



TANDARA SPIRIT DISPUTE: 20 Days in Port Phillip Bay

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The three week sit in by the crew of the Tandara Spirit has been a vital turning point in our nation's consciousness about fuel security, and a historic moment in the MUA's long history.

As such, we have prepared this letter, to ensure all MUA members are kept abreast of what has unfolded, and what it means for our collective struggle in the months and years ahead.

The Tandara Spirit struggle: background

On November 6 2014 the MUA was informed by Teekay that charterer Viva would not be replacing the product tanker MT Tandara Spirit after expiry of its charter in January 2015. Viva is the Australian arm of Vitol, a Swiss multibillion dollar oil company.

In a shameful ploy, preparations were made by the companies to sail the vessel for Singapore only two days after notifying the MUA, despite the inference that the vessel would trade until January 2015. This underhanded plot, in the vein of some B-grade conspiracy movie, took place despite the fact that Teekay ignored, or more to the point deliberately breached, all of the processes for consultation and implementation in change in the enterprise agreement.

After an heroic three-week sit-in by the crew, at noon on Wednesday November 26, 2014 the Tandara Spirit set sail for Singapore.

The struggle had drawn major national and international attention. Its duration was unparalleled for modern day Australian seafarers onboard a vessel.

The crew knew they had to make a stand on the matters that were dear not only to themselves as unionists, to the MUA but to the many millions of Australians who for the first time understood and supported the arguments we put forward about Australian shipping and fuel security.

No one should underestimate the significance of this dispute. We put shipping on the front page as well as the vital issue of fuel security.

Fair Work Commission hearings

Two Fair Work Commission hearings took place over the period of the sit-in. In the first hearing, the commission was persuaded by the MUA not to grant orders to stop industrial action (s418 orders) as it was abundantly clear that Teekay, who the industrial agreement was with, had entirely failed to consult in accordance with the provisions of the agreement.



Credit: Jason South, *The Age*. Cover photo credit: Jason South, *The Age*

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In the second FWC hearing, orders were granted against the MUA and crew members on board the ship. This was despite the company's continued failure to consult in a genuine manner with the union or crew. We still believe those orders were mistakenly given.

Flowing from the issuance of the s418 the company moved to have the matter heard in the Federal Court of Australia. When the Federal Court hearing was listed for another week off it seemed an odd decision, but regardless it was in this period that the campaign flourished receiving local, national and international headlines. The week secured real prominence for issues relating to Australian jobs, fuel security, as well the all-important question of Australian shipping.

It was revealed to the MUA that after the s418 orders were granted, Viva took the vessel off-charter. From this point our action was not economically affecting Viva, which was the main target.

Viva escaped the blowtorch as the charter went back to Teekay, where our legal exposure to massive fines and damages were maximised. This, in essence, was the reasoning behind the delay in the Federal Court hearing. We realised this is why the bosses didn't oppose the hearing being a week later, effectively letting the sit-in continue for another seven days. A cynic might even think there was some collusion with the courts and the companies to derive an outcome that could impact the most negatively on the union, but we are not in a position to prove such theories.

Despite the orders and mounting damages from the writs the, crew chose to stand by their principled and morally correct position by refusing to sail the vessel for 20 days. This is one of the longest sit-ins in MUA history and should be appropriately recognised in the history of our union.

The Tandara Spirit struggle must continue. We can use the example set by its crew to win our fuel security campaign and to bring some attention back onto



shipping. It can provide the basis for us fighting to get up the gangway - not down it.

Tandara Spirit brings fuel security debate to the fore

In order to illustrate the relevance of the Tandara Spirit struggle to the public, the MUA was able to draw on background work on fuel supply and security we had been developing over a period of years.

The oil industry argues that closing refineries and relying on international spot market tankers to supply Australia's needs is perfectly secure. A 2013 inquiry by a House of Representatives Standing Committee on Economics bought their case. But these self-interested arguments have never been challenged and the MUA believes they rest on shaky foundations. Through the Tandara Spirit campaign we were able to start challenging the oil industry's arguments and educating our potential allies on the critical role of shipping in Australia's future fuel security.

The NRMA and other key organisations have been raising concerns about Australian fuel security for some time, but they have never referenced the need for Australian fuel shipping in their reports.

The Tandara Spirit struggle enabled the MUA to introduce the critical issue of fuel security to the broader Australian public, and we will now use it as a platform to launch a broader campaign on fuel security.

We believe the Australian government should mandate that companies importing fuel to Australia and carrying fuel domestically should only contract Australian-flag ships to carry their cargos.

