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Coastal Trading (Revitalising Australian Shipping) Bill 2012 and related bills Inquiry

CSR Limited has two main interests in coastal shipping. The Gyprock™ plasterboard business moves gypsum from a mine in Thevenard, South Australia to the east coast factories in Melbourne, Sydney and Brisbane. Through CSR's 25.2% interest in the Tomago aluminium smelter the company ships alumina from Gladstone, Queensland to Newcastle. The raw material is moved conjointly with Rio Tinto (Pacific Aluminium) to meet Tomago's requirements.

Product is carried mainly in licenced foreign owned vessels, which would transition to the General Licence under the proposed Act. The company has concerns about the thin freight market in bulk commodity goods and the responsiveness of owners to the requirements of shippers. Aluminium is an internationally traded bulk commodity and is unable to recover cost increases in the world market. Currently all of CSR's aluminium production is exported.

CSR is concerned by the potential cost increase, loss of flexibility and additional red tape that will occur as a result of this policy.

A study by Deloitte Access Economics[1] concluded the additional cost of freight for certain voyages would increase by 11%. This adds to recent freight cost increases and the prospect of importing raw material from Asia and substituting that for Australian sourced material. This adds to the burden of other costs being added to Australian manufacturing eg carbon tax, VEET charges in Victoria etc, not faced by international suppliers.

It is important that shipper's requirements are dealt with in full under the proposed Act, which substantially strengthens the hand of the owners. Furthermore if costs are to be contained it is essential that measures from the Compact be introduced and in place before the Act proceeds. The two do not appear to be linked.

Specific Comments on the Coastal Trading Bill 2012

Section 3 Object of the Act
The shipping industry is a service industry to the Australian economy. In the past 30 years the importance of the integrated supply chain has become well understood as part of an internationally competitive environment. Dissecting coastal shipping from the supply chain is likely to lead to a less competitive supply chain for Australian manufacturing or processing industries. It is imperative that the all the ramifications of the Minister's decisions on the supply chain are considered and that this is reflected in the Objects of the Act.

[1] *Economic impacts of the proposed Shipping Reform Package* , Feb 2012, Deloitte

Therefore the Objects should include a clause which reflects the role that the coastal trading framework has in promoting an efficient and effective and competitive supply chain for Australia's internationally trade exposed industries. The welfare of the coastal shipping industry should not be at the expense of the industries it is there to serve. The RIS would indicate that without reflecting this in the Object of the Act, that in its current form, the legislation is value destroying – the more successful the policy is, the worse off Australia will be.

Section 21 Refusal of application
There are no grounds for appeal in Part 6 Sec 88 for the refusal of a licence. Provision should be made for an appeal to the Administrative Appeals Tribunal where information can openly be provided and contested in a situation where a party may be aggrieved by the Minister's decision. Furthermore, shippers should have the right to appeal against the granting of a General Licence should any decision to grant a licence be considered inadequate.

Division 2 Temporary Licences

The provisions for a temporary licence work against the Object of the Act in that they will essentially reduce the prospect of any vessels joining the Australian International Shipping Register (AISR).
There may be prospects for additional vessels to join the AISR where triangulation is available. Thus a vessel can be fully utilized in international trades, which include one or more legs of the voyage on the Australian coast. This is a more efficient use of ships than the alternative which may force the use of a general licence vessel for the coastal leg, but require a re-positioning of an international vessel to do the export leg.

Section 34 (3) (b) and (d).
The shipper may have standard terms which have been well established and in use over an extended period of time for the engagement of ships. These requirements are often based on experience and may go beyond the requirements of AMSA. A high standard of ships should be encouraged and welcomed by the Minister. It reduces risk to safety and the environment. Such provisions which would include the age of a vessel, etc must also be recognised in negotiations. Vessels which do not meet the standards of shippers should not be imposed on shippers simply because there is a general licence vessel which might meet capacity and availability. The requirement of shippers must be defined broadly and include shippers standards – decisions are not based on freight rate and volume alone, but total cost and risk are uppermost in shippers' minds.
Furthermore the requirements must include commercial terms. Failure to do so drags the industry back to the days of SVP gaming and price gouging by licenced owners. This was a completely unsatisfactory and unsustainable regime in which to flourish, for both owners in the long run and shippers.

Section 34 (4) (5) Minister to Decide Applications
Also Section 77
It is important the Minister has complete information available to make a fully informed decision on the issuing of licences. However the stop clock method of determination releases officials from the obligation to make timely decisions and gather the information required up front. It has frequently been abused to cover for inadequacies in resourcing within agencies. The SVP arrangements required timely decisions and the pace of commerce is such that businesses need to know when decisions can be expected. Parties can game the supply of information under these provisions to advantage themselves and disadvantage the other party. This is not an acceptable process for business. It encourages parties to provide insufficient information if time is their ally. The Minister has two weeks to make a decision where there is no notice to an applicant. The same period should be retained in the event there is a notice. The clock starts from when the applicant notifies the Minister following the negotiation outcome. By this time the parties are likely to have full information and the Minister will be well aware of the issues in the pipeline to resource a timely decision. The drop dead provisions of section 36 would apply in this instance also.

Section 38 Refusal of application
There are no grounds for appeal in Part 6 Sec 107 for the refusal of a temporary licence or the terms of such licence. Provision should be made for an appeal to the Administrative Appeals Tribunal where information can openly be provided and contested in a situation where a party may be aggrieved by the Minister's decision.
Appeals should also cover sec 41, additional conditions imposed by Minister. Provisions would need to be made to cover the period during which an appeal is heard.

Section 61 Voyage notification requirements for temporary licences.
It is not clear what the Minister will do with this information. Once a licence is issued the holder should be free to operate within the provisions of the licence and not be subject to compliance monitoring in advance. It is not clear the Minister will be resourced to do this anyway. Certainly an AISR vessel on a temporary licence should not have to report.

Section 62 Reporting requirements for temporary licences
The burden of reporting after each voyage seems unnecessary. Quarterly or preferably annual reporting should be adequate if at all. Any owner or agent in the industry should have sufficient knowledge of the market to know who is moving what product and where over a twelve month period. The bulk market doesn't change that much. Market intelligence can be a source of competitive advantage in the market. Other industries don't rely on the Government "posting" the market, nor is it appropriate for this industry.

Other - Compact

The Regulatory Impact Statement concludes that most of the benefits arising from the proposed changes in policy arise from the industry/union compact. Few of the benefits then are ascribed to the proposed Act. Presentation of the Bills to the Parliament should be conditional on achieving the outcomes from the compact.

Summary:

CSR recommends that a Productivity Commission inquiry be conducted into the coastal shipping market. The Commission should determine the most cost effective policy to meet the freight task in Australia. Until the report is complete and a new policy introduced the existing system which is effective should be maintained. Meanwhile the existing system of licensing and SVP arrangements which provide flexibility should be maintained.

Yours sincerely,

Martin Jones