



**Submission to the
Senate Economics Legislation Committee**

on the

**Coastal Trading (Revitalising Australian Shipping) Bill
2012**

20 April 2012

ABOUT AIP

The Australian Institute of Petroleum (AIP) was established in 1976 as a non-profit making industry association. AIP's mission is to promote and assist in the development of a sustainable, internationally competitive petroleum products industry, operating efficiently, economically and safely, and in harmony with the environment and community standards.

AIP member companies play various roles in the fuel supply chain. They operate all of the petroleum refineries in Australia and handle a large proportion of the wholesale fuel market. However, AIP member companies directly operate and control only a relatively limited part of the retail market.

AIP is pleased to present this submission on behalf of the AIP's four core member companies:

BP Australia Pty Ltd
Caltex Australia Limited
Mobil Oil Australia Pty Ltd
The Shell Company of Australia Limited

We note that individual AIP members will also be making submissions that provide more detail on the implications of the Bill for individual company operations.

Contact Details

Should you have any questions in relation to this submission, or require additional information from AIP, the relevant contact details are outlined below.

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Introduction

AIP is pleased to have the opportunity to comment on the Coastal Shipping (Revitalising Australian Shipping) Bill 2012. AIP considers that the reforms as currently structured will adversely affect Australia's liquid fuel security without any contribution to the policy objectives sought by the reforms. The proposed reforms are applied across shipping without adequately considering the operating environment of each industry and in particular, the flexibility required in the shipping of petroleum products. We propose some simple changes to the Bill that will accommodate the needs of the petroleum industry for timeliness and flexibility so as to maintain Australia's liquid fuel supply security and not undermine the policy objectives of the Bill.

Australian liquid fuel supply chains

AIP members are responsible for the supply of 90% of the 52,500 mega litres of Australian petroleum products demand sourced from domestic and international sources. The balance is directly imported by large users, such as the mining industry, and independent fuel suppliers. The main products supplied are petrol, diesel and jet fuel and further detail is contained in the AIP publication Downstream Petroleum: http://www.aip.com.au/pdf/Downstream_Petroleum_2011_Report.pdf.

The supply of petroleum products to Australia is a complex and interconnected activity that is time critical and optimised at each stage of the supply chain. Supply is assured by the optimisation of refinery production, the maintenance of adequate stock levels and the regular movement of imported product into Australia. Shipping is a key parameter in this integrated supply and production chain and involves shipping:

- crude oil for refinery production;
- finished petroleum products that have been produced in Australian and overseas refineries;
- intermediate products, such as high octane blendstocks, between Australian refineries and imported from overseas refineries.

Liquid fuel supply security

Australia enjoys high levels of liquid fuel supply security as assessed in the Commonwealth Government's National Energy Security Assessment (NESA):

http://www.ret.gov.au/energy/energy_security/national_energy_security_assessment/Pages/NationalEnergySecurityAssessment.aspx

The high level of supply security is based on the variety of supply sources of both petroleum product and crude oil. The Australian refining sector produces around 70% of Australia's liquid fuels demand with crude sourced from a variety of domestic and international locations. The remainder of Australia's liquid fuel demand is sourced from large export oriented refineries in the Asian region, mainly from Singapore. The variety of supply sources provides Australia with strong, flexible and interconnected supply chains that underpin the competitiveness of the Australian economy. Further information on the supply chain management is contained in the following AIP paper:

<http://www.aip.com.au/pdf/AIP%20Paper%20-%20Maintaining%20Supply%20Reliability.pdf>

Nevertheless, at various times there are supply disruptions which can occur for a variety of reasons such as unanticipated refinery shutdowns, unanticipated demand surges, the delivery of off specification products. In responding to these supply disruptions and to avoid instances of non-availability of fuel to consumers the industry must move quickly and decisively to source alternative supplies. In many instances this will involve diverting cargoes that were intended for other Australian destinations and these decisions are time critical.

The proposed Bills do not recognise the flexibility that is required in meeting supply security objectives by requiring lengthy and in our view unnecessary approvals that will not contribute to the development of a domestic shipping industry. Implementing the reforms in the way they are

currently structured will dramatically increase the risk of supply disruptions and de-optimize the petroleum products supply chain, reducing the economic viability of the Australian refining industry.

The Australian refining sector is under significant commercial pressure with an oversupply of petroleum products, globally and in the Asian region that developed in 2008 and is expected to continue at least until the second half of this decade. Generally, the Australian refining sector has achieved returns over the last twenty years around the long term bond rate and as recently as 2008 lost about \$500m. Over the last ten years the refining sector has invested more in plant and equipment than it has generated in net profits. The industry is under significant financial stress as emphasised by the recent announcement by Clyde refinery to convert to an import terminal in 2013 and the fundamental review of Caltex refining operations expected to be completed in late 2012. Any unnecessary costs, whether in the form of directly increased costs or probably more importantly increased complexity in operations, will further undermine the viability of the Australian refining sector.