A stable fleet of such ships on long-term contracts is the only way to ensure our future fuel security and proper environmental protection. These ships could be partly on the Australian International Shipping Register and partly on the Australian General Register to provide companies with additional flexibility.

We have kicked off this campaign with a letter from the crew of the Tandara Spirit to all members of Parliament. We have also made submissions to the Department of Industry, which is currently developing a new energy policy for Australia (an Energy White Paper) as well as to an inquiry into 'Australia's Transport Energy Resilience and Sustainability' being hosted by the Senate Standing Committee on Rural and Regional Affairs and Transport. Both submissions will be available to the public through the Inquiry and the Department's websites as well as from the MUA's website.

We have discussed our Senate submission with Anthony Albanese and key crossbench senators, like John Madigan, Ricky Muir, and the Greens. We have met with the NRMA to discuss our common ground. And of course, MUA member Kevin Millar was able to put the arguments to millions of people in his media appearances.

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Avoiding Ships of Shame

The submissions contain new evidence about the reality of current fuel shipping arrangements to Australia. By relying on the international tanker spot market, companies charter tankers only two to three weeks before the voyage, which may be the only voyage the ship makes to Australia in that year. This spot market encourages a race to the bottom and means there is no consistency in what ships visit Australia. Conditions on these Flag of Convenience vessels can be very poor, with low-paid crew working on board for up to a year at a time, and companies often skimping on maintenance.

The result is a merry-go-round of over 100 international tankers visiting Australia every year - but AMSA only has the resources to inspect about half of these ships. Meanwhile, the five Australian-crewed tankers had never been detained once in 36 years of service.

Inspections carried out on some of Vitol and Viva's tankers give us a snapshot of the kinds of ships being used to import fuel to Australia. Since August 2014, they have used:

- three ships that have been detained at least once;
- a Vietnamese ship with crew paid less than \$2 per hour;
- a United Arab Emirates-owned ship which appears to be violating the conditions of the Temporary Licence

issued to the ship under the Coastal Trading Act in order to evade their responsibilities under the Fair Work Act; and

- a tanker that recently ran aground in Estonia being used as a storage tank for up to 100,000 tons of fuel in Port Phillip Bay.

The international impact of the Tandara Spirit sit-in

In addition to the wealth of domestic coverage, including frontpages and primetime TV current affairs stories, news of the Tandara Spirit spread overseas with newscasts and reports throughout Asia and beyond.

Viva tried to attract coverage through its rebranding three months ago, but the MUA has got it more publicity from this dispute than any of their public relations efforts so far. Fuel security and Australian shipping however have been highlighted internationally.

Countries such as Canada, Brazil, Japan, and the United States are watching as the latest battle around cabotage unfolds.

In Canada the SIU is struggling against the devastating effects of the Comprehensive Economic and Trade Agreement (CETA) between the European Union and Canada. This deal for the multinationals will see Canadian cabotage undermined and potentially

destroyed. The ideologically driven attack on national cabotage is the agenda of the big capital, which believes nothing should be placed in front of their insatiable profit-driven exploits.

It is in this context that Seafarers and Dockers Unions worldwide resolved to support the struggle of the workers on the Tandara Spirit. The ITF has committed to undertake an international mapping exercise to identify some further points of leverage in this campaign. ITF affiliates with links to Vitol are also being identified.

The impact of the Tandara Spirit struggle and where it can take us

The dispute and sit-in by MUA members on the Tandara Spirit is one of the longest sit-ins in modern Australian seafaring history and the courage of the crew involved should be honoured. Likewise their eventual decision to sail must be respected.

The crew fought with determination and conviction under extreme duress and threats of litigation. They also realised, however, that the complete protection of Australian seafaring employment was never going to be won or lost as a result of their stance.

This was even more apparent when Vitol took the vessel off hire and was not being affected by the actions of the crew.



NT Branch Secretary Thomas Mayor, Greens Senator Janet Rice and Deputy National Secretary Mick Doleman



Thomas Mayor, Independent Senator John Madigan and Mick Doleman

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The Crew of the Tandara Spirit with Officials:
Ian Bray, Kevin Bracken, Paul Garret and Bobby Patchett

To put it bluntly, there was no leverage on the oil company to change its business model and reverse its decision to offload an Australian crew from that point.

What the actions of the crew did do was raise national public awareness that there is something terribly wrong with the oil companies' view of Australian shipping. The sit in highlighted that the federal government lacks knowledge and understanding about how important Australian shipping is. It also underlined the very real threat of what it means for a country like Australia to not have a fuel security policy, supported by legislation to protect Australian jobs and the national interest.

