

AIMPE Submission to

Senate Committee on

Rural and Regional Affairs and Transport Legislation

inquiry into

Coastal Trading (Revitalising Australian Shipping) Bill 2017



*Prepared by M Byrne, M Bakhaazi & H Christiansen
on delegated authority of the
AIMPE Federal President Terry Snee*

Background

This submission is made on behalf of the Australian Institute of Marine and Power Engineers (AIMPE).

AIMPE is the professional body and registered organisation which represents qualified Marine Engineers throughout Australia.

AIMPE was established as a national body in 1881 after several years during which local organisations were formed in the various colonies of Australia and New Zealand. Subsequently AIMPE became a registered trade union and has operated continuously ever since.

AIMPE members operate, maintain and repair marine vessels of all sorts including commercial ships of all types and sizes as well as vessels dedicated to the offshore oil and gas sector, tugboats, dredges, ferries, defence support craft, research vessels and Border Force vessels.

AIMPE appreciates this opportunity to make a submission to the Senate Committee about the *Coastal Trading (Revitalising Australian Shipping) Bill 2017*.

EXECUTIVE SUMMARY

AIMPE opposes the *Coastal Trading (Revitalising Australian Shipping) Bill* 2017 because:

- The original Coastal Trading (Revitalising Australian Shipping) Act 2012 passed by the then Labor Government did NOT contain any legislative requirement that would ‘revitalise’ the ownership or operation of ships by Australian companies and the employment of Australian workers; and
- Instead it made it even easier to replace Tax-paying Australian ships/workers with Tax-free foreign ships/workers registered under the law of a foreign power and thus not subject to most Australian laws (including Tax); and
- This new Bill streamlines and accelerates this pattern of facilitating Tax-free foreign shipping displacing Tax-paying Australian Shipping.

We urge Senators on the Committee to also oppose the Bill.

Henning Christiansen
Acting Federal Secretary
On behalf of the Federal President Terry Snee

AIMPE General Submission

Australian deck and engineer officers have supported the Australian military effort in the Great War of 1914-18, World War 2, and the Vietnam War. Without Australian merchant ships Prime Minister John Howard could not have supplied the few hundred Australian troops he sent to Timor L'Este.

But the next time the Australian Defence Force needs support there may be no Australian ships and no Australian deck and engineer officers to operate them.

With the continuing closure of petroleum refineries Australia cannot even supply aviation fuel for our jets or fuel for our Navy without sending a tanker to Singapore for fuel. And in every other war Australia has suddenly found foreign-flagged ships reluctant to carry fuel or supplies to Australia once hostilities are declared, so it should be of national interest that there are no longer any tankers registered under the Australian flag, and very soon no Australian deck and engineer officers qualified to operate a petroleum tanker.

Data published by the Department of Infrastructure and Regional Development shows that there have been over 11,000 voyages under Temporary licence since the *Coastal Trading (Revitalising Australian Shipping) Act 2012* was enacted. Each of the Temporary Licences granted effectively represents a corporate Tax exemption because the ships which are the subject of the licences are overwhelmingly registered in flag of convenience countries and by so doing avoid the normal corporate Taxation applicable to Australian companies which own and/or operate Australian registered ships.

A key reason why ships are registered in Flag of Convenience countries is that a large proportion of these countries are Tax havens.

Australian flag shipping operated by Australian seafarers has declined

since the 2012 legislation. The last four remaining petroleum tankers have been removed from the coast since the *Coastal Trading (Revitalising Australian Shipping) Act 2012* - along with a number of other ships.

It is widely accepted in the industry that the 2012 legislation has failed to revitalise the Australian coastal shipping sector.

However, the proposed Bill has the potential to accelerate the decline even further and spread its adverse impacts more widely.

AIMPE has proposed to the Minister for Infrastructure and Transport, Mr. Chester that a different approach is needed to increase the number of ships in the Australian flag shipping fleet. The *Shipping Registration Act 1981* should be amended so that all commercial vessels regularly **operating** in Australian waters should be required to register in Australia. Obviously, vessels engaged in international trades would be excluded from this requirement.

Currently that Act requires vessels **owned** by Australian entities to be registered in Australia but as it makes NO legislative requirement that a ship must be registered in Australia in order to regularly operate in Australia, this Act effectively encourages companies to remove their ships from the Australian ship-register and instead register them in a foreign Flag of Convenience Tax-havens like Singapore, Panama etc..

They avoid registering in Australia so that by exploiting the Temporary Licence system they can avoid Australian company Tax.

Requiring vessels that regularly operate in Australian waters to register under the *Shipping Registration Act 1981* would lead to a substantial increase in the number of Australian flag ships and would increase the employment of Australian Deck and Engineer Officers.

The extract below from the Bureau of Infrastructure, Transport and Regional Economics most recent statistical report indicates that the total number of ships in the Australian trading fleet has remained remarkably

stable over the decade covered by the table.

