

Chapter 6

Improved productivity, scrutiny and concluding comments

6.1 This chapter will examine a number of facets relating to the implementation and scrutiny of the proposed reforms including:

- the commencement date and adequacy of the transitional provisions;
- assessment and surveillance of the proposed reforms; and
- the productivity benefits of the proposed compact between the industry and unions.

Commencement date

6.2 A number of submitters suggested that the truncated commencement date should be extended or a six month transition period should be implemented to assist both industry and the department.¹

6.3 The Australian Shipowners Association (ASA), in the context of discussion on the consultation process, highlighted the need for prompt attention to the serious decline in Australian-flagged vessels:

ASA believes that the consultation undertaken in the development of this policy package was comprehensive, having progressed continuously since 2008. In fact, if we have anything to say about the consultation we might say it has taken too long. In that context, since 2006—that is, in the past 5½ years—22 ships have left the Australian coast; that is, 1,100 seafaring jobs have been lost from that industry. Any further delay in putting forward a package of measures will further decimate the local industry.²

6.4 The ASA did, however, suggest that the coastal trading bill have a six-month implementation period, as opposed to the three or four months that are currently in the bill.³

6.5 The Department of Transport and Infrastructure explained that extending the transition period to six months would result in two regulatory regimes operating for an

1 Shipping Australia, *Submission 1*, p. 2; Australian Shipowners Association, *Submission 7*, p. 11; BP Australia Pty Ltd, *Submission 11*, p. 3; Australian Institute of Petroleum, *Submission 12*, p. 7; Mobil Oil Australia Pty Ltd, *Submission 23*, p. 4.

2 Ms Teresa Lloyd, Executive Director, Australian Shipowners Association, *Committee Hansard*, 15 May 2012, p. 66.

3 Ms Teresa Lloyd, Executive Director, Australian Shipowners Association, *Committee Hansard*, 15 May 2012, p. 66.

extended period and argued 'this may cause ambiguity and confusion with both the shipping and freight industries'.⁴

Committee view

6.6 The committee deems any delays to implementation of the reforms as adverse to the development of the maritime industry.

6.7 The committee notes that transitional provisions have been included in the Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012 (CATP bill). These include transitional measures for permits, licences and declarations currently in force. It also provides transitional measures for pending applications and cancellations for permits, licences and declarations. As discussed in previous chapters, generous transitional provisions are proposed for current licence holders.

6.8 The committee considers the transitional provisions stipulated in the CATP bill are adequate.

Continuous monitoring of reform measures

6.9 A number of submitters requested that the reforms, or elements of the reforms, be subject to a review or a Productivity Commission inquiry before they proceed through parliament.⁵ The National Bulk Commodities Group commented:

...there are several parties who have a commercial interest in the passage of the shipping reform bills. However, dry bulk shipping users and the NBCG were excluded from the detailed consultation process, resulting in the Department of Infrastructure and Transport giving no credence to the negative commercial consequences that would have resulted if the reform package was passed without amendment. It is for this reason that the NBCG has continued to advocate that the shipping reform bills must be reviewed by the Productivity Commission.⁶

6.10 A number of members of the Australian Dry Bulk Shipping Users expressed concern that the wider economic impact of the reforms on their industries had not been adequately considered. The dry bulk shippers argued that the Productivity Commission would be best placed to consider the wider impacts:

We recommend that the Senate committee request that the bill be referred to the Productivity Commission to ensure that its productivity and

4 Department of Infrastructure and Transport, *Submission 2.1 to the House of Representatives Standing Committee on Infrastructure and Communications*, p. 8.

5 Australian Dry Bulk Shipping Users, *Submission 4*, pp 5, 7; Business Council of Australia, *Submission 6*, p. 1; Sucrogen Australia Pty Ltd, *Submission 14*, p. 4; Minerals Council of Australia, *Submission 21*, p. 1; Sugar Australia, *Submission 21*, p. 4.

6 Mr Dale Cole, Executive Chairman, National Bulk Commodities Group, *Committee Hansard*, 15 May 2012, p. 50.

economic consequences are properly scrutinised; that the bill be deferred, pending the outcome of this assessment; and that the existing provisions of single voyage and continuing voyage permits continue to operate in the interim.⁷

6.11 As detailed in the Regulation Impact Statement (RIS), a review of the package has been proposed for within five years of commencement of the bills. The RIS outlined that the review:

...should be designed to allow time to assess whether the transitional arrangements set out in paragraph 62 [on GL licensing statements] are likely to be effective and whether the regulatory and tax measures are proving effective in concert with reforms developed under the Compact.⁸