Put simply, the crew on the Tandara Spirit have triggered a national debate about job security, fuel security, and Australian shipping in general. Through that national awareness the crew of the Tandara Spirit also unofficially launched the MUA's national campaign to defend Australian shipping and fight for a fuel security policy.

On Friday, 28 November, the day after the Tandara Spirit left for Singapore, the MUA Victorian Branch arranged a protest in Hawthorn at Viva's office to show that the vessel might have sailed, but the crew would continue to be supported and

the dispute with all oil majors would not go away. The protest was attended and supported by other trade unions and the ACTU.

On Monday, 1 December, the MUA were again in the streets, this time in Geelong where other unions and supporters joined a demonstration outside Vitol's offices. Parliamentary representatives were present and spoke at the rally, and again the media were there continuing to report on the campaign and raise public awareness of the issues. Federal MP Andrew Wilkie put out a press release that signalled his intention to speak against the governments intentions to wreck the Coastal Trading Act and identified his concerns over the loss of Australian seafarers jobs. He pointed out the moves were ideologically motivated by the Abbott Government's desire to attack maritime unions and, in particular, the MUA. Other MPs intending to speak against the bill were Anthony Albanese and Julie Collins. Greens MPs have also made public statements of support for coastal shipping and more directly regarding the plight of the crew on the Tandara Spirit.

The actions of the crew have laid the ground work for a new campaign, which will be a politically and community-



based. It will focus not only on the retention of Australian coastal shipping, but will also draw in the issue of fuel security both domestically and internationally.

Australia's ability to continue to produce fuel for domestic supply will also ensure that price competitiveness remains and will limit the ability of international interests to price gouge Australian businesses and industry through retaining the ability to produce our own fuel.

Other matters that should be considered as part of the domestic piece of the fuel security policy is the creation of domestic fuel reserves. This is already done through legislation in WA, however neither major political party has considered any introduction of a reserve of any type at a national level. The AWU recently launched a campaign to raise awareness around this and the MUA is supporting and working with the AWU and other unions on this campaign as it has direct synergies with our campaign.

Apparently, our government believes that it is simply good enough to leave it to the "market forces" to determine

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delivery of our fuel. Yet these “market forces” are the very same multinationals that use sub-standard vessels, exploit labour, dodge tax, and minimise their risk exposure to communities and the environment.

If we are relying on 91 per cent of our fuel being imported, what would happen if Australia were to become cut off from our major fuel suppliers either through, war, terrorism, economic collapse, or deterioration of trade relations with our

major fuel suppliers?

On this basis alone any fuel security policy needs to take into account Australia’s capacity to refine and produce set quotas of fuel domestically.

There are two ways to resolve fuel security issues:

1. Refine more fuel here, which means more coastal tankers, or;
2. Have Australian flagged tankers carry fuel from overseas.

The only way we can win this battle is to adopt a broader strategy and take on the oil majors and neoliberal policy itself. We need to identify strategic targets that can get us up the gangway of Australian crewed vessels not just fighting to hang on to a remaining few tankers.

We must oppose foreign multinationals having complete control over our fuel supply.

We must oppose the threat of environmental devastation due to dangerous ships.

We must protect our industries and our ability to grow food.

We must ensure that public and private transport systems aren’t allowed to grind to a halt.

The oil majors are the shippers and they must be convinced, or more likely forced, to invest into Australian crewed shipping to resolve these issues.



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OPEN LETTER TO THE AUSTRALIAN PEOPLE FROM THE CREW OF THE TANDARA SPIRIT

This morning we, the crew of the Tandara Spirit, have decided to end our sit in.

Our 20-day action was forced upon us. It has put us under extreme stress. The threat of destructive legal action against us has been of deep concern. We don't want our wives and families to be worried about losing the family home.

We are ordinary working people. We're not trying to be political activists. We just want to do our jobs in Australian waters.

So although we are ending our sit in for now, our conviction that we are doing the right thing - both for ourselves and for the nation - is unbent.

We do not want to sail to Singapore to be sacked by Viva Energy and replaced with foreign-based crew being paid as little as \$2 an hour.

We believe that there can and should be a role for hardworking Australians in shipping fuel to this country.

We do not believe our industrial system should be undermined by companies who would prefer to pay foreign crew slave wages.

We believe there is a very real threat to the nation's fuel security if Australia is importing 91 per cent of its petrol and diesel and yet allows foreign multinationals to control the means of import. Do we really think these unscrupulous operators can be trusted to keep Australia's fuel flowing regardless of the circumstances?

