

# Parliamentary Brief

Regulation of Australian  
Coastal Shipping  
July 2014

### Purpose of this briefing

This briefing has been prepared for Senators and MPs in preparation for anticipated Government amendments to a suite of shipping reform legislation that was passed by the Parliament during the Gillard Labor Government and commenced on 1 July 2012. The 2012 shipping reform package was initiated by the Rudd and Gillard Governments to revitalise Australian coastal shipping.

The Maritime Union of Australia (MUA) asks that Senators support the MUA position that the 2012 shipping reforms be retained, with amendments to improve its effectiveness and to reduce compliance costs.

### Regulation of Australian coastal shipping is not new - it has been in place for a century

Australia has maintained support for its coastal shipping industry for nearly 100 years, through various forms of shipping cabotage (reservation of domestic shipping for domestic shipowners/operators). Cabotage policy was captured in the former *Navigation Act 1912*.

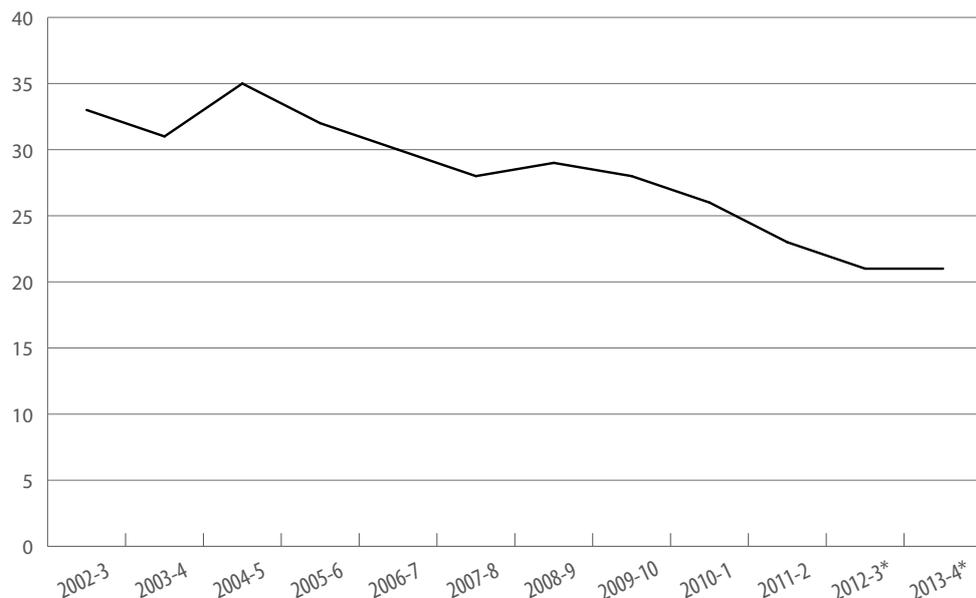
Notwithstanding that policy position, Australian coastal shipping has been in a steady decline since 1996 when the Howard Government dismantled the last wave of shipping reforms of the 1980s. The Howard Government:

- Abolished the *Ships (Capital Grants) Act 1987*;
- Restricted the availability of the 20% pa accelerated depreciation for eligible Australian ships; and
- Liberalised the Ministerial Guidelines on Coastal Shipping enabling easier access to permits for foreign registered ships, including that a lower freight rate would constitute a reason for determining that an Australian ship is not 'suitable' for the carriage of a coastal cargo.

This had the effect of deregulating coastal shipping and inhibiting new investment in Australian ships.

This decline is evidenced by the fact that over the last decade, the number of Australian registered coastal trading ships has fallen from 33 ships in 2002-03 to an expected 21 ships at June 2014 (see Figure 1). In addition, the average age of the fleet has increased significantly over this period to well beyond the international average.

**Figure 1:** Number of Australian- flagged major coastal trading ships



**Source:** Fleet size from 2002-3 to 2011-12 is from Bureau of Infrastructure, Transport Regional Economics, 2013, *Australian Sea Freight 2011-12*, p. 59. Fleet size in 2012-3 and 2013-14 is projected using BITRE's definition of major Australian trading fleet: cargo ships owned or operated by Australian companies at the end of the financial year, over 2,000 DWT, and for which 80% or more of their voyages called at an Australian port.