Statistical report Australian sea freight 2014–15

Table 5.1 Number of ships in the Australian trading fleet

Financial year	Major trading fleet						Total	Major Australian registered ships with Coastal Trade Licences/ General Licences ^a
	Coastal trading		International trading		Minor trading fleet			
	Australian registered	Overseas registered	Australian registered	Overseas registered	Australian registered	Overseas registered		
	(number)							
2005–06	32	3	9	38	18	5	105	33
2006–07	30	9	9	38	20	4	110	30
2007–08	28	16	10	37	17	3	111	27
2008–09	29	17	7	36	20	2	111	27
2009–10	28	17	7	42	18	4	116	23
2010–11	26	22	8	40	20	2	118	20
2011–12	23	19	6	40	22	4	114	19
2012–13	19	19	6	41	23	3	111	16
2013–14	21	18	4	40	26	5	114	15
2014–15	20	16	4	45	24	3	112	15
Average annual per cent change						(%)		
1 year	-4.8	-11.1	0.0	12.5	-7.7	-40.0	-1.8	0.0
5 year trend	-6.9	-2.6	-13.0	1.1	6.7	3.0	-0.9	-8.7

^a Data for 2003–04 to 2011–12 are based on extracts from the Coastal Trade Licences and Permits (COTLAP) system. 2012–13 to 2014–15 results are based on General Licence holders recorded in the Trading Licensing System (CTLS).

Sources: Lloyd's List Intelligence (2016), DIT (2013), DIRD (2016), Shipping companies (various) – personal communications.

However, the total of Australian registered ships has declined and the number of overseas register ships has increased.

There are as many as 61 vessels in the Australian trading fleet that are registered overseas, including 16 that are engaged in coastal trading.

At least 4 of the 16 overseas registered ships in coastal trading in the above table are currently operated by Australian crews. These are the Rio Tinto ships which trade between Weipa and Gladstone. As this is an intra-State route, this operation is not covered by the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

However, if the remaining 12 overseas registered ships in coastal trading were required to register under the Australian flag, instead of their current overseas register, it would virtually double the size of the current coastal trading fleet [note that the 2014-15 figures pre-date many of the latest withdrawals].

The Way Forward:

Politicians of all persuasions should now abandon the concept of “free trade” where allowing Tax-free foreigners to take the jobs of Tax-paying Australians can only end badly for the Australian economy and Australian Tax-receipts. That concept has been taken too far and it robs our children of the opportunity to be trained in rewarding technical careers as a deck or engineer officer.

It would be preferable to adopt the concept of “fair and reasonable trade”. This is the only way forward for the Australian economy, otherwise the Australian way of life will be irretrievably lost forever.

The car industry is now lost forever and now it seems it is a forgone conclusion that the coastal shipping industry is heading that way too, unless politicians adopt a bipartisan approach and adopt “cabotage” as a policy together with robust measures to ensure vigorous competition between ships that operate on the Australian coast whilst rigorously making them subject to Australian Taxation law.

Importantly, “cabotage” means that such ships must be Australian flagged. Only legislation that mandates that ships regularly trading in Australia MUST register under the Australian flag, can Australian laws be made enforceable on those vessels and their crews....and only then can Australian Tax be required to be paid.

Currently, the United States of America has in place the ‘Jones Act’ and the European Union and Canada has similar legislation that provides “cabotage”.

If “cabotage” is introduced in Australia to cover coastal trading, then that will provide the environment whereby Australian companies will spring up with the aim of carrying freight between the states and within a state as well. If that occurs, then competition will take hold, which should provide a

recipe to reduce costs. Accordingly, jobs will be created and Taxes paid to the Australian Government.

AIMPE Submissions re Explanatory Memorandum summary

This section of the AIMPE submission has been prepared with reference to the description of the contents of the Bill as set out in the Explanatory Memorandum tabled with the Bill.

EM in black Times New Roman font.

AIMPE comment in purple Calibri font.

COASTAL TRADING (REVITALISING AUSTRALIAN SHIPPING) BILL 2017

The Coastal Trading (Revitalising Australian Shipping) Bill 2017 (the Bill) will amend the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Coastal Trading Act) to simplify coastal trading regulation, to reduce the administrative impost associated with the current regime, to expand the coverage of the Coastal Trading Act, and to provide clarity on a number of minor technical matters.

In particular the Bill will:

- remove the five-voyage minimum requirement to apply for a temporary licence;
AIMPE – this would take the system back to the old Single Voyage Permits pre-2012
- provide the Minister the power to determine that the movement of certain kinds of cargoes and passengers must be consulted on when applied for under a temporary licence or a variation to a temporary licence;
AIMPE – this means that consultation will not be mandatory, this would be a reduction in the transparency that was introduced in 2012 and it would be back to the days of little or no information about Single Voyage Permits and Continuing Voyage Permits for foreign shipping in coastal trades.
AIMPE strongly opposes this change to the provision of information to industry stakeholders.
- streamline the processes for making changes to temporary licences by creating a single variation process;
AIMPE – this means it would be simpler and more efficient for foreign flag ship operators to increase their share of the Australian Coastal trades.
- amend voyage notification requirements so that notifications are only required when voyage details have changed from that approved on the licence;
AIMPE – this would take the industry back to the days of little or no information on foreign shipping in coastal trades, this would amount to a reduction in transparency.
AIMPE strongly opposes this change to the provision of information to

industry stakeholders.

