

DEPARTMENT OF INFRASTRUCTURE AND TRANSPORT
SUPPLEMENTARY SUBMISSION TO
SENATE ECONOMICS LEGISLATION COMMITTEE
IN RELATION TO:

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 Reforms) Bill 2012

INTRODUCTION

Further to the Department of Infrastructure and Transport's (the Department) submission to the Senate Economics Legislation Committee (the Committee), and its subsequent appearance before the Committee, the Department wishes to make a supplementary submission to the Committee.

The supplementary submission will outline the Government amendments made to the suite of shipping reform Bills before they were passed by the House of Representatives on 31 May 2012 and address some of the issues raised during the Committee hearing in relation to the operation of the Bills.

GOVERNMENT AMENDMENTS TO SHIPPING REFORM BILLS

A number of Government amendments to the shipping reform Bills were passed in the House of Representatives on 31 May 2012. These amendments addressed a number of issues raised during both the House of Representatives and Senate inquiries, as well as other minor matters which might have had unintended consequences.

Energy Security

The Coastal Trading (Revitalising Australian Shipping) Bill 2012 has been amended to allow an 'energy security variation' to an existing temporary licence. This will enable vessels carrying a liquid fuel product to respond to energy-related emergency situations. This type of variation will be decided within 24 hours. The inclusion of this type of variation is in direct response to representations made by the major oil companies and the Australian Institute of Petroleum. The amendment will provide sufficient flexibility in the Bill to enable fuel carriers to quickly and adequately respond to contingencies and avoid potential risk to the country's energy security.

Labour Provisions for International Register Vessels

The Shipping Registration Amendment (Australian International Shipping Register) Bill 2012 has been amended to clarify the application of other laws to ships registered in the Australian International Shipping Register (the International Register). This includes that the *Fair Work Act 2009* does not apply to International Register ships when they are used to engage in international trading, and that the *Seafarers Rehabilitation and Compensation Act 1992* does not apply to International Register ships at any time. The amendments also clarify that State and Territory workers' compensation legislation, and any other State or Territory legislation prescribed by the regulations, does not apply to International Register ships at any time. This is to enable International Register ships to compete on a level playing field with their foreign-flagged competitors.

In order to ensure crews on International Register ships are adequately protected, however, the amendments also ensure that owners of ships registered in the International Register are required to have insurance or indemnity policies that comply with the requirements outlined in the Bill at all times, wherever the ship is located.

Eligibility for Tax Concessions

The Shipping Reform (Tax Incentives) Bill 2012 sets out which vessels are eligible for the tax concessions, the aim of which is to confine the concession to the 'blue water' fleet. This Bill has been amended to allow the Minister to make a determination that further clarifies which vessels should be eligible for the tax concessions, due to the broad nature of the definition of excluded vessels in the Bill.

Royalty Withholding Tax

The Tax Laws Amendment (Shipping Reform) Bill 2012 has been amended to ensure that income previously subject to Royalty Withholding Tax (RWT) does not default to the normal income tax system because it is no longer treated as not assessable and not exempt income. The policy intent behind the removal of RWT was to make bareboat charters a competitive alternative to voyage or time charters, which normally have foreign registration, and instead provide vessels that can be crewed by Australian seafarers without necessarily having to buy a new vessel. However, without the amendment introduced by the Government, the removal of RWT would have had the effect of putting lessors into the company tax system and, therefore, liable to pay company tax on net income at the company rate of 30%, defeating the policy intent of encouraging bareboat charters.

ISSUES ARISING FROM HEARINGS

ITF Wages

Senator Cameron asked the Department to advise what the minimum International Transport Workers' Federation (ITF) wage rate referred to in the Deloitte Access Economics report comprises. The Department has been unable to identify the two tables Senator Cameron was referring to, however, it is able to provide the following information in relation ITF wage rates. A copy of the current ITF Uniform "Total Crew Cost" Collective Agreement is attached to this submission, and the wage scales can be found at Annex 2 of the document.

The ITF Agreement outlines a range of working terms and conditions for seafarers, including wages, hours of duty, overtime, rest periods and leave entitlements. The total minimum monthly rate (in US dollars) for each class of seafarer at Annex 2 includes a basic salary, guaranteed overtime (of 103 hours per month), leave entitlement (at a rate of 7 days per month) and leave subsistence (at a rate of \$18 per day).

Temporary Licences

The issue of the extent of discretionary powers the Minister is afforded in the temporary licence application process was discussed in response to concerns raised by sugar industry representatives regarding the availability of suitable ships to transport their cargo. Specifically, the representatives stated that they had particular requirements regarding the standard of ships they use and, because of the ability of general licence holders to contest temporary licence applications, the preference the Bill assigns to general licence holders, and the ability of the Minister to exercise some discretion in this regard, they may be forced to use sub-standard ships or risk being unable to move their cargo at all.

The Coastal Trading (Revitalising Australian Shipping) Bill 2012 includes a number of factors that the Minister is obliged to have regard to when deciding whether to approve a temporary licence application, if it has been contested by one or more general licence holders. These include whether, and to what extent, the general licence holder's vessel is equipped to carry the cargo specified in the application, as well as the reasonable requirements of a shipper of the kind of cargo specified in the application.

Further, and in direct response to the sugar industry's concerns, a Government amendment to the Bill was made to include a provision that also obliges the Minister to have regard to whether an applicant for a temporary licence owns both the cargo and the vessel registered in the International Register, and whether the vessel will be used to carry the cargo.

Scenarios in the Regulation Impact Statement

Evidence was given to the Committee that, of the four scenarios outlined in the Regulation Impact Statement, scenario A is the 'status quo'. A similar claim is also made in the Deloitte Access Economics report. Each of the scenarios is a comparison with a base case, and it is the base case that reflects the status quo rather than Scenario A.

Scenario A is one projected policy case that includes the productivity gains expected from the Compact between industry and the unions, such as reductions in crewing numbers, fewer days per year in dry dock due to maintenance work being undertaken by riding gangs, and lower accommodation standards on new ships. An assumption that half of Australian ships (after a 5-year transition period) will be bareboat chartered following the abolition of the RWT also generates benefits.

The same gains that accrue under scenario A also accrue under the other scenarios, but there are offsetting costs from substituting more expensive Australian ships for cheaper foreign ships.

Scenarios A and D were included in the analysis as extreme cases, with scenarios B and C considered to be the most likely outcomes by the Bureau of Infrastructure, Transport and Regional Economics (BITRE). The shipping reform policies and the subsequent legislative package were designed with scenarios B and C in mind.

Temporary Licence Wage Rates

Evidence was given to the Committee that, under a temporary licence, industry would be required to pay wages in accordance with rates outlined in Part A of the Seagoing Industry Award (SIA). This is incorrect. Vessels engaged in coastal trading under a temporary licence in the new regime will be required to pay wages in accordance with Part B of the SIA. Only vessels operating under a general licence will be required to pay Part A wage rates. This maintains the current policy settings in regard to coverage under the *Fair Work Act 2009*.