## What did the 2012 reforms do?

The 2012 reform package maintained the principle of cabotage but introduced measures to ensure that the cabotage policy had practical effect, by restoring the pre 1996 position whereby Australian Register (flagged) ships that employ Australian crew under Australian enterprise agreement or Award conditions had an opportunity to contest available coastal cargo. This outcome was delivered through:

- The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act) which provided a licensing system to replace the former permit system (the CT Act essentially replaced the cabotage provisions in the *Navigation Act 2012*)
- A range of amending tax legislation that provided for:
  - An income tax exemption (ITE) for operators of Australian registered eligible vessels on qualifying shipping income;
  - Accelerated Depreciation and rollover relief for owners of Australian registered eligible vessels;
  - A refundable tax offset for employers who employ eligible Australian seafarers (note that this reform was inexplicably abolished in the 2014 Budget); and
- An exemption from royalty withholding tax for foreign owners of eligible vessels leased under a bareboat or demise charter to an Australian operator.
- Establishment of a high quality Australian International Shipping Register providing for use on lower cost international seafarers, and an attractive ship taxation regime which aimed to stimulate investment in the Australian international shipping task and to help build a maritime cluster.
- Labour relations reform given effect through the Bluewater Labour Relations Compact signed by the Australian Shipowners Association (ASA), Australian Maritime Officers Union (AMOU) and Maritime Union of Australian (MUA) in 2012.

Prior to the 2012 reforms, the Gillard Government, as part of the introduction of the *Fair Work Act 2009*, adopted the principles of the High Court in a landmark 2003 judgement which ruled that the industrial relations umpire (currently the Fair Work Commission) has the power to make an Award for foreign seafarers employed on ships operating in the Australian coastal trade. The Gillard Government adopted this principle by making a regulation that extended the operation of the Fair Work Act, and by implication, Awards made under that Act, to foreign seafarers employed on ships issued with a license under the CT Act.

The FW Commission varied the Seagoing Industry Award to provide a new Part B, which applies a set of pay rates and conditions for international seafarers while on an international ship carrying coastal cargo which are based on the standards for international seafarers generally. Part B came into effect in 1 January 2011.

The effect of the CT Act and the application of Part B of the Award is that the competition between Australian Register ships and international ships that are available to carry coastal cargo is much fairer - it creates a much more level playing field and delivers economic benefits to Australia.

In essence the 2012 shipping reform package maintained a light touch coastal regulatory system that provides for Australian ships that are available and suitable to contest for available coastal cargo while maintaining an important role for foreign registered ships to carry all remaining cargo. The use of Australian ships, complemented by foreign ships provides a mix of shipping options for cargo interests (shippers) that delivers stable and lower freight rates.

This mix of shipping options facilitates trade, increases modal choice for shippers, creates more competition, creates jobs and retains and builds the maritime skills base in Australia. It is the right policy mix for Australia.

### **The Abbott Government position on retention of the 2012 shipping reforms**

On 8 April 2014, the Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Hon Warren Truss MP, released an Options Paper on approaches to regulating coastal shipping in Australia. Submissions were required by 10 June 2014. The Department received 84 submissions.

The Options Paper outlines 3 possible options:

1. Remove all regulation of access to coastal trading i.e. close the coast for foreign shipping by repealing the CT Act but retain the FW Act/Award requirements, allow Customs to declare international ships that carry coastal trade as being imported which results in the crew being required to hold an Australian work visa (not a Maritime Crew Visa) which would require them to be paid Australian market rates) thus making foreign shipping very expensive.
2. Remove all regulation of access to coastal trading and enact legislation to deal with the effects of other Australian laws i.e. open the coast to foreign shipping at the expense of Australian ships by repealing the CT Act, repealing the application of the FW Act and Award, exempting foreign ships from being declared by Customs as imported and allow the Maritime Crew Visa (currently a transit visa for visiting international seafarers) to become a de-facto work visa.
3. Continue to regulate coastal trade but minimise industry burden and cost i.e. retain the CT Act but make amendments to reduce those aspects that have been found to be costly to administer and have had unintended inefficiency consequences.

