OFFSHORE VISA ROW UNRAVELLED

News that the Senate had temporarily invalidated the working rights of all non-Australian nationals in the offshore oil and gas sector recently made headlines around the country. Playing a key role in the public debate and getting the situation urgently resolved was Australian Mines and Metals Association Executive Director Scott Barklamb, who takes *Gas Today* readers through what happened and the key lessons that emerged.

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ABOVE: *The Marlin B Platform, part of the Kipper Tuna Turrum project in Bass Strait. Image courtesy of ExxonMobil.*

AUSTRALIA'S OFFSHORE RESOURCES industry is critically important to our national economy, employment and general social wellbeing. Currently $200 billion worth of oil and gas projects are either in production or being constructed around the nation, creating approximately 70,000 jobs.

Importantly, with the International Energy Agency (IEA) predicting more than $US48 trillion in investment will be required to meet the world's energy demand by 2035, Australia is already well ahead of the pack in positioning itself as the world's leading supplier of natural gas exports.

Only in June Japanese Prime Minister Shinzo Abe signed a new free trade agreement and singled out energy exports as a key priority area for future trade between Australia and Japan.

In this context, retaining Australia's advantages is critical. A key part in keeping our nation's cost structure globally competitive is ensuring we regulate important workplace and industry policy in an internationally consistent, efficient and effective way.

Unfortunately, one of the key areas in which Australia has fallen down in recent times has been our approach to the involvement of international workers in our offshore oil and gas sector.

Around the world, resource projects are situated so far offshore that they fall outside national migration zones, and thus are deemed to be in international waters. However, the existence of Economi Exclusive Zones (EEZ) ensures royalties from these projects are allocated to the appropriate nation.

For the purposes of regulating the highly globalised and mobile maritime sector that services these projects, international maritime and labour laws apply whereby the working conditions and rates of pay ar consistent with a vessel's flagged country of origin.

Last year, acting on union demands including from the Maritime Union of Australia (MUA), the former Labor government took the unprecedented step attempting to capture all maritime workers operating in these international waters by extending Australia's migration zone right out to the edge of the EEZ.

This meant every worker on every vessel travelling to and from these far offshore projects, or engaging in short-term construction contracts such as offshore pipelaying, would need to carry a working visa issued by Australia's immigration authorities.

Labor legislated these new requirements but it was left to the Abbott government »

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> **– SCOTT BARKLAMB, EXECUTIVE DIRECTOR – POLICY AND PUBLIC AFFAIRS, AMM**

to deliver the regulations necessary to give effect to these new laws, which commenced on 29 June 2014.

To minimise the cost impact and project delays, the current government ensured three different types of visas were available to suit specific operational and employee needs.

In July, acting on misleading claims from the MUA and other unions, Labor, Greens and Palmer United senators voted to disallow the government's regulation and in the process invalidated the employment rights of all international employees working across Australia's offshore resource sector.

This created a chaotic situation for Australia's offshore oil and gas sector, given there are a large number of Australian employees performing a wide range of functions, who directly rely on the work done by the small number of highly specialised international workers in the sector.

In the 24 hours following this development in parliament, the Australian Mines and Metals Association (AMMA) received many phone calls from employers concerned about their employees and their operations and seeking clarification and reassurance.

In the offshore construction sector, for example, 150 Australian workers on an international offshore construction vessel could have potentially been stood down, because the 70 non-Australian, highly skilled specialists who are essential to operating and navigating the ship could not legally do their jobs.

We also heard of an entire offshore oil rig production team who potentially could not do their jobs because their supervising manager is a non-Australian working here due to his specialist international experience.

Offshore construction personnel relying on their non-Australian colleagues for support and specialist expertise also had their work activities thrown into complete uncertainty.

Thankfully, within 24 hours, the Assistant Minister for Immigration and Border Protection Senator Michaelia Cash was able to find a sensible fix to the uncertainty and potential chaos created by the opposition senators.

By issuing a new 'Legislative Instrument' – similar to a regulation but not removable by the Senate – the government succeeded in returning the regulation of international employment in Australia's offshore resources sector to the way it operated prior to 29 June. This outcome was delivered under the legislation Labor put in place in 2013.

We are now back to the sensible and globally consistent regulatory model that has served Australia well to this point. This is a straightforward, job-supporting solution to a highly complex and potentially damaging problem.

Boiled down to the root cause, this all came about simply because the MUA was unhappy that it could not control employees involved in a small portion of offshore construction work being completed by highly-specialised international construction vessels outside of Australia's migration zone.

These vessels complete subsea pipelaying at depths of up to 3,000 m. The technology and expertise required for such work is completed by only a handful of companies worldwide. It is highly remunerated, globally specialised work.

Moreover, when work is required in Australia, or anywhere else in the world, the full-time international crew members whom travel globally with the ship are joined by upwards of 120 Australian workers. Often, 85 per cent of the entire crew onboard these ships are Australians, contracted to help build Australian projects.

Thus, contrary to the rhetoric, sensible international working arrangements create – rather than take – jobs for Australians.

What makes this situation even more ludicrous is that the small number of employees targeted by the MUA's irresponsible campaign – mostly European nationals – are highly paid and employed in full accordance with the applicable laws and obligations.

Despite this issue being resolved relatively quickly and without too much harm – due to the quick thinking of our policy makers, the resilience of employers in our sector, and the advice and support provided by AMMA – there are key lessons to be learnt.

The first is that although non-Australian workers comprise less than three per cent of the offshore resource sector's workforce, their contribution in bringing international skills and technology to Australia's emerging offshore energy sector is critical t the industry's success. This must be better recognised and protected.

The second lesson is that as an industry and as a nation, we must do all we can to minimise the influence and disruption of vested interest groups, and to protect the prosperity and competitiveness of the offshore oil and gas sector – a sector which will play a major role in improving the wellbeing and living standards of all Australian people in the near future. **GT**