- amend the tolerance provisions for temporary licence voyages to better reflect industry practice;

AIMPE – this would be welcomed by foreign flag ship operators however it would make it much easier for foreign ship operators to exploit the system and could be far more easily manipulated.

AIMPE strongly opposes this change to further open the coastal trading industry to foreign ships with foreign crews under temporary licences.

- allow for temporary licences to be issued in emergency situations;
- **AIMPE – just a re-badging of Emergency Licences with no major impact.**
- amend the definition of coastal trading to include voyages commencing and concluding at the same port;

AIMPE – this is possibly unconstitutional as the voyages referred to may amount to intra-State trading, however whether constitutional or not this could see the Temporary Licence system effectively expanded so that it applies to the Offshore Oil and Gas sector. This particular provision could be exploited by Offshore Supply Vessel operators to avoid migration law and employ full foreign crews on long term contracts servicing offshore installations including Oil and Gas Rigs, Oil and Gas Platforms, Floating Storage and Offload facilities and Floating Production Storage and Offload facilities.

AIMPE strongly opposes this change to extend the coastal trading industry to allow foreign ships with foreign crews under temporary licences to operate in and out of the same port.

- amend the definition of coastal trading to include ships engaged in dry-docking;
AIMPE – Could help the ship repair sector
- amend the definition of coastal trading to include voyages between ports and other defined places in Australian waters such as offshore facilities;

AIMPE – some of the major oil companies have argued that this would enable them to carry Australian crude petroleum to Australian Refineries. However, this appears to be part of a longer-term game they are playing with the Federal Government. The oil companies are extracting Australia's oil and gas resources but they have withdrawn every single coastal tanker from Australia. The 5 major oil companies have conducted over 1,300 coastal voyages using Temporary Licences in the last 5 years. This has allowed them to carry over 15.5 million tonnes of petroleum cargoes in the period in foreign ships with foreign crews.

The oil companies have closed 4 refineries in recent years. NSW now has no oil refining capacity. All NSW petroleum products are now imported. 100%. So too SA, NT and Tasmania.

Implicit in the oil companies' argument is a threat that they may close more

of their refineries if the Government does not allow them to use foreign ships to carry crude from the offshore fields to the refineries.

AIMPE opposes this proposal

- allow vessels to be covered by a coastal trading licence while dry-docking;
- **AIMPE – Could help the ship repair sector however if a vessel is not regarded as being imported then it escapes the asbestos prohibition in the Custom Regulations. It also places in doubt the application of State OHS/WHS laws which deal with exposure to asbestos containing materials.**
- clarify that applications for a variation to a temporary licence must be made by the temporary licence holder;

AIMPE – this measure is a matter of common sense and could be done by regulation. This does not require an Act of Parliament.

- require temporary licence holders to provide a vessel's International Maritime Organization (IMO) number to assist with easy identification of vessels.

AIMPE – this measure is also a matter of common sense and could be done by regulation. This does not require an Act of Parliament.

FINANCIAL IMPACT STATEMENT

There will be no impact on Commonwealth expenditure.

AIMPE

Employment Impact Statement

[note: there is no Employment Impact Statement in the EM]

There will be a significant negative impact on the employment of Australian Deck and Engineer Officers because this package will make it easier for foreign flag shipping to obtain and vary Temporary Licences. Foreign ships with foreign crews will continue to increase their share of the Australian coastal shipping trades. Australian registered vessels are required to be operated by Deck and Engineer Officers with qualifications issued by or recognized by the Australian Maritime Safety Authority (AMSA) and with Australian work rights. Personnel on foreign flag vessels are required to have qualifications issued by the flag state – e.g. Panama, Liberia or the Marshall Islands. Furthermore, personnel on foreign flag vessels that operate under Temporary Licence are not required to obtain an individual Australian temporary work visa.

In addition, there could be a significant reduction in the employment of Australian Deck and Engineer Officers in the Offshore Oil and Gas sector – if the vessel operators are able to exploit these amendments to apply for Temporary Licences for Offshore Supply Vessels. Currently Offshore Oil and Gas vessels are not eligible for Temporary Licences and so foreign personnel working on these vessels are required to obtain an individual Australian temporary work visa in order to work legally on such vessels. The Offshore Oil

and Gas sector is a major employer of Australian Deck and Engineer Officers. For this reason, AIMPE urges that the current Bill not be supported by the Committee.

AIMPE submits that the Committee should recommend that the Government and the Minister should reconsider their approach to the coastal shipping industry and adopt measures that will increase the number of Australian registered ships and the number of Australian Deck and Engineer Officers. This would most simply be achieved by amending the *Shipping Registration Act 1981* to require commercial vessels regularly operating in Australian waters to be registered in Australia.

REGULATORY IMPACT STATEMENT

The Office of Best Practice Regulation has been consulted in relation to the proposed amendments and a Regulatory Impact Statement (RIS) has been assessed to be consistent with best practice.