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## **SUBMISSION**

# Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee on the Coastal Trading Amendment Bill 2017

November 2017

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**The Business Council of Australia draws on the expertise of Australia's leading companies to develop and promote solutions to the nation's most pressing economic and social policy challenges.**

## **ABOUT THIS SUBMISSION**

This is the Business Council of Australia's submission to the Senate Rural and Regional Affairs and Transport Legislation Committee on the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017.

## **KEY RECOMMENDATIONS**

The Business Council supports the Government's reform program for the coastal shipping sector and recommends the amendments in the Bill be implemented.

These changes will provide business with greater flexibility in its use of freight services, help to alleviate high regulatory and shipping costs under the current regulations and boost employment opportunities and economic growth.

The proposed amendments include:

- Remove the five voyage minimum requirement for a Temporary Licence, and allow organisations to apply for single voyages
- Streamline the licensing process where no General Licence vessels are available by removing the need for consultation
- Streamline the Temporary Licence variation process by combining the two types of variation ('authorised' and 'new' matters) into a single variation type
- Amend and reduce voyage notification requirements
- Amend the tolerance provisions to extend the loading dates tolerance and to remove volume tolerances
- Replace the current three-tier licence regime with two tiers by abolishing emergency licences
- Extend the geographical reach of the Coastal Trading Act to include voyages to and from other defined places in Australian waters such as offshore installations
- Allow dry-docking under the Coastal Trading Act so that vessels undergoing maintenance are not subject to importation under the Customs Act 1901.
- Minor technical amendments to clarify definitions and assist with administration.

## **Background**

The Business Council commends the government for taking a considered approach to reforming the Coastal Trading Act and proposing sensible changes that deserve the support of the parliament.

Like many other countries, Australia imposes a system of cabotage in the coastal shipping sector that gives Australian registered ships preferential trading rights over visiting foreign ships. This system is regulated by the Coastal Trading Act.

The removal of cabotage has been recommended by the Competition Policy Review, the Productivity Commission and the National Commission of Audit.

Cabotage locks in uncompetitive shipping rates and imposes excessively high regulatory costs on business. A previous Bill to remove cabotage and improve the competitiveness of the sector, rejected by the Senate in 2015, was estimated to deliver a net economic benefit of \$667.4 million and annual reduction in regulatory burden of \$21.4 million.

The Business Council also supports the removal of cabotage but recognises there are different views among industry stakeholders and within the parliament.

The current set of proposals by the government no longer seek to remove cabotage, but are designed to reduce the high regulatory costs associated with the current regime and create more flexibility for industry. While this may be a second best solution the changes will undoubtedly improve Australia's global competitiveness and should be supported.

For a country with such a long coastline and long distances between ports, an efficient and flexible coastal shipping sector is critical for lifting the competitiveness of Australian businesses that use shipping in their supply chains. Coastal shipping is a commonly used form of transport in the oil refining, cement, steel, food production and aluminium sectors. These industries employ many Australians right across the country and are subject to intense global competition.

Under the current regime, Australian firms can pay rates that are up to double the rates potentially offered by foreign ships, adding tens of millions of dollars to their cost base, and making their operations less viable as a result. Australian businesses report that it can be cheaper to ship materials from overseas than to move them around the Australian coast.

Regional centres are particularly affected, as manufacturing businesses that use coastal shipping are often concentrated in those areas e.g. regional Queensland and Tasmania.

Current coastal shipping laws suffer from a set of confused objectives in support of competition, efficiency and industry development. The complex regulatory scheme designed to support these objectives imposes costs from:

- high regulatory costs of administration and compliance with regard to temporary licence applications, changes and reporting
- higher shipping costs as shipping users either incur additional direct costs themselves, or pay rates in the market for shipping services that are above the efficient cost of service provision, due to the application of the cabotage regime
- fewer coastal shipping options, where Australian shippers are unable to access foreign vessels
- costs associated with inefficient vessel use due to inflexibilities in the regime that prevent the efficient use of ships in line with business needs

- costs associated with uncertainty and delay in the determination of temporary licence applications, because the factors to be taken into account may not be not settled (in part due again to the conflict in the Act's objectives).

The current regulations are counterproductive: they make coastal shipping more costly, thereby making it less competitive in relation to other transport options. The volume of coastal shipping freight moved continues to fall, as does the number of Australian registered ships engaged in coastal trading.

Making the coastal shipping licensing regime work better will lead to a number of benefits:

- reduce excessive and stifling red tape and its associated costs of administration and compliance
- lower shipping costs to users as a result of greater competition
- give users more options in the market for coastal trading services
- give users greater flexibility to manage their businesses efficiently and grow their businesses
- remove the costs of regulatory uncertainty under the present scheme
- provide incentives for the Australian shipping industry to lift productivity and grow sustainably.

These changes can also spur the Australian shipping industry to become more competitive and over time use the advantages of proximity, reliability and service quality to secure shipping business.

The Business Council urges all members of parliament to support the proposed changes to coastal shipping regulation in the interest of a stronger and more competitive Australian economy.

### **Examples of current regulation limiting efficiency**

The temporary licence scheme is inconsistent with the efficient management of the businesses of shipping users, leading to significant costs lower productivity. Flexibility is critical for many industries where shipments can be delayed by factors outside the control of the shipper, such as the weather, and berth availability.

- The minimum five voyage requirement and 12 month maximum licence period are inconsistent with forward planning and limit the ability to adapt to unforeseen events.
- Shippers with a temporary licence that make changes to shipments due to unforeseen events are required to notify the market so a general licensed ship can contest the revised shipment. If successfully challenged it can mean costly changes to shipping arrangements and potentially the need to compensate a foreign ship that was already commissioned to take the load.
- Shipping users may have to charter more than one vessel to perform a shipment where a General Licence holder successfully challenges for some legs of a journey leaving the temporary licence to cover the other legs.

- Unexpected events such as weather, breakdowns and other delays will lead to the loss of the particular voyage under a temporary licence. Shipment delays can have significant consequences for the receiver of the cargo.
- Temporary licences are not available when shipping from offshore installations to Australian ports. This means vessels are can be treated as imported which has significant implications for the efficient operation of these vessels.
- Considerable uncertainty has emerged around the decision-making criteria for a temporary licence application. There is uncertainty over the matters that the regulator (or 'delegate') should take into account when, say, assessing differences in quoted shipping rates between a local and foreign ship. Shipping users therefore take a risk that a decision made by the regulator to approve a temporary licence might be subsequently challenged in the courts.

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