We believe that a serious environmental disaster in Australian waters is inevitable - whether it is by storing large volumes of petrol in large tankers in Port Phillip Bay or by moving tankers around the Great Barrier Reef when run by those unfamiliar with Australian waters and conditions.

Australia is increasingly allowing an international race to the bottom on shipping. Companies that pay their crew \$2 an hour invariably tend to be equally sloppy when it comes to environmental and safety standards.

So while we may be ending our sit in, we are not ending our fight.

We are confident that the Australian people are with us. And we are confident that enough of their representatives in Parliament will soon see reason.

Decent, honest, Australian jobs are worth protecting.

Our nation's fuel security is worth protecting.

And our environment is worth protecting.

We thank the many members of the community who have offered us their words of support, and to those members of the media who have ensured our story is heard by millions.

This is not the end and our union's tanker and fuel security campaign will continue to push the message that we have highlighted for the past three weeks.

The MUA crew of the Tandara Spirit

Roman Mayer
M. W. W. W.
KARL WILLIAMS K. Williams
ROSS CRUBB R. Crubb
KEVIN MILLAR K. Millar
SEAN LEWER S. Lewer
Wade Appelby
Mark Latham M. Latham
Greg Lemaire G. Lemaire
BRIAN BUTTERWORTH B. Butterworth

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The potential evolution of Australia's tanker trade

Oil companies originally kept tankers on long term charter in Australia to service the refineries they operated here. The ship would add an element of flexibility as companies could use them as an extra storage tank while they were doing maintenance, or to carry extra product that was not needed locally to other ports. Tanker ships carry the equivalent of 1,000 tanker trucks, so they are very efficient in moving product around and keeping dangerous fuel trucks off the road.

This picture is changing. Shell closed the Clyde Refinery and Caltex closed the Kurnell Refinery - both have been converted to act as fuel import terminals. There is now no refinery in NSW or the ACT. BP will do the same to its Brisbane refinery in the first half of 2015. By mid-2015 Australia will be producing 27,000 megalitres of fuel to supply our 55,000 megalitre demand.

Three of the four refineries that remain in operation (Melbourne, Exxon Mobil; Geelong, Vitol; and Brisbane, Caltex) are likely to have less excess fuel available for coastal transport due to large and growing population centres

located nearby.

The reason companies are closing refineries is because they can get higher returns by investing in oil production, and because they can buy fuel more cheaply in Singapore and Korea. In other words, their profits increase.

The result is that Australia will rely on shipping to supply more of our needs than ever before. Yet companies are getting rid of Australian ships.

There are two future areas of growth for Australian tankers:

- Domestic trade: BP's Fremantle refinery is now the largest in the country, but with the smallest local population. Therefore a significant amount of coastal shipping is likely to continue from here, especially to Adelaide, Tasmania, and Sydney. BP has two full-time tankers on charter, and in 2013-14 they also loaded the equivalent of an annual ship's cargo onto Temporary Licence ships in Fremantle (770,000 tonnes). Yet BP are still threatening to remove the British Loyalty in 2015.
- International trade: Australia will need more than 60 full time import tankers to supply our current fuel needs, and that was before the closure of the BP's Brisbane refinery was announced. Using the spot market, this could translate into hundreds of different Flag of Convenience ships travelling around the coast every year, with AMSA only able to inspect half. Australian ships on stable long-term contracts could carry this fuel to Australia safely and securely.



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MUA Assistant National
Secretary Warren Smith
and the ITF Fair Practices
Committee



International Transport Workers' Federation

FPC Steering Group London, 20-21 November 2014

Motion 3: Request for solidarity support for the crew on *Tandara Spirit*

The ITF Fair Practices Committee
Steering Group:

1. NOTES that the *Tandara Spirit* IMO no. 9396725 is a Marshall Island flagged vessel that has been on long-term contract to Shell Australia carrying petroleum products and crewed by members of the MUA, AMOU, and AIMPE. The vessel is owned by Teekay and operated by Viva Energy Australia, which was launched in August 2014 following the acquisition of Shell's Australian downstream business.
2. FURTHER NOTES that Vitol Holding BV is the owner of Viva Energy Australia is a private company

headquartered in Rotterdam with operations worldwide. The company claims to be the world's largest independent oil trading company and controls the movements of 200 ships a day, 6,065 ship voyages per year. Mansel Ltd. is the London-based commercial tanker shipping arm of the Vitol Group.