It is unclear from the Options Paper what the Government's intentions are in respect to the shipping taxation incentives, but the Government has already abolished the seafarer tax offset in the 2014 budget.

The Government appears to be happy to retain the Australian International Shipping Register but seeks views on how it could be improved due to the fact that not one ship has so far registered on this new Register.

### **The MUA position**

The MUA strongly urges the Government to retain and improve the CT Act.

It is in the national interest to retain and grow the coastal shipping industry. There are persuasive economic, supply chain security, skill retention, environmental and strategic reasons for retaining policies that provide fair competition to enable Australian coastal shipping to prosper and grow.

There is no incompatibility in achieving the twin objectives of regulating coastal shipping to provide fair competition and reducing regulatory burden on industry.

Coastal shipping is not subsidised and no subsidisation is required to achieve those objectives.

What is required is Government action to provide the appropriate access regime to ensure Australian coastal shipping and international shipping can both participate in Australia's sea trade task on a fair competitive basis, in a way that provides an efficient transportation mode for cargo interests to complement both road and rail freight.

The primary reason for providing support to Australian General Register ships is to create a mixed shipping market (Australian General Register and foreign registered ships) in order to maximise the opportunity for shippers to secure the right ship at the right time for the right price, and to remove the risk to supply chains (particularly just-in-time supply chains) by

total reliance on the spot shipping market or chartered foreign ships. It emphasises that the demand for coastal shipping services will increase in the forward years.

The existence of an Australian coastal shipping fleet improves competition and dampens freight rates. If General Register ships were to lose the support of regulation, current low freight rates provided by foreign ships cannot be guaranteed because foreign ships would be given a monopoly position in most Australian trades.

Reliance on a spot shipping market will inevitably lead to disruptions to domestic trade because shippers reliant on a spot market can have no control over ship scheduling and hence reliability, nor over access to fit for purpose ships that meet the shipper's specifications for carriage of specialist cargo types such as in the case of food grade cargo, perishable cargo or cargo requiring temperature control, nor on ship port calls and many other features that are part of the competitive equation.

Price is not the only aspect of competition that is important in Australian sea freight markets.

Maintenance of a critical mass in the Australian Bluewater trading ship fleet is essential to provide the training berths for the supply of qualified seafarers that support all aspects of the maritime industry, both on-board and onshore.

Recent independent research shows that Australia may be already below that critical mass (See Figure 2). The loss of further Australian ships is likely to lead to critical shortages on maritime skills in key sectors such as offshore oil and gas (at the exploration, construction, production and transportation stages), as well as in port management, pilotage, towage, pilotage operations, for harbour management functions, as well as in ship and work health and safety regulation, maritime training institutes, marine law, marine insurance, marine finance and in many other facets of sea freight transportation.

**Figure 2:** Australian coastal fleet required to maintain Australian maritime skill base



**Source:** Noetic Infrastructure Solutions, Review of the Australian Coastal Shipping Industry and Regulations (unpublished), p. A10, June 2014. The range in the minimum size fleet required depends on the growth in the maritime industry outside of the coastal fleet ranging from 0% to 8.7%.

Maintenance of an Australian fleet is important for supply chain security, particularly for Australia's energy supply, noting that the availability of Australian flagged ships provides the nation with a degree of control over its trade dependency, and its sea routes, that is an essential part of the nation's economic independence, its defence and its maritime and border security.

The MUA supports Option 3 in the Government's Options Paper, albeit with amendments to the Coastal Trading Act, as it is the only economically responsible Option. This is because it is the only Option that provides for shipping mode efficiency, for fair competition, for ship supply adequacy and for improved modal productivity performance. Only under this Option can shippers have supply certainty and predictable freight rates.

