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**AUSTRALIAN SHIPPING CONSULTANTS PTY LTD**

5 March 2012

Maritime Division  
Department of Infrastructure  
Department of Infrastructure and Transport  
GPO Box 594  
Canberra ACT 2601

## **SHIPPING REFORM**

### **Preamble**

This submission is made by way of observations and expressed opinions, and perceived consequences, concerning the principles and political intent of the draft bills, as presented and made available for discussion and commentary.

As regards the recently completed public consultation process, it must of course be understood that same would always be limited to a few finer points (drafting) in the contents wording, and would not present a means of changing any of the fundamental elements (policy directions) – and as expected, this has indeed been the case.

It is equally apparent that these bills are largely the results of a successful campaign by ASA (Australian Shipowners Association) who formulated and advocated these proposed policies, with support from the Maritime Unions. This is well in line with tradition, and understandably reflecting the market aspiration of the Industry, which, as correctly argued, has been in a state of decline for many years (i.e. reducing numbers of ever aging fleet, and thereby employment opportunities).

The undersigned supports the principle of, and sustainable prospects for a revitalization of the Australian Shipping Industry, provided this can be achieved by policies which can be clearly demonstrated to be of general public benefit, commercially and financially.

Regrettably, these aims are not being met in the current draft legislation, which if passed into law, with particular reference to the Coastal Trading Bill, would have deleterious effect upon the workings and above all, the freight economics of cargo movements on the coast. There is a definable prospect (threat) of longstanding coastal trades (dry bulk as well as liquids) being terminated and replaced by imports, thus directly negating the desired outcome, by in effect reducing the future transportation task.

## **AISR – Tax Relief**

The other elements of the Reform Agenda i.e. formation of an Australian International Shipping Registry (AISR), supported by underpinning tax exemption and accelerated asset depreciation, are all positives and supportable, in that it brings Australia in line with major Shipping Nations, and would not represent a significant burden on the National Economy, in any case more than offset by countering benefits.

Having said that, the undersigned takes a much more conservative view of the eventual outcomes i.e. whilst these measures should accelerate investment to replace aged coastal vessels, the very optimistic estimates of a large IASR fleet explosion engaged in Australian export cargo movements, are not shared. Certain high value commodities and trades supported by firm long term CIF sales contracts, such as LNG, may offer such opportunities, as already well established by that Industry.

However, an influx of International Shipowners to the new registry, is highly unlikely, in the knowledge that similar or even better incentives can be enjoyed elsewhere (Singapore, is but one of many examples).

Some major Bulk Commodity Shippers may well elect to invest, directly or indirectly, in own tonnage, for long term market presence and freight cost stabilization purposes. Conversely, it is most unlikely that new investors (and operators) would risk embracing these incentives in the absence of firm and long term freight contracts i.e. the expectation of fostering an emergence of speculative entrepreneurs is just not realistic.

Bareboat (Demise) charter of ships would offer a less demanding entry, as opposed to direct asset investment, again directly or indirectly, and financiers would demand high security and proven return capability.

Fundamentally, International Shipping interests locate themselves in environments which are not just financially attractive, but offer the most operational flexibility, with minimum regulatory imposition, and thereby providing the best economic platform for their vessels deployment in the highly competitive International market place. Contrary to some locally espoused suggestions, that somehow this results in inferior or unsafe ships, and that Australian registered ships would inherently be of a higher standard, are pure posturing and not borne out by facts.

## **Coastal Trading Bill**

The draft legislation has been presented as a “cohesive package”, claiming that all three elements must be interwoven to achieve the desired outcomes, which, as regards Coastal Shipping are:

- to greatly reduce, preferably replace foreign ships on the coast

thereby

- foster growth in numbers of fully licensed vessels, and their engagement in coastal trade

these aims being promulgated by abolishment of Section VI of the Navigational Act, together with the so called Permit System (Ministerial Guidelines Regulations), and by instead imposing a new licensing regime, in turn driving the policy aim, based on the premise that over a period of 5 years, the coastal shipping requirements have somehow “re-moulded” themselves, enabling use of largely fully licensed local vessels to sustainably service same - a most unlikely prospect in reality.

Unless there were to be additional extreme regulation introduced, which would serve to make use of licensed vessels compulsory, and not subject to the longstanding tests of vessel selection criteria:

- suitability to the task
- timely availability
- freight offer competitiveness
- public interest

Shippers will continue to seek and obtain freight solutions for their cargoes which meet their commercial and economic needs, and as fundamental to their shareholders requirements, and it could be said, the public interest.

### **Proposed temporary Licence Regulation**

It is the view of the undersigned that, as drafted, this concept is fundamentally flawed, and would prove itself to be unworkable.

- a) The politically formed view that, the very concept of “a coastal voyage” is wrong, and must be changed (due to alleged “rotting of the system”) in favour of a temporary license system, is not readily fathomed, when considering that “the voyage” (and the selected vessel) have been the governing criteria for 100 years of Coastal Permit trading.  
What has changed?
- b) As opposed to the well proven and tested past regime, it is now proposed to replace with a so called Temporary License regime (inferring by its very name an expected transition process to a fully licensed regime i.e. General License), which now moves away from the identifiable single voyage, to a projective number of voyages over a period of 12 months (in many cases, incapable of forward projection) and inexplicably setting a minimum to 10 definable voyages as a **qualifying criterion** – in a concept scenario where the shipper (controlling party of the cargo) is likely to lose control in the decision making process, and be subjected to speculative ship operator applications and effective license attainments, as opposed to the workable

current process allowing the shipper full decision making process in selection of best bid and granting of eventual fixture.

The new Temporary License System is being heralded as being “in the public interest and providing greater transparency” and this may well be so for some, as a consequence of cumbersome reporting process – whilst providing little new knowledge not already known to the Industry players.

By enhancing a statistically generated data base, it is clearly intended as providing a direction for transition prospects from Temporary to Licensed Status – a somewhat worrying prospect, if politically motivated and driven!?

In summary, the undersigned contends, that:

- Abolition of, and effectively non-acceptance of a “single voyage (cargo)” is wrong, and only serves to place obstacles in the way of commercial requirements and dealings  
and will
- work contrary to “public interest” (latter always in the past a cardinal objective)
- The expectation that the flow of coastal cargoes (volumes, ports, frequency, constraints of storage, etc, etc) will change over time, and by such change, facilitate a move from occasional use of foreign vessels to a permanent use of commercially sustainable General Licensed Australian vessels, are more in the realms of Wishful thinking, than rationally sustainable prospects.

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Finally, in the view of the undersigned, there is no apparent inter-dependency demanding a “cohesive package” by way of a compelling case in favour of maintaining and adopting all 3 current Bills (as a whole), indeed, it would be perfectly workable to only progress the IASR and Tax Bills, but standing aside the Coastal Trading Bill for substantive review and reconstruction, so as to ensure, that Coastal Trading remains open to International competition (in the absence of suitably General Licensed Australian Vessels) and thereby preserve ongoing cost efficiency of Coastal cargo movements by way of competitive selection processes.

As suggested by several concerned Shipper bodies, a referral for review by the Australian Productivity Commission would seem an appropriate step in the first instance, at the same time granting more time for ongoing re-evaluation by all directly affected parties (policy makers and cargo interests).

OBS:

*It should be noted, and understood, that the above are personal reflections and opinions of the undersigned (having been a practitioner in Australian Shipping for 45 plus years), and they are not presented on behalf of or under assignment to Clients.*

Yours Sincerely,

Henning Horn  
Managing Director