6.12 During the hearing, the department confirmed that the proposed time frame for the review is five years.⁹

6.13 The Maritime Union of Australia (MUA) hotly contested assertions that a review should take place before the legislation commenced, and that adequate consultation had already taken place on the package of bills:

...the sums have been done; the incentives are in place; the fiscal encouragement has been defined. So what is the role, given that there had been a pretty forensic process and an involved process for that, to then go and refer it back? All it is is a spoiling tactic, in my view, to make sure the legislation does not go forward. It is this constant hacking away by small interest groups at something that really has momentum and enjoys tremendous support across the board.¹⁰

6.14 The MUA asserted, however, that it could see benefit in a continuous review of the industry and suggested it should begin within 12 months of commencement of the package:

...we would rather have a review within the first 12 months, if there were lapses. As I said before, it is a very complicated package domestically because you have an amount of Australian content supplemented by transitional licences. Now the state of the economy—or, for example, the dollar—will largely be dependent on the size of the Australian industry and the size of the transitional licences. There is a dynamic connection. And that is where the transparency comes in. If everybody is not playing their

7 Ms Margie Thomson, Chief Executive Officer, Cement Industry Federation, *Committee Hansard*, 15 May 2012, p. 25. See also pp 26–29.

8 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. 82.

9 Ms Karen Gosling, Executive Director, Surface Transport Policy, Department of Infrastructure and Transport, *Committee Hansard*, 15 May 2012, p. 3.

10 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 15 May 2012, p. 64.

part in a mature fashion to ensure we are building an industry that is productively carrying, in ballast, and maximising the use of that tonnage in long-term contracts that are countercyclical in terms of delivering—for tough industries, like cement and others—then we are missing the point about how to build an Australian economy.

...

Yes, we think it should be under constant review, like productivity on the waterfront—continuous improvement. We do not walk away from it. We get the message. And, if we are going to build this quite extraordinary raft of fiscal certitude and innovation with a view of building an international industry—we are already the fourth largest in the world—and bringing that back on our shores, including domestically, an international industry that can support domestic industry, it has to be a process of continuous improvement, and that means review. And we commit to that.¹¹

6.15 The ASA outlined that it too would support a 'continuous review' of the reforms:

Since the very beginning of this process, we have said to the government that this is the start not the end of something. Other nations review their shipping legislative and regulatory regimes all the time. So we would like to see it under continuous review, as opposed to a five-year or a two-year or a three-year review. We think it is very important that we do measure the success of the package via investment, and we think that we should be open to making sure that the package is working the way it was intended to, at whatever given point in time that may be.

...

One caveat on a review is that the way the financial structures are put in place is that there is a lock-in period attached to some of the tax measures. So, once you are in, you have committed for particular periods of time or rather you will be locked out if you leave. We would have to consider very carefully the impact of a review that might change the operating environment during the periods when businesses have entered into, in good faith, the taxation arrangements at this point.¹²

Committee view

6.16 The committee acknowledges that the package of bills is the result of an exhaustive consultation process. It argues, therefore, that further review of the package prior to implementation is unnecessary and will only delay these essential reforms.

11 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 15 May 2012, p. 60.

12 Ms Teresa Lloyd, Executive Director, Australian Shipowners Association, *Committee Hansard*, 15 May 2012, p. 68.

6.17 The committee recognises that the reforms offer considerable tax incentives. The use of tax-payers' funds should duly be monitored to ensure the desired objectives of the bills, including the intended wider economic benefits for Australia, are achieved. Such surveillance of the reforms should include the economic impact on industries reliant on coastal shipping as discussed at length in this report.

6.18 The reforms are intended to revitalise Australian shipping and address the serious decline in Australian-flagged ships. Continuous oversight of the reforms is necessary to ensure that this key objective is met.

6.19 Accordingly, the committee argues that the proposed five year review is insufficient. It recommends that a body or a unit within a body be given the responsibility for reporting to government annually on the progress on the objects of the bill and on investments into new Australian owned vessels. Government should inform the parliament of the details of these developments within two months of receipt of each report.

6.20 The monitoring unit may exist within, or be supported by, the Productivity Commission, the Department of Infrastructure and Transport or the Bureau of Infrastructure, Transport and Regional Economics (BITRE). Regardless of its location, the emphasis should be on the skills set and industry expertise within the body and that it remains at arm's length from government.

Recommendation 1

6.21 The committee recommends that an independent body be established to monitor the progress of the shipping reform bills. Following commencement of the bills, the unit should report regularly, at minimum annually, to government. Within two months of receipt, the government should inform parliament of the details of these reports.