Given the threats to Australian liquid fuel supply reliability and the economic viability of the Australian refining sector we strongly suggest that further flexibility be introduced into the Bill.

We consider that both crude oil and petroleum product movements should be considered separately to other shipping movements given their particular circumstances. **We propose that petroleum product and crude oil shipping movements should be exempted** from the requirements for a Temporary Licence (TL) until such time as a General Licence (GL) is granted for the movement of petroleum products. We acknowledge that the Minister under s.11 of the Bill has a discretionary power to provide such an exemption but we consider this should be explicitly stated in the Bill to avoid unnecessary regulation when there is no prospect of a contestable ship competing for the voyage.

We further consider that improved flexibility should be introduced to the current Bill to provide improved competitive outcomes in the shipping market so as to ensure liquid fuel supply security is maintained and the viability of the Australian refining industry is not adversely affected. We propose the following measures for consideration:

1. GL holders must continue to demonstrate that minimum safety requirements as required by international standards for safety and construction are met along with individual company safety requirements. Shippers must have the right to refuse vessels which do not meet these requirements.
2. GL holders are required to provide similar information to the Department to that required to be supplied by TL holders, and such information is published.
3. The 'segmentation' of shipping voyages and cargo should be prevented in the hydrocarbon sector as we wish to minimise the safety, environmental, and operational risks associated with the movement of hydrocarbons.
4. TL holders information provision requirements are made more flexible
 - The requirement for 5 voyages is considered impractical because voyages are only decided three months in advance.
 - The requirements for the original TL application are made on an "if known" basis and subsequently updated through variations (with no minimum number of voyages in a variation application).
 - The Minister in granting a TL variation should not consider previous variations as continual TL variations will be an ongoing feature and will be of critical necessity for petroleum product movements.

5. Urgent TL variations need to be assured of approval in the legislation which should include the maintenance of liquid fuel supply security as the key reason for granting an urgent variation to the TL.
6. Emergency licences are automatically approved upon notification to the Department based on the criteria of liquid fuel supply security.
7. A transitional period of 6 months is strongly suggested.

Exemption for shipping of petroleum products

AIP and member companies consider that there is a strong case for initial exemption of the shipping of petroleum products on the basis that there is little likelihood of an Australian registered vessel being available for the shipping of crude oil or petroleum products. We further consider that this should be explicitly drafted into the Bill to provide certainty for existing shipping movements.

In the case of crude oil shipments, the Department's Regulatory Impact Statement of August 2011 noted that the prospect of an Australian registered crude oil carrier was small. We concur with this assessment given that only 22% of the Australian refineries' aggregate crude diet is sourced from domestic fields with the majority of that supplied directly by pipelines to refineries. The volumes of domestically shipped crude oil will be insufficient to underwrite the economic viability of a domestic crude oil tanker.

We further consider that the likelihood of an Australian registered product tanker is small given that Australian refinery production will decrease following the conversion of the Clyde refinery to an import terminal. Further, growth in Australian demand for petroleum products will not be met by Australian refinery production but by imported product from export oriented Asian refineries. These structural changes in the industry indicate that there will be less commercial opportunities for an Australian registered petroleum products tanker in the future.

Consequently, while not entirely ruling out the possibility of an Australian registered petroleum product tanker, we consider that if there is no Australian registered product tanker then the requirements of the Bill represent unnecessary regulation. This unnecessary regulation will result in additional costs to the industry and a reduction in the operating flexibility in the petroleum product supply chain.

We acknowledge that the Minister has the power to exempt a vessel or class of vessels under s.11 of the Bill. However, we consider that the differences in industry sectors should be explicitly recognised in the Bill and a clause should be added to the effect that the Act does not apply to a class of vessels unless there is an Australian registered vessel in that vessel class.

AIP and its member companies do not consider that the proposed exemption would undermine the policy intent of the Bill as it would be based on the very clear principle that if there is no Australian registered vessel the reform would be ineffectual. The contestability of the market would still be maintained by requiring reporting of all voyages ex post which would allow the assessment of the market by any potential Australian registered vessels operators.

'Segmenting' hydrocarbon shipping should not be permitted

The definition of a voyage in the Bill ('port to port') is based on the assumption that cargo is completely loaded and exhausted on this same basis. This philosophy does not adequately recognise the various permutations in the petroleum industry that involve loading and discharging at multiple ports as part of an integrated shipping supply chain.

