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Mr Tim Bryant
Committee Secretary
Senate Economics Legislation Committee
Parliament House
Canberra, ACT 2600

Dear Mr Bryant

**Supplementary Submission on the
Workplace Relations and Skills Aspects of the Package of Bills to Revitalise the Australian Shipping
Industry**

Shipping Australia is pleased to have the opportunity to make a submission in relation to the Workplace Relations and Skill aspects of the following package of Bills:

- Coastal Trading (Revitalising Australian Shipping) Bill 2012
- Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012
- Shipping Registration Amendment (Australian International Shipping Register) Bill 2012
- Shipping Reform (Tax Incentives) Bill 2012
- Tax Laws Amendment (Shipping Reform) Bill 2012

Shipping Australia is a peak shipowner body in Australia and its member lines (list attached) are involved with over 80% of Australia's international container and car trade and over 60% of our break bulk and bulk trade.

A training development forum has been established by the Federal Minister for Infrastructure and Transport to advise him on the appropriate training requirements that will need to be met by the general licence holders (Australian flag vessels) and vessels registered under the Australian International Shipping Register which will have at least two senior officers, preferably the Master and Chief Engineer, as Australians. Both types of ship registrations will require an obligation to train a certain number of Australian cadets.

Shipping Australia is not privy to the recommendations to the Minister that will be made by that Forum regarding training so we are not in a position to comment further on any recommendations which may emerge.

A major concern to Shipping Australia is the Coastal Trading (Revitalising Australian Shipping) Bill 2012. All vessels that are granted a temporary licence (both foreign flag vessels and vessels registered under the Australian International Shipping Register) for a twelve month period under that Bill to carry coastal cargo will be subject to the Fair Work Act.

In 2009, the then Minister for Workplace Relations, the Honorable Julia Gillard, proposed Regulations which were not disallowed in Parliament, proposing that permit vessels be subject to Australian wages and conditions. As from 1 January, 2010 the then Minister introduced Regulations which are set out in section 1.15E of the Fair Work Act entitled “Extension of the Act to the Exclusive Economic Zone and the Continental Shelf – Ships”. It says, in part, the Act shall apply in relation to a ship:

- (a) That is a permit ship in the exclusive economic zone or the waters above the continental shelf; and
- (b) For which:
 - (i) A continuous voyage permit is issued under section 286 of the Navigation Act 1912 on or after 1 January 2010, and
 - (ii) 2 or more other single voyages permits have been issued under that section in the period of 12 months before the current permit is issued.

Following representations to the then Australian Conciliation and Arbitration Commission, the modernised Australian Seagoing Award was introduced with a Part (B) which applied to permit ships carrying Australian domestic cargo which was less than the Australian wages set out in Part (A) of the award. The Part (B) wages are as follows:

Classification	Minimum weekly wage
Master	A\$1127.80
Chief Engineer	\$1109.20
First Mate / First Engineer	\$961.80
Second Mate / Second Engineer	\$890.30
Third Mate / Third Engineer	\$853.40
Chief Integrated Rating / Bosun / Chief Cook / Chief Steward	\$807.30
Integrated Rating / Able Seaman / Fireman / Motorman / Pumpman / Oiler / Greaser / Steward	\$735.70

Within the Shipping Registration Amendment (Australian International Shipping Register) Bill 2012, a reference is made to the International Transport Federation Uniform TCC Collective Agreement wage rates and these are attached to this submission.

Under Part (B) of the Australian Award, an integrated rating earns approximately A\$2943 which is more than a Second Officer in the attached ITF wage rates with an Able Seaman earning US\$1709.00 per month approximately.

This resulted in a substantial increase in the cost of the carriage of cargo under permit around the coast by foreign flag vessels and in some cases, the withdrawal of services.

Under the proposed new arrangements in the Coastal Trading Bill the original Regulations would not be adhered to. To reiterate, there could be two single voyage permits under the Navigation Act in a twelve month period to which the Fair Work Act would not apply. In the Coastal Trading Bill, a temporary voyage permit will be issued for 12 months and the Fair Work Act will apply to all temporary licences as the temporary licence. Clearly this is a more restrictive regime now being applied.

Technically, if there was a permit for one container of domestic cargo on board a vessel which was carrying 3,000 containers of Australia's international trade, the crew all had to be paid the Part (B) wages while that one container of domestic cargo was on board. Shipping Australia proposed to the Government an amendment to regulation 1.15(e) under the Fair Work Act along the following lines:

Extension of the Act to the exclusive economic zone and the continental shelf – ships

- (3) For subsection 33(3) of the Act, the Act is extended to and in relation to a ship:
- (a) that is a temporary licence ship in the exclusive economic zone or the waters above the continental shelf; and
 - (b) for which:
 - (i) a temporary licence is issued under the Coastal Trading (Revitalising Australian Shipping) Act, 2012 on or after 1 July, 2012, and
 - (ii) The following criteria does not apply:
 - (a) shipping lines who regularly engage in international trade and whose vessels regularly move into and out of Australia's jurisdiction; and
 - (b) vessels that carry less than the majority of their capacity of Australian domestic trade per annum (i.e. the majority of their capacity is used for international trade); and
 - (c) vessels whose carriage of Australian domestic cargo is incidental to the main purpose being an international voyage and there is no disconnect from the international voyage to do so; and
 - (d) do not trade regularly between Australian ports on the one round voyage within the Australian Exclusive Economic Zone.

The effect of the above regulation would be that ships that are only incidentally carrying domestic cargo, for example under temporary licences in pursuance of the Coastal Trading Act would then not be subject to the Fair Work Act. This is also in recognition of the fact that the contracts of employment are entered into overseas and it is questionable whether Australia has jurisdiction to exert its National Workplace Relation Laws to overseas employment contracts. We would strongly urge an amendment to the Coastal Trading Bill and issue of temporary licences that the Fair Work Act should not apply in accordance with this amended regulation 1.15(e).

I would be quite happy to elaborate on the above points or answer any further questions that the Committee may have.

Yours sincerely

Llew Russell, AM
Chief Executive Officer