The compact between industry and unions

6.22 As part of the announced package, the Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport noted that '[t]he final element of the reform package is labour productivity':

We are committed to aligning Australian productivity practices with the best in the world. To do this, we will need a compact between industry and unions.

I have previously said this compact must include changes to work practices, a review of safe manning levels and the use of riding gangs on coastal vessels. This compact is essential to the reform agenda.

I am aware that negotiations between industry and the unions are progressing. I offer these words of encouragement to the parties[:] With this package the Government has done our bit; now you must do yours.¹³

6.23 A number of submitters argued that implementation of the bills should be conditional on achieving the outcomes of the industry/union compact.¹⁴ Shipping Australia argued:

The overall effectiveness of the Bills taken as a whole is, in our view, dependent on the productivity improvements that will arise from the proposed compact between the unions and employers.¹⁵

6.24 The Australian Dry Bulk Shipping Users highlighted that the Deloitte Access Economics analysis it commissioned does not include any benefits from the proposed compact between unions and ship operators (as the details are unknown).¹⁶ In contrast, the RIS identified the compact as a major productivity component of the suite of bills:

The benefit estimates are based on a large number of assumptions, including those relating to the productivity reforms outlined above under Productivity Compact, and therefore should be considered indicative. Indeed without the reforms Australian shipping will have difficulty in competing with foreign ships on the coast and cannot expect to achieve the benefits outlined above.¹⁷

6.25 The RIS provided the following overview of the expected benefits of the compact:

A compact between industry and unions to deliver productivity and efficiency reforms is envisaged to better align practices in the Australian shipping industry with international best practice. This would include but not be limited to:

- Ship based cost reduction targets, including work practice productivity and efficiency gains;
- The development of a process to review minimum manning levels by shipowners, the maritime unions and the Australian Maritime Safety Authority, to determine the optimum operational crewing levels on board vessels that do not compromise safety or environmental outcomes; and

13 The Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, 'Stronger Shipping for a Stronger Australia', AS26/2011 Speech to the Maritime Industry, Sydney, 9 September 2011.

14 CSR Limited, *Submission 13*, p. 3; Sucrogen Australia Pty Ltd, *Submission 14*, p. 4; Sugar Australia, *Submission 21*, p. 4.

15 Shipping Australia, *Submission 1*, p. 2.

16 Australian Dry Bulk Shipping Users, *Submission 4*, p. 4.

17 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. vii.

- The introduction of riding gangs on board vessels involved in the coastal trade to undertake additional maintenance at terms and conditions of employment established under the Fair Work Act.

A number of existing agreements between shipping companies and unions already embody some or all of the reforms described above while others provide framework agreements under which the issues can be progressed. It is intended to extend these reforms to other parts of the domestic fleet.¹⁸

6.26 The MUA told the committee that the compact was 'on the cusp of delivery' and the ASA stated that '[w]e are very close to reaching an agreement'.¹⁹

Committee view

6.27 The committee is mindful that the compact is not a government responsibility and the onus is on industry and unions to finalise the compact before the proposed commencement date for the bills.

6.28 The committee notes, however, that the original announcement of the reform package was underpinned by a compact between industry and the unions. It also recognises that the RIS analysis identifies the compact as a major component of the productivity benefits of the reform.

6.29 Therefore, the committee is in agreement with recommendations from submitters, that the compact should be a condition precedent to proclamation of the package of bills.

Recommendation 2

6.30 The committee recommends that the compact between industry and unions is finalised before the suite of shipping reform bills are proclaimed.

Concluding comments

6.31 As an island nation, Australia is highly dependent on the maritime sector. Currently 99 per cent of Australia's international trade is carried by ship yet only 0.5 per cent of exports are carried on Australian flagged vessels. This is also reflected in the dramatic decrease in Australian flagged vessels since 1996 with a reduction in vessels from 55 to 22.

6.32 In relation to coastal trade, approximately 25 per cent of Australia's domestic freight task (on a tonne kilometre basis) is carried by ships. Over the last 15 years the

18 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, pp 47–48.

19 Mr Paddy Crumlin, National Secretary, Maritime Union of Australia, *Committee Hansard*, 15 May 2012, p. 59; Ms Teresa Lloyd, Executive Director, Australian Shipowners Association, *Committee Hansard*, 15 May 2012, p. 68.

amount of this task undertaken by foreign vessels has increased from 6 per cent to 30 per cent.²⁰

6.33 The committee applauds measures taken in this suite of reforms intended to revitalise Australian shipping and bolster the Australian fleet.

Recommendation 3

The committee recommends that, subject to other recommendations in this report, the bills be passed.

Senator Mark Bishop
Chair

20 Department of Infrastructure and Transport, 'Stronger Shipping for a Stronger Economy', September 2011.