Any 'segmentation' of this integrated shipping supply chain may have the following consequences:

- A higher level of operational and environmental risk as vessel numbers and petroleum loading activity (including vessel transfers) increase needlessly;
- A reduced ability for the petroleum sector to urgently respond to energy needs in a particular location, based upon a potential GL holder 'cherry picking' port locations; and
- Higher transportation costs which will either be passed to consumers or, potentially, render parts of a supply chain uneconomic.

As such we suggest an amendment to the Bill to prevent GL holder contest for a particular voyage or cargo in the circumstance where shipping supply chains are integrated (as they are in the petroleum industry). This amendment would ensure the efficiency of Australian shipping as part of the national transport system (an object of the Bill) is also fulfilled.

General Licence (GL) applications and information requirements

AIP and its member companies acknowledge that there may at some stage in the future be a General Licence application for a petroleum products vessel. We strongly request that GL holders are required to continue to meet minimum safety requirements as required by individual product handling companies in order to maintain the registration of vessels (under the Australian Register of Shipping) that meet international standards for safety and construction.

Under this scenario shippers should have the right to refuse vessels that do not meet individual company safety requirements. We acknowledge that s.32 (4) requires that applications by a GL holder must have regard to the requirements of the shipper of the cargo, however, we consider that to ensure safety standards are maintained, s.32(4) should be strengthened to say "must comply with" rather than "have regard to".

Safety and environmental protection are paramount concerns for the Australian downstream petroleum industry and we would consider it to be counter-productive for a diminution of safety requirements by potentially allowing lower safety standards for any Australian registered vessel.

AIP is also concerned that there is a disparity between the information that is required to be provided by a TL holder and the information that is required to be provided by a GL holder. We consider that GL holders should be required to provide similar information including the volume of cargo that the GL holder is capable of carrying, dates they are available to undertake voyages and from which ports. Making this information available will increase transparency around the availability of GL vessels to undertake cargo movements and facilitate any commercial negotiations that may ensue from a GL holder response. Publication of this information on the Department's website will ensure competitive neutrality between different types of licence holders.

Temporary Licence (TL) requirements

The Bill requires some quite specific information from a TL applicant about 5 or more voyages over the forthcoming twelve month period detailing the expected dates, cargo tonnages, and ports of uplift and discharge. We consider the requirement for 5 voyages to be impractical as the exact movements of crude oil and petroleum products will only be known up to three months in advance. The uncertainty of the shipping movements is a function of the integrated nature of production and supply chains where supply balancing in response to uncertain events is undertaken on a daily basis. In many instances, therefore, shippers will be specifying voyages that have low degrees of certainty. AIP considers that this information would not assist GL holders in planning any contestable voyages and would give rise to instances of shippers specifying very low probability voyages.

Consequently, the industry proposes that shippers be allowed to provide the Department with an indicative shipping plan for the purposes of granting a TL and then provide monthly updates which will specify the exact nature of the voyages to be undertaken which could be considered as variations to the original TL application.

In our view this would require amending s.28(2) to allow for a qualitative application by hydrocarbon shippers, where the information items could still be specified but only provide the Department the information on an "if known" basis. In deciding the application, under our proposed framework, we consider it is inappropriate for the Minister to consider previous variations because the monthly update will effectively be an ongoing TL variation in order for the petroleum industry to make the Bill workable. As such we suggest s.46 (2) (a) which requires the Minister to consider this matter be removed from the Bill.

Urgent Temporary Licence (TL) variations

AIP member companies have detailed in separate submissions flexibility measures that could be considered to ensure that there are no unnecessary delays in the loading of vessels while an urgent TL variation is processed.

Emergency Licence (EL) applications

Australia enjoys high levels of energy security because of the diversity of supply sources and the flexibilities inherent in the supply chain. A key factor in the maintenance of supply security is the ability to respond quickly to supply disruptions by diverting cargoes as required to meet demand. There are numerous examples of the exercise of this flexibility in the shipping arrangements caused by rapidly changing circumstances. These examples are detailed in separate submissions by AIP member companies.

AIP considers that it is imperative that a predictable regime is in place for Emergency Licence applications to recognise the unique operational requirements of the petroleum industry. We propose the criteria for granting an Emergency Licence be extended beyond natural disasters and include maintenance of liquid fuel supply security and are approved upon notification to the Department in order to expedite a vessel.

To maintain the integrity of the Emergency Licence, we suggest that where an applicant seeks an EL they must provide a statement demonstrating to the Department when the need for an emergency licence became known and the consequences of inaction including an assessment of the public interest in approving an EL.

A review of the past year has been conducted by AIP members and indicates that between 2-3% of petroleum products voyages would require this provision to be in place in order to maintain Australia's current level of energy security.

Transitional Issues

Based on the need for the petroleum industry and Department to understand, plan and implement legislation that may not be known until late June, we suggest a transitional period of 6 months be implemented.

This will allow adequate preparation to take place to implement a substantial change to shipping practices for Australian Coastal Shipping.