Annual Report 2011-12*, http://www.immi.gov.au/about/reports/annual/2011-12/html/performance/outcome_1/temporary_residents_economic.htm

[12] South East Trawl Fishery, April 2013.

[13] Prime Minister's Science, Engineering and Innovation Council 2010 *Australia and Food Security in a Changing World*

[14] http://www.coag.gov.au/sites/default/files/Signed%20Compact.pdf

[15] http://www.coag.gov.au/sites/default/files/Report%20from%20the%20Minister%20for%20Small%20Business%20-%20Attachment%20A%20-%2017%20December%202012%20version.pdf

> *We were very disappointed when fishing crew were taken off the list of jobs available to 457 visa holders as we had to send our foreign crew home. It is ridiculous how hard it is for us to get competent, reliable, enthusiastic crew. One of my current crew is already talking about getting a job on the mines as it is better pay for much less work and I do not know where his replacement will come from, what with all the talk about a new mining boom and employee shortages. We would rather use Aussie crew but unfortunately they are simply not always around in rural areas and not having the option of foreign deckhands is a big problem.* (Fishing Operator, March 2011; communication with CFA).

(f) the economic benefits of such agreements and the economic and social impact of such agreements;

As noted elsewhere in this submission, the availability of overseas workers is essential, and a growing need, in the fishing industry.

> *At present we employ at the deckhand level on 457 visas. Some of these employees have over three years service with us and have been promoted up the ranks...and are critical to our operations... is a recognised regional centre that has chronic labour shortages...We also employ another 20-30 deckhands at any one time that are foreigners from various countries who are on working holidays visas, and can only be employed with us for 6 months, although most would love to stay longer with us. Without a doubt we need to have access to 457 employees at the deckhand level to remain viable.* (Fishing operator, March 2011; communication with CFA)

(g) whether better long-term forecasting of workforce needs, and the associated skills training required, would reduce the extent of the current reliance on such visas;

Access to training has not been a significant barrier to employment in the Australian fishing industry to date. The bigger problems are those mentioned above – ageing workforce and that the type of work involved – physical, intense, seasonal, and involving often long periods away from home – which is not attractive to many Australian job-seekers. If the government were to invest more in entry-level training for the industry, there would be no guarantee that Australians would take up the training, or would stay in the industry for long after completing their training. It is worth noting that elements of training for the fishing industry (including maritime and vessel operation skills) are also highly prized in the offshore oil and gas industries, where jobs are far more lucrative. Fishing industry training therefore often benefits employers outside the industry.

There are a range of initiatives aiming to address the attractiveness of employment in the fishing sector. In addition to those training activities undertaken by employers we highlight that the fishing industry is also actively involved in programs to support the training, recruitment and retention of Australian workers. We provide the following examples to illustrate the diversity of initiatives:

- The fishing industry through a levy contributes towards R&D activities administered by the Fisheries Research and Development Corporation (FRDC). Leadership and workforce development are identified as two key strategic themes of the FRDC strategic research plan. Between 2006-2007 and 2011-2012 $10.1 million has been invested in these themes.[16]
- Industry initiatives in raising the profile and attractiveness of the industry to potential future workers are also being undertaken at the school level. A 2012 example is the announcement of the industry supported *Seafood Industry Partnerships in Schools* initiative that includes promotion of career options in the seafood industry[17].

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[16] Further information on related research and promotion of people development opportunities, including those partially funded by industry, are available at www.frdc.com.au.

[17] http://www.oceanwatch.org.au/our-work/sips/

However, these initiatives will not be enough to stem the full flow workforce loss (ageing workforce) and others will take many years to show any impact (schools initiative).

For the fishing industry, overseas workers will always be required in the make-up of the workforce. We note the (2009) Primary Industries Ministerial Council report on *Workforce, Training and Skills Issues in Agriculture* that:

- significant shortages in labour and skills are expected across virtually all regions, sectors and occupations of the agriculture industry in the long term; and
- permanent and temporary migration is an important strategy for addressing the labour and skill needs.[18]

(h) the capacity of the system to ensure the enforcement of workplace rights, including occupational health and safety laws and workers' compensation rights;

We are not aware of any significant concerns for the fishing industry.

(j) the impact of the recent changes announced by the Government on the above points;

The changes announced in February 2013 should not have a demonstrable impact on the industry if they are appropriately implemented (refer to comments above). We note that the development of the template labour agreement for the fishing industry dealt with these issues.

However, we question the assumption underlying the reform; that is, that tightening the rules for 457 visas (and therefore cutting their numbers) will "ensur[e] jobs for Australian workers"[19]. This might be an unpalatable truth, but it is true nonetheless, as the experiences of Australian fishing businesses clearly demonstrate.

As noted above, the many businesses in the fishing industry already operates at sub-optimal levels due to lack available crew. We draw to your attention that the lack of full crew complement results in less that optimal fishing or no fishing. In these cases, particularly the latter, it is all crew (including Australians) who are impacted if a vessel does not leave port. Availability of overseas crew to fill the crew complement means Australians also retain their employment.

(k) any related matters.

We have no further comments to make.

End.

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[18] The report notes that while the fish and other sectors have not been discussed in detail, many of the issues identified in the report are expected to be common across all primary industries.

[19] *Reforms to the temporary work (skilled) (subclass 457) program*, media release by the Minister for Immigration and Citizenship, 23 February 2013.
http://www.minister.immi.gov.au/media/bo/2013/bo193683.htm