### **The implications from the loss of an Australian coastal trading fleet**

There will be a significant loss of Australian seafaring employment and related upstream employment. Up to 1,700 seafarers in the Bluewater sector, and many more in the sectors that service the Australian shipping fleet could be at risk. It is estimated that 6,000 to 8,000 related jobs could be at risk.

The appeal of a possible, but far from guaranteed lower freight rate regime that might result from repeal of the CT Act and deregulation of Australian coastal shipping must be weighed up against the following factors, which span both competition and national interest considerations:

First, due to the relatively low sea freight volumes in Australia, handing over the domestic sea freight market to foreign registered ships would, over time, result in certain foreign shipping lines dominating certain trade routes under essentially monopoly conditions, and inevitably lead to higher freight rates and a lack of services tailored for the Australian market.

Reliance on an international spot market for most of Australia's domestic sea freight requirements, given Australia's geographical positioning at the end of global sea trade routes is a significant risk. Such reliance will inevitably lead to disruptions to domestic trade because shippers reliant on a spot market can have no control over ship scheduling and hence reliability, nor over access to fit for purpose ships that meet the shipper's specifications for carriage of specialist cargo types

Second, elimination of the nation's domestic trading fleet will have major implications for the supply of the nation's maritime skills.

Third, it would impact on Australia's economic independence, its defence and its border security. The availability of Australian flagged ships provides the nation with a degree of control over its trade dependency, and its sea routes, that is an essential part of the nation's economic functioning and security. Merchant ships and Australian merchant seafarers are, and have always been, an essential part of the national defence capability, in both wartime and peacetime, including in humanitarian missions.

Fourth, ships are the least energy intensive of all the freight modes i.e. ships emit the lowest emissions on a tonne kilometre basis of any other freight mode.

Finally, shipping is not a subsidised industry. No taxation revenue is currently allocated, directly or indirectly, to the shipping industry. Ships require no infrastructure funding from Government.

### **The economic benefits from retaining an Australian coastal shipping industry**

Australia has the 4th largest shipping task on the globe. The nation generates massive demand for shipping services. Shipping is the infrastructure pipeline to Australia's export led wealth generation and to the nation's import consumption led demand, both of which sustain Australia's GDP and living standards.

Shipping continues to play an important role in the domestic freight market with a 17% share of the market.

The value of Australia's international sea freight in the 2011-12 financial year was approximately \$400 billion, weighing over 970 million tonnes. Over 99 million tonnes of coastal freight was handled by Australian Ports. Australian exports and imports comprise over

11% of the world's seaborne trade.

Despite the size and significance of Australian shipping, we generate almost zero economic advantage from that service industry opportunity.

In 2012/13, freight transport services was Australia's 5th largest goods and services import, costing the nation \$9.2B yet it did not rate among Australia's top 25 goods and services exports. This indicates the huge potential to build an export service industry that could replace a large proportion of that multi-billion dollar import bill the nation is paying for the shipping services required to export its resource and agricultural commodities and to import its manufactured goods.

The size of the opportunity is demonstrated in a report prepared by Oxford Economics for Maritime UK in 2013 which found that:

- The UK shipping industry has, in general, enjoyed buoyant growth over the past decade, following the introduction of the tonnage tax in 2000. In total, the shipping industry supported almost £12.5B (Aust\$22.5B) in UK GDP, 287,000 jobs (of which 48,200 were UK-based) and £2.8B (Aust\$5.4B) in tax receipts.
- The maritime services sector made an estimated £13.8B (Aust\$23.5B) direct value-added contribution to GDP in 2011, equivalent to 0.9% of the UK economy.
- Once multiplier effects are accounted for, the sector makes a value added contribution to GDP of £31.7 billion (Aust\$54B), equivalent to 2.1% of the UK economy.

As an example of the importance of the 2012 shipping reforms, the income tax exemption measure is estimated to reduce ship operating costs by up to \$1M per annum, thereby further contributing to development of fair competition in provision of shipping services.



**WE HAVE THE POTENTIAL  
TO GROW AUSTRALIAN  
JOBS, AUSTRALIAN  
INVESTMENT AND BUILD  
OUR ECONOMY.**

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