3. ALSO NOTES that Australia's reliance on shipping for its supply of petroleum is increasing and therefore needs more ships like the *Tandara Spirit* which has an outstanding safety and service record. Despite this the crew on *Tandara Spirit* the crew were notified on 6th November 2014 that the charter would end before the end of the contract period and would not be replaced. The crew remain on board in protest of and the ship remains at anchor outside Geelong near Melbourne.
4. IS CONCERNED with the consistently poor standard of ships that Vitol Group have chartered in to the Geelong refinery to replace the *Tandara Spirit*,

including three ships that have been detained in one or more ports, a ship with an MLC pay violation and without an ITF agreement, and another ship with ABs paid \$809 per month.

5. CALLS ON the ITF to look into Vital Groups shipping operations and information from ITF affiliates who have any past or present relationships with the Vitol Group.
6. FURTHER CALLS ON the ITF and affiliates to send solidarity messages to the crew on the *Tandara Spirit* in their struggle to defend their jobs and the future of cabotage in Australia.

**Submitted by: Maritime Union of
Australia**

Fuel security, shipping and the Tandara Spirit

1. The ACTU Executive notes that:

- A.** With the closure of the Clyde and Kurnell refineries in Sydney and the announced closure of the Bulwer Island refinery in Brisbane in 2015, Australia's refinery capacity will have declined from 45,000 ML to 27,000 ML in 4 years, while demand for petroleum products continues to increase. Australia consumed 55,000 ML of petroleum products in 2012–13.
- B.** Australia's reliance on shipping for its supply of petroleum is increasing rapidly. However, oil companies are ending their long-term charters of Australian-crewed tankers and shifting to a total reliance on the international tanker spot market. We may have only three Australian-crewed tankers by the end of 2015,
- compared to over 100 spot-market international tankers currently used for imports and domestic cargos.
- C.** Since 2004, international-flag tankers have been detained 122 times by the Australian Maritime Safety Authority for serious safety issues. The five Australian-crewed tankers currently operating on long-term contracts have never been detained in 36 years of service. Energy security assessments made by the Parliament and government in 2013 did not consider these risks, nor the risk of relying on a disparate fleet of international-flag tankers fulfilling multiple international contracts, nor the risk of relying only on a few fuel import terminals for its supplies.
- D.** The NRMA has raised concerns and are calling for a Transport Energy Plan for Australia.
- E.** The Tandara Spirit has been on long-term contract to Shell Australia, carrying petroleum products and crewed by members of the MUA, AMOU, and AIMPE. Vitol purchased Shell's refinery business in Australia in August 2014. Vitol trades under the name 'Viva Energy Australia', but is also licenced to use the Shell brand name. Vitol is a Swiss and Dutch company that claims to be the world's largest independent oil trading company.
- F.** The Independent reported in July 2014 that Vitol carries out significant tax avoidance in the UK. Documents show that all shares in Viva Energy Australia's ultimate holding company are held by the 'VIP Charitable Trust' in Jersey, a well-known tax secrecy jurisdiction.
- G.** On 6 November 2014, the crew of the Tandara Spirit were notified their charter would end early and the ship not replaced. The crew remain on board in protest at the company's actions and the ship remains at anchor outside Geelong near Melbourne.
- H.** The poor standard of ships that Vitol and Viva have chartered in to the Geelong refinery to replace the Tandara Spirit, including three ships that have been detained at least once, a Vietnamese ship with crew paid \$809 per month, and a United Arab Emirates-owned ship which appears to be violating the conditions of the Temporary Licence issued to the ship under the Coastal Trading Act in order to evade their responsibilities under the Fair Work Act.
- I.** Australia needs more ships like the Tandara Spirit, not fewer.



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Credit: Jason South, *The Age*.

2. The ACTU Executive resolves to:

- A. Offer its solidarity to the crew of the Tandara Spirit, who have offered a strong defence of their jobs and the future of Australian shipping.
- B. Encourage ACTU affiliates to send messages of solidarity to the crew of the Tandara Spirit.
- C. Raise the rising risk of fuel security, the need for a comprehensive Transport Energy Plan for Australia, and the importance of using Australian ships on stable long-term contracts to mitigate these risks.
- D. Ensure that the rising risk of fuel security, the need for a comprehensive Transport Energy Plan for Australia, and the importance of using Australian ships on stable long-term contracts to mitigate these risks be considered when reviewing the ACTU's energy and transport policies in the lead up to the ACTU Congress in 2015.
- E. Urge affiliates and delegates to raise the rising risk of fuel security, the need for a comprehensive Transport Energy Plan for Australia and the importance of using Australian ships on stable long-term contracts to mitigate these risks in all appropriate forums.
- F. Support the MUA's fuel security campaign for